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HOW EXCLUSIVE OWNERSHIP IN PROPERTY FIRST ORIGINATED: COMMUNISM.

Cursus Theologiæ Universalis, juxta mentem, et in quantum licuit, juxta ordinem, D. Thomæ in sua Summa: auctore, Billuart; in 4 vols., folio. Wirceburgi. 1758.

Annals of the Great Strikes in the United States. By Honorable J. A. Dacus. Chicago: L. T. Palmer. 1877. 1 vol., 8vo.

The Internationale: Communism; a Lecture. By Rev. F. P. Garesché, S. J. St. Louis: Patrick Fox. 1872.

ANY argument or essay pertaining to the first origin of private dominion over the material goods of the earth, or exclusive ownership of property, could ordinarily prove interesting only to those persons who, for special reasons, are engaged in the study of ethics, or general questions of jurisprudence. The reason is this: the subject is somewhat abstract and difficult. But, as a fact, the doctrines of socialism and communism have been brought so prominently before the public mind in recent years, that every intelligent reader now desires to form for himself some clear and satisfactory notions concerning the fundamental truths on which a right estimate of those systems depends. The late movements of the "workingmen," the leaders of whom are striving to organize them into a distinct political party, their "platforms," the publications spread abroad by their master spirits, the harangues of their orators, all furnish convincing proof of the necessity for correct knowledge on these new issues which the discontented masses are

endeavoring to raise here in the United States, as they have successfully done in some other countries.

It was a source of gratification, however, for the thoughtful friends of law and social order to see the fact plainly verified both in the "strikes" or labor riots of last summer, and in all that has since occurred, that "communism," strictly so called, is an exotic in the United States, which is not likely to take root and flourish, and that the communist societies in our large cities have little or no influence; indeed, nearly all their members are from the continent of Europe. The Irish refuse to fraternize with them, withheld, no doubt, by that peculiarly strong and discerning faith which is always a supreme rule of conduct for them. The American is kept from participating in such schemes and combinations because, as it may be justly supposed, reverence for the *lex non scripta* or common law and for decisions of the courts, still retains a firm hold on his mind, and still guides his judgments of what is equitable in all things pertaining to the practical affairs of civil life.

Yet this state of things is not immutable, and we have no infallible guarantee that it will not be succeeded by a worse one. To moderate the violence of the struggle between "capital and labor," by duly balancing their conflicting interests, is a problem that has long perplexed the political economist and the lawgiver. When one party maintains that "we have a right to decide as to what wages we shall pay," and the other contends "we also have a right to decide as to what wages we shall accept," they are thereby declaring only their general right to exercise liberty of will, which is not the matter in question between them, nor does it imply any special duty which they have towards each other. The only wages which the laborer has a special and positive right to demand, is that amount which it is the special and positive duty of the employer to pay him. The two opponents are not disinterested judges, and they can scarcely be expected to decide impartially on the merits of their own dispute; perhaps no human legislation can ever determine, except within certain more or less proximate limits, on any definite and just medium between their extreme demands, in which their varying interests will become plainly and uniformly identical.

To ascertain and state correctly the whole cause of these labor disturbances, it would, first, be necessary to determine how far the popular suspicion is well founded, that the want of personal honesty in officers of the great money corporations, along with venal legislation in some of the States, is an active agent in producing these perilous results. The writer prefers to believe, however, that such a charge is not entirely just, and that it arises out of an exaggeration of facts.

It is proposed, in what herein follows, to consider only one point in the difficulties raised by socialism and communism, but it is nevertheless a salient one, namely, the origin of private or particular dominion over the goods of the earth, or exclusive ownership of property. This is a subject that carries us back to the principles on which the very organization of human society and the rights of property primitively rest.

The dominion, or exclusive ownership of property, which is now to be explained, is the right to have, to hold, and to dispose at liberty of a corporeal thing, unless it be prohibited by law.[1]

Dominion, as the word implies, gives a lordship or mastership over the object owned, as, for example, a house or home; and this empowers the possessor rightfully to do with it whatever he may choose, rationally; or if he do not trouble the right of another person thereby, it makes him civilly free to use it or dispose of it, even irrationally.

We may distinguish two classes of corporeal goods over which man can acquire dominion or ownership; the one, those that can be used, or fully appropriated at once, to serve his actual wants, as food and raiment; the other class may comprise such as he can preserve, claim, or hold for future use. Again, all such objects may be considered first as physical natures depending for their existence and action on the Creator. When viewed under this aspect, God alone can exercise and hold dominion over these things, since He alone can change, rule, or own them as existing and acting natures that, as such, are wholly subject. Secondly, such objects may be considered in respect to the use which man can make of them as means or instruments for the accomplishment of an end. It is only under this second aspect that man has, or is capable of acquiring, any ownership or dominion over the material goods that are made subject to him. Hence man can control and dispose of the use, not the nature itself, of things which he owns; or, in other words, his dominion over the material goods of life is not that of absolute ownership or lordship, but is by nature limited wholly to some particular and special use of those things.

Naturally and originally, the material or corporeal goods of this life belong to men in common; the rightful division of these exterior goods came about by human law, or it was made conventionally.[2]

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[1] Dominium est jus perfecte disponendi de re corporali, nisi lege prohibeatur, Bartolus. This is the definition generally given by writers on this matter; it directly applies, however, to that ownership of property which is in organized society, and which has its immediate origin under the laws of that society.

[2] "Dominium et prælatio introducta sunt ex jure humano." Div. Th., p. 22, qu. 10, a. 10, et qu. 12, a. 2. Particular dominion over external goods, and superiorship in

With regard to those necessary objects belonging to no one in particular, which are required for the relief of present actual wants, as food, clothing, etc., it is manifest that one coming into the possession of them can justly consume them or directly apply them to his own use; for the actual want of what is necessary to sustain life would justify his using them even if they were owned by another person. Hence, extreme present need of the means to support life even abrogates conventional dominion or ownership of property. The right of one who is in such want depends on possession or occupancy, however, only by way of necessary condition; it depends for its origin and validity on his extreme need, and on the truth that before the law of nature the goods of the earth are for the use of mankind.[1]

Mere occupancy, as occupancy, cannot *per se*, or of its own nature, and apart from all law or other superadded cause, found real ownership or dominion in landed or immovable property. For occupancy, as such, is only an extrinsic accident or circumstance, which can as truly and really exist when such property is not owned as when it is owned; and, on the other hand, one can as truly own land which he does not occupy at all, as land which he actually does occupy. Therefore, mere occupancy of such property is an accident which is too purely contingent and indeterminate to found that dominion which constitutes real ownership of landed property. It follows, then, that when occupancy is said by jurists to give a title, or to found dominion in property, though they attribute the effect nominally and proximately to occupancy, yet it is by means of the causes annexed to mere occupancy that

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authority of any one person over a multitude of persons, were introduced by human positive law.

"Communitas rerum attribuitur juri naturali, non quia jus naturale dictet omnia esse possidenda communiter, et nihil esse quasi proprium possidendum; sed quia secundum jus naturale non est distinctio possessionum sed magis secundum humanum condictum, quod pertinet ad jus positivum. Unde proprietas possessionum non est contra jus naturale; sed juri naturali superadditur per adinventionem rationis humanæ," p. 2. 2, q. 66, a. 2, ad. 1. Community of goods is attributed to the natural law, not that the natural law dictates that all things should be possessed in common, and that nothing is to be owned by an individual, but because, according to the natural law, these are not distinct possessions, this comes rather by human agreement, which pertains to positive law. Hence exclusive ownership of possessions is not against natural law, but it is superadded to the natural law through an invention of human reason.

[1] Therefore Cajetan observes, p. 2. 2, qu. 66, a. 2, ad. 1, that while dominion over the goods of the earth was originally common negatively, they were also positively common in case of extreme necessity. But apart from special cases of the kind the dominion is only negatively common; "Hinc disce quod hujus modi propositiones, scilicet, *secundum jus naturale omnia sunt communia*, exponuntur negative, non affirmative," vide p. 1, qu. 14, a. 3, ad. 1. Summæ, D. Thomas. Goods are said to be negatively common when, though owned by all, yet it does not belong to the individual to determine his own share for himself.

such dominion is really and *legally* founded. One who should enter and settle in an uninhabited and unclaimed district of country might be said to acquire, concomitantly with actual occupancy, a negative dominion over the territory;[1] if we add, as another cause founding just right, that he cultivates a spot of land and builds a house, the fruit of his industry will surely belong to him, so far as it is something which he is capable of appropriating and possessing, but not farther. The common right of mankind to share the goods of the earth is not abrogated, either in respect to that whole district of country or the spot of land itself which he has cultivated, unless it be so determined conventionally or by law. For if we suppose this territory, with its solitary inhabitant occupying his tract of cultivated land, now to be rightfully acquired, for example, by the United States government, there appears no valid reason, coming merely from the nature of things, why this person should not become subject to all just laws, like every citizen, even including the law which imposes conditions for acquiring "the pre-emption right." Man as a member of society can acquire ownership to a particular spot of land only in the manner prescribed by the public law. Where, in fact, is there a member of civil society who now owns land independently of all positive law, and the absolute title to which he acquired merely by first occupancy?

Since there is no reason in the nature of things, or *a priori*, why one man should own a particular piece of land rather than another man, and also since men must live in society as rational beings, it follows that because the apportionment of land is not made by nature, it must be done when divisions become expedient or necessary by a positive convention or agreement, *i. e.*, by equitable general laws.

If it be determined as in Roman law that occupancy under certain conditions shall found a right of ownership in such property,[2] then the community will define what shall be those special conditions that must accede to mere occupancy, in order for it to establish a legal title; and it will be determined by the same authority what extent or quantity of land may in this manner be legiti-

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[1] Cowper makes the lonely Alexander Selkirk thus declare the true nature of his dominion over all the island of Juan Fernandez:

> "I am monarch of all I survey;
> *My right there is none to dispute.*"

[2] "Sicut divisio rerum est de jure gentium ita de jure gentium est ut quæ adhuc nullius sunt fiant de primo occupantis." Becanus, De jure, C. 5, q. 3. Ita etiam Cardin. Toleti in 2. 2, q. 66, a. 2, et alii communiter.

Just as division of goods is from human law (the common law of nations), so it is by human law that things which as yet belong to no one, become the property of the first possessor.

mately acquired by one person.[1] In practice, occupancy could not otherwise, than as defined and regulated by positive law, be an equitable and peaceful mode of establishing for individual persons exclusive ownership of landed property. In the United States all unoccupied landed property within the territory of the nation is assumed to be public domain; and such land was thus regarded from the beginning of the Union. Occupancy of land in the undivided or unconveyed public domain establishes for the first actual settler or occupant, there dwelling and cultivating or improving the land, "a pre-emption right," or the first right to *purchase* the quarter of that section[2] which includes the settler's domicil.

The "right of eminent domain," *dominium altum*,[3] which is held to be inherent, remains in the State, or supreme public authority; and, therefore, when really necessary for the common good, the government can, in virtue of that original and natural right existing in the community, and exercised by the government as representing the community, condemn private property for public use, by making equitable compensation for it, in order that an undue burden be not imposed on a particular person or part of the community; also, property left without an heir-at-law reverts to the commonwealth; and all immovable property is liable to forfeiture for just taxes. This paramount right or authority over all real estate or landed property belonging to the individual citizen, being necessary for the government in the very nature of things, is therefore originally derived by the community directly and immediately from the natural law itself.

But while the goods of the earth are given by nature to mankind, the division itself of those goods is left to the rational, just, and prudent determination of mankind; and what thus pertains to mankind for its decision, does not belong to the individual to de-

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[1] For what pertains to the manner in which a nation acquires dominion over vacant territory, and what concerns the right of discovery, as settled by international law, See Wheaton, "Elements of International Law," ch. iv.; or Vattel, "Law of Nations," book I., chap. xvii.

[2] A section is one mile square, or 640 acres.

[3] Judge Dillon, of the United States Circuit Court, in his treatise, "Municipal Corporations," ch. xvi., defines and explains this right, and the laws for applying it. He says, ibid.: "The maxim, *salus populi suprema lex*, has an important meaning in its application to private rights, and in limiting the absoluteness of any possible ownership of private property. . . . . This (eminent domain) is a right inherent in every government. One branch of this governmental prerogative is known by the name of taxation, and the other arm of this transcendent and underlying authority is now familiarly known as the power of eminent domain. The Constitution of the United States provides that private property shall not be taken for public use without just compensation." P. 438. To impose a special burden on the property of a private party for the benefit of the public would not be just; if no compensation were made it would be an unfair exaction.

cide for himself independently of the community; it is always the office of public authority to determine in such matter what is best for the common good, since in no other manner can justice, and, consequently, social peace, be maintained. There is no precept of the natural law prescribing a division of property as, *per se*, necessary for every community of mankind. Such division is not thus necessary under every hypothesis; in a state of innocence, or of integral nature, a division of property would not become necessary, nor, perhaps, even useful.[1] In a small community common proprietorship might even now happen to be advantageous under certain conditions.

The principle that particular dominion or exclusive ownership of property is by human convention, "dominium et prælatio introducta sunt ex jure humano," was generally taught as certain in the old universities. The opinion of the best English and American jurists concerning this matter will be found briefly and clearly enunciated in the two citations which are here subjoined; their theory, it will be noticed, agrees in substance with what was held by St. Thomas and the scholastics.[2]

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[1] In statu naturæ integræ et eo perseverante probabilius permansisset bonorum communitas. Quia in illo felici statu, summaque hominum inter se concordia, nulla fuisset causa seu necessitas dividendi qualis est post lapsum: imo decens erat et ad dignitatem atque magnificentiam generis humani pertinens ut hujusmodi bona communiter donata communiter possiderentur. Billuart, de dominio; with theologians more generally, in Div. Th., p. 2. 2, q. 66, a. 2, ad. 1. In this state of integral nature, and it continuing, it is more probable that community of goods would be permanent. For in that happy state and perfect concord of mankind among themselves, there would be no reason or necessity for a division such as there is since the fall; nay, it would become the dignity and belong to the generous spirit of mankind to possess the goods of the earth in common as they were given in common.

[2] Billuart, "De modis acquirendi Dominium," thus states the doctrine of the Scholastics concerning this matter: "Divisio rerum facta est non jure naturæ, quia jus naturæ neque eam præcipit neque ad eam inclinat ut ad quid simpliciter necessarium sed ut ad quid magis conveniens tantum; non jure divino positivo, cum neque in Scriptura neque in Traditione ullum de ea extat præceptum; sed jure gentium, quatenus homines, dum attenta corruptione naturæ, quæ est sui amans, alieni negligens, cupiditati et ambitioni serviens, viderent gravia et plura incommoda sequi occasionaliter ex communitate bonorum, divisionem, non dico præceperunt, alioquin peccarent monachi, sed ut vitæ sociali et bonorum administerationi magis convenientem *communi consensu formali vel tacito* introduxerunt. Unde L. I. digestorum dicitur; ex hoc jure gentium discretas esse gentes, regna condita, dominia distincta, agris terminos positos." The division of things is not made by the law of nature, for the law of nature neither commands it nor persuades it as something simply necessary, but only as something more suitable or expedient; it is not from divine law, since there is no precept concerning it, either in the Scripture or from tradition, but it is by human law, inasmuch as men, considering the corruption of nature which inclines man to be selfish, unmindful of others, following cupidity and ambition, saw the grave and numerous inconveniences occasioned by community of goods. I do not say mankind prescribed it as being of natural law, for then the monastic orders would be doing wrong, but they introduced division of goods by common consent, either formally or tacitly given, as better suited for social life, and

Timothy Walker, LL.D., *Introduction to American Law*, fourth edition, p. 282, thus states and explains this matter: "We know, as a matter of history, that in the beginning God gave to man a general dominion over the earth, and all things appertaining thereto; but this would only make the first inhabitants *owners in common* of the world, and not exclusive owners of any specific part. The historical inference, therefore, is that exclusive ownership did not commence until some subsequent period, when a division of the common property was made,[1] either by compulsion or voluntary agreement. In other words, the right of exclusive ownership is conventional, and not divine or natural; and the same inference results from our theory of the social compact. An island or continent, for example, which no man had ever seen, would be the property of no one; but if a number of persons should be cast upon it, and take possession of it, they would own it in common until some agreement would be made concerning it, after which the nature of their ownership, whether exclusive or common, would depend upon their agreement. In either view, therefore, it would seem that the exclusive ownership of property is a social, and not a natural right."

James Kent, *Commentaries on American Law*, vol. iii., p. 501, § 378, twelfth edition, shows how the government, which represents the nation, is the source of particular ownership in property. "It is a fundamental principle in the English law, derived from the maxims of its feudal tenures, that the king was the original proprietor or lord paramount of all the land in the kingdom, and the true and only source of title. In this country we have adopted the same principle, and applied it to our republican governments; and it is a settled and fundamental doctrine with us that all valid individual title to land within the United States is derived either from the grant of our own local governments, or from that of the United States, or from the crown, or royal chartered governments established here prior to the Revolution. This was the doctrine declared in New York in the case of Jackson *v.* Ingraham, and it was held to be a settled rule that the courts could not take notice of any title to land not derived from our own State or colonial government, and duly verified by patent. This was also a fundamental principle in colonial jurisprudence. The title to land passed to in-

for the right management of its goods. Whence it is said in the Digests, L. I., from this common law of nations distinct civil communities come, kingdoms are founded, ownership of property begins, and farms have their limits.

[1] "And to Heber were born two sons, the name of the one was Phaleg, because in his days the earth was divided."—1 Paralipomenon, i. 79 "By these (the descendants of Noe) were divided the islands of the Gentiles in their land, every one according to his tongue and their families in the nations."—Genesis x. 5.

dividuals from the crown through the colonial corporations, and the colonial or proprietary authorities."

Particular dominion or exclusive ownership of property is from the natural law only according to the sense in which all just human law is derived from the natural law.[1]

When people became numerous on earth and the means of living were thereby made relatively less abundant, division of property was rendered morally necessary.[2] Many men are either slothful or selfish, and, therefore, considering the present actual state and character of the human race, together with the disorderly inclinations that are so often dominant over mankind, it is, in practice, more favorable to the general good that each one be left to provide for himself what is necessary, and that he become the owner of what he legitimately acquires; then, every one's rights and duties being maintained justly by public authority, there will exist fewer causes of contention or quarrelling, and consequently there will be greater peace and security. Men will labor with more alacrity, and preserve with more care the fruit of their industry, when they work for themselves or their own particular advantage, than they would if all things belonged only to the community; for, in the latter case, each would leave this task to be performed by another, and hence there would result confusion in employments, insufficiency in necessary things, discontent, and many other evils.[3] But, in the present actual state of man's nature, a fair and orderly division of property would not be possible, in practice, except as regulated by just law; and hence from this truth a valid argument is derived also to prove the necessity of supreme authority in human society. Consequently upon the fact of a legitimate agreement to make the division, each person in the community has the right to some

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[1] Est de ratione legis humanæ, quod sit derivata a lege naturæ. Et secundum hoc dividetur jus positivum in jus gentium et jus civile; secundum duos modos; sicut conclusiones ex principiis, et alio modo sicut determinationes quædam aliquorum communium. P. 1. 2, q. 2, a. 4 et a. 5. It is of the essence of human law that it be derived from the law of nature. And under this respect positive law is divided into the common law of nations and the civil law according to two manners of deriving positive law from the natural law, namely, as conclusions from first principles and as certain particular determinations (or applications) of some common or general principles.

[2] "Distinctio possessionum et servitus non sunt inductæ a natura, sed per hominum rationem ad utilitatem humanæ vitæ." P. 1, 2, qu. 9, a. 5, ad. 3. "In statu naturæ lapsæ nedum licita, sed conveniens fuit rerum et dominiorum divisio." Billuart, with scholastic writers generally. Distinct possession of material goods, and slavery, were not introduced by nature, but through the reason of man for the advantage of human life. S. Thomas. In the state of fallen nature the division of goods or exclusive ownership of property is not only permitted by the law of nature, but it is also something expedient. Billuart.

[3] Aristotle uses similar reasoning in his "Politics," book ii., ch. 5, against the theory of communism by Plato, in his "Republic."

determinate and equitable share of the property first given in common by nature; but that right, if considered in itself *a priori*, can be positively determined and defined as to its particular and actual object, not by the individual for himself, for this would be to take law into his own hands, which would lead to confusion, but only by that authority which is duly empowered to provide for and protect the general good.[1]

It may be concluded, therefore, that man's natural reason dictated the division of property according to which each one has his own, and is defended in the possession and enjoyment of it, as a moral necessity for the common good, at least for large communities; and hence, although the actual division of property is from human legislation, yet it is founded on the natural law. Against this assertion the objection may here arise in the mind of the inquisitive reader: "What right reason dictates to be done, as something necessary for the common good, should rather be called the natural law itself than human law;" but, as just alleged, the division of property was originally made, reason dictating its necessity, "dictante lumine naturalis rationis," in order to avoid the inconveniences and evils arising from common ownership of goods; therefore "the division of property is made by the natural law." Since the natural law or right reason does not dictate the division of property to be simply and under all conditions necessary, the argument objected proves only that this division was made in accordance with the natural law, and that the necessity or expediency of it was a just conclusion from the natural law, agreeably to the sense in which all laws comprised in the "jus gentium," "common law of nations," are conclusions from the natural law. Such laws are not simply immutable, since their matter is not simply immu-

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[1] "Nota quod propositio, *communitas rerum est de jure naturæ quoad usum*, potest dupliciter intelligi, scilicet positive et negative. Et si intelligatur positive sensus est quod jus naturale dictat quod omnia sunt communia; si vero intelligatur negative, est sensus quod jus naturale non instituit proprietates rerum, et in utroque sensu propositio est vera, si sane intelligatur. In primo quidem, scilicet, positive, verificatur in casu scilicet extremæ necessitatis, quando enim aliquis est in extrema necessitate, potest, undecumque sibi occurrit sibi vel alteri hujusmodi subvenire, quia sua tunc naturæ jure re usus est. In secundo, scilicet negative, verificatur absolute; nam, extra casus loquendo, jus naturæ non fecit aliquid esse proprium alicui, et aliud alteri." Cajetan, in p. 2. 2, qu. 66, a. 2, ad. 1. Cardinal Toleto speaks similarly in commenting on that same passage: "Observe that the proposition, *by natural law goods are in common as to the use of them*, may be taken either positively or negatively, and in both senses it is true if rightly understood; it is verified positively when one in extreme necessity helps himself with the relief which is within his reach, or when he does this for another in like want; in that case he uses what is his by the law of nature. The proposition is verified negatively, in that, apart from the case mentioned, the law of nature does not make one thing the property of one person and another thing the property of another person."

table; whereas the natural law and the strictly demonstrated conclusions derived from it are simply immutable.[1]

The reasons above given in proof that the goods of the earth should be divided, show its expediency and necessity as a means to secure the greater good of society; it now only remains to adduce the arguments which demonstrate the falsity of modern communism, or the theory proposing a return to common ownership of property as a measure that is expedient and even necessary for the common good of nations.

In order for the communists to advance any valid argument in proof that their theory proposes what is true or legitimate in practice, either they must show that nature dictates community of goods as necessary, or else they must prove that it is expedient and good for nations now to establish common ownership of property. These are the only arguments bearing upon the subject that can be devised or offered by them; no other assignable reasons would be pertinent.

Now, neither does nature dictate common ownership of property to be necessary, as was already explained, nor is a return to primitive community of goods possible in practice for any nation; and hence it is justly charged that this wild scheme has nothing in it which can seriously commend it to any but indolent, improvident, and vicious members of civil society.[2] That is neither rational nor legitimate which cannot be done without destroying peace, order, and justice in civil society; but a return to common ownership of property cannot be effected in any nation without causing the evils named, and others along with them, which would lead to social anarchy; therefore the theory of communism is false and impracticable, and it was always repudiated by the natural good sense of mankind, no nation ever having actually attempted in practice so unreasonable a system.[3]

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[1] Some of the older philosophers and jurists put "jus positivum" in contradistinction to "jus gentium;" but they did not intend by this technical use of the terms to imply that the "jus gentium" was not a human positive law, or that it is simply the natural law. The general truth which nature teaches, and in which all nations concur, not by express agreement, but because they judge the same matter in the same manner, namely, *the goods of the earth should be divided by us*, is of the "jus gentium;" the special laws, or rules by which that division is actually made, and maintained in force, are civil laws, or positive laws, as opposed to the common laws of nations, "jura gentium." But this "jus gentium" must not be confounded with the code of positive law now styled "international law."

[2] It is a notorious fact that when the communists got control of Paris temporarily, in 1870, they sought, not a community of goods, but to enrich themselves individually.

[3] Although the *agrarian* movement under the Roman commonwealth continued, during several centuries, occasionally to excite popular commotions, and some just concessions were made to the plebeians, yet there never was a return to common ownership of property, nor were all the goods possessed by the people ever redivided.

The communist argues that "what comes by human convention can be undone by human convention; but division of property is something merely conventional, and therefore it can be undone by convention." It is not true that all things done by convention or general agreement can be arbitrarily changed by human authority; only those things can be thus changed or undone which are not thereby converted into what is evil, or which, in other words, are, by their own nature, susceptible of change, when there are due and legitimate reasons for it. There can arise no reasons to justify the re-establishment of common dominion in property, nor is it perhaps possible as a fact that any nation of mankind will ever agree to do so. The reasons originally making the division of property necessary or expedient now militate with still greater strength for adhering to separate or exclusive ownership of property; or if community of goods was not for the general welfare in the beginning of nations, still less can it now be good for nations to institute that state of things.

To answer the communist's reasoning above given, however, by asserting that individuals acquire, and actually hold, their right to particular property immediately from the law of nature, appears to be the denying of one error merely by affirming another one, but without really meeting the point of the difficulty raised. Nor will it do to affirm that community of goods or common ownership of property was, in itself, impossible from the beginning, since this would be to prove too much. In the case of monastic orders, the property of their members is actually converted into common property, no one retaining exclusive ownership of anything whatever.[1] It is to be observed, however, in answer to any inferences that may be drawn therefrom by the communist for the right and feasibility of reinstating primitive community of goods in nations of mankind, that there is no parity between a monastic body and a nation. Such a community does not, like a nation, include a large number of entirely different persons collected together, as it were miscellaneously; nor is it a body politic; but it is a peculiar *private* association that is governed by a special system of rules; it has none but adult members, who attach themselves to it voluntarily, and its members still owe duty to the civil government of the nation in which they dwell. For such a society which, owing to its peculiar aim, is actually adapted only to a small number of persons, the common ownership of property is indispensable, and in such a community it works harmoniously in practice, a result, however, which would not be morally possible in a large civil community. It follows, then, that the theory of communism is false, not because all

[1] The first Christians also made their goods common property.

common ownership of property is evil or impossible, and not because a return to community of goods is, under all suppositions, wrong or impracticable, but for this, that division of property having been made by the nations of mankind because they found it to be expedient and even necessary for the common good, a return to common dominion in property would now, for still greater reasons, be utterly impracticable; and even if it could be actually effected, a thing that is perhaps utterly impossible, the change would be productive of the greatest evils and no real good.

Let us here recapitulate: God gave the goods of earth in common to mankind. Determinate and exclusive ownership of property was introduced by human convention or agreement.[1] The natural law does not dictate that the goods of the earth should be held in common by mankind; nor does it dictate that division of them is simply necessary. Right reason teaches that it is expedient, and in practice it is also necessary for the good of large communities or nations of mankind, that there should be made an equitable division of the goods given in common by nature. After the division of those goods is once actually made, because found by a community to be necessary for the common good, then *a fortiori* will it be necessary for the general welfare of such community that this condition of things be permanently maintained; by consequence, the theory of communism as teaching that common dominion or ownership of property should be re-established, is false, and in actual practice it would surely prove to be disastrous.

The doctrine of the communists concerning the rights of property is herein refuted; but some of their leaders advocate other principles still more iniquitous, which have served to bring much discredit on them and their extravagant theory in all enlightened communities of mankind. As for those among them who actually attempt to destroy marriage and the family, the legitimate answer to them is not by appeal to the canons of logic; such matter pertains rather to the authoritative decisions of criminal jurisprudence, to the bar of civil justice, where convicted culprits that violate the essential and well-known laws of social life are arraigned, to have passed on them the sentence merited by their misdeeds.

Some less extreme minds object that "a portion of the abundance possessed by the rich, who have more than they need, should in natural justice be taken from them and given to the poor, who have less than they need, for nature intends that all shall have a living from the goods which nature provides for all."

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[1] In order to be further assured that this is the doctrine commonly taught in the schools, see Cajetan and Cardin. Toletus, in Sum. D. Th., p. 2. 2, qu. 66, a. 2; also Billuart, Becanus, or other scholastic authors on the same article.

This objection is a mixture of truth and error, and it presents a difficulty which it is not expedient to slur over, and which at the same time it is not easy to answer in very precise terms, for the obvious reason that it belongs to legislative power to define the specific means of meeting that emergency under its particular and actual circumstances. The general reply is, that it is the duty of public authority, and not the office of private parties, to provide for the necessary well-being of the whole community, and therefore to provide the means necessary to save a deserving and innocent portion of the people from starvation in a time of such adversity. It is true that "nature intends all to have a living from the goods which nature intends for all," but nature intends this, as so regulated and measured, that the rights of all may be duly defended. Nature does not intend to confer a private communistic authority or right on individuals of appropriating to themselves exclusively goods in which others also have a right. Hence a particular part of the community can have only that right which is consistent with the rights of others, and which, therefore, must be regulated by general laws of the community. This is one of those difficulties in human affairs, on account of which public authority, whose office it is to maintain the general good, is indispensably necessary for every civil community.

In considering the matter proposed by the above objection, it will help towards clearness of thought to distinguish different classes of poor people. Under the first may be included all industrious laboring or working people who, we shall suppose, wish to live only by upright and legitimate means, but who, here and now, cannot obtain wages that suffice for their support. It is, without any doubt, the solemn duty of public authority to protect them in their natural right to the necessary means of living.

Secondly, there is a class of the helpless and afflicted poor, comprising such, for example, as are reduced to want by sickness, or by any of the various misfortunes and disasters that may befall even the most virtuous and worthy persons. There surely never was an enlightened nation in which all the good and generous among the people did not look on it as a duty, even of private benevolence, to befriend the suffering poor and relieve their wants, though oftentimes this can be done only at the risk of being imposed on by the false stories of undeserving vagabonds. For this class of the poor public authority provides hospitals, homes, asylums, etc., in which, according to the particular form of their miseries, they may find shelter and comfort in their wretchedness.

A third class may comprise all those more or less indigent people who are idle and vicious, as thieves and lazy vagrants, the improvident and sensual drones of society that collect in the large cities,

where they haunt the dens of low pleasure and amusement, who would live above their social condition, and seek the means of maintaining themselves in their excessive habits by various dishonest arts and tricks of fraud. It is not work, even for high wages, that such people desire; their wish is to lead a reckless and self-indulgent life in idleness and debauchery. They shun the duties of life, leaving toil and the employments of industry to other hands, though they would have a full share in the fruits of that industry, despite the Scriptural behest, "If any man will not work, neither let him eat."[1] Even if they should come into the possession of wealth and abundance, with their dissolute and extravagant habits, and their heedlessness of the future, it would be quickly squandered in the excesses of maudlin, low-bred pleasure. It was this class of people that mainly constituted the mobs which strove to identify themselves with the "strikers" last summer, in order to have the opportunity of stealing and robbing. All they require for turbulent action or outbreaks is, that they be headed by the bold, dangerous spirits which rise up in troubled and evil times from the dark, low depths to the surface, to plan and execute desperate deeds of violence. They are practical communists; the system of communism favors them; they have nothing to lose, no home, no goods providently laid up, and any change is for them an improvement. It can scarcely be doubted, therefore, that it is chiefly on this unruly and mischievous element of society that the communists must depend for enlisting numbers into their ranks. Could any redress of social troubles possibly arise from a violent and revolutionary return to primitive community of goods brought about by this class of mankind, and that, too, with all the calamities and wrongs to persons which would be necessarily caused by such a change in the very constitution of society?

Well-administered government and wise laws are the means intended by nature for protecting and securing all classes of citizens in their genuine civil rights. But the principles of communism can remedy no evil, and remove no social grievance. Nay, to reduce that execrable theory to practice would be to substitute for occasional troubles that can be quieted by authority of just law, manifold evils that could not be endured in any but a savage nation.

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[1] 2 Thessal., chap. iii., v. 10.