

CHAPTER 5 OF PROPERTY IN LAND IN THE UNITED STATES

In the earlier stages of civilization we see that land is everywhere regarded as common property. And, turning from the dim past to our own times, we may see that natural perceptions are still the same, and that when placed under circumstances in which the influence of education and habit is weakened, men instinctively recognize the equality of right to the bounty of nature.

The discovery of gold in California brought together in a new country men who had been used to look on land as the rightful subject of individual property, and of whom probably not one in a thousand had ever dreamed of drawing any distinction between property in land and property in anything else. But, for the first time in the history of the Anglo-Saxon race, these men were brought into contact with land from which gold could be obtained by the simple operation of washing it out.

Had the land with which they were thus called upon to deal been agricultural, or grazing, or forest land, of peculiar richness; had it been land which derived peculiar value from its situation for commercial purposes, or by reason of the water power which it afforded; or even had it contained rich mines of coal, iron or lead, the land system to which they had been used would have been applied, and it would have been reduced to private ownership in large tracts, as even the

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the novelty of the case broke through habitual ideas, and threw men back upon first principles. By common consent this gold-bearing land remained common property, of which no one might take more than he could reasonably use, or hold for a longer time than he continued to use it.

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pueblo lands of San Francisco, really the most valuable in the state, which by Spanish law had been set apart to furnish homes for the future residents of that city, were reduced, without any protest worth speaking of. But the novelty of the case broke through habitual ideas, and threw men back upon first principles, and it was by common consent declared that this gold-bearing land should remain common property, of which no one might take more than he could reasonably use, or hold for a longer time than he continued to use it. This perception of natural justice was acquiesced in by the General Government and the Courts, and while placer mining remained of importance, no attempt was made to overrule this reversion to primitive ideas. The title to the land remained in the government, and no individual could acquire more than a possessory claim. The miners in each district fixed the amount of ground an individual could take and the amount of work that must be done to constitute use. If this work were not done, any one could relocate the ground. Thus, no one was allowed to forestall or to lock up natural resources. Labor was acknowledged as the creator of wealth, was given a free field, and secured in its reward. The device would not have assured complete equality of rights under the conditions that in most countries prevail; but under the conditions that there and then existed—a sparse population, an unexplored country, and an occupation in its nature a lottery, it secured substantial justice. One man might strike an enormously rich deposit, and others might vainly prospect for months and years, but all had an equal chance. No one was allowed to play the dog in the manger with the bounty of the Creator. The essential idea of the mining regulations was to prevent forestalling and monopoly. Upon the same principle are based the mining laws of Mexico; and the same principle was adopted in Australia, in British Columbia, and in the dia-

mond fields of South Africa, for it accords with natural perceptions of justice.

With the decadence of placer mining in California, the accustomed idea of private property finally prevailed in the passage of a law permitting the patenting of mineral lands. The only effect is to lock up opportunities—to give the owner of mining ground the power of saying that no one else may use what he does not choose to use himself. And there are many cases in which mining ground is thus withheld from use for speculative purposes, just as valuable building lots and agricultural land are withheld from use. But while thus preventing use, the extension to mineral land of the same principle of private ownership which marks the tenure of other lands has done nothing for the security of improvements. The greatest expenditures of capital in opening and developing mines—expenditures that in some cases amounted to millions of dollars—were made upon possessory titles.

Had the circumstances which beset the first English settlers in North America been such as to call their attention de novo to the question of landownership, there can be no doubt that they would have reverted to first principles, just as they reverted to first principles in matters of government; and individual landownership would have been rejected, just as aristocracy and monarchy were rejected. But while in the country from which they came this system had not yet fully developed itself, nor its effects been fully felt, the fact that in the new country an immense continent invited settlement prevented any question of the justice and policy of private property in land from arising. For in a new country, equality seems sufficiently assured if no one is permitted to take land to the exclusion of the rest. At first no harm seems to be done by treating this land as absolute property. There is plen-

With the decline of placer mining in California, a law passed permitting patenting of mineral lands. The only effect is to give the owner of mining ground the power of saying that no one else may use what he does not choose to use himself. It has no effect on security of improvements, as great expenditures of capital were made to develop mines upon possessory titles.

The first English settlers in North America would have reverted to first principles, rejecting individual landownership, except that

ty of land left for those who choose to take it, and the slavery that in a later stage of development necessarily springs from the individual ownership of land is not felt.

In Virginia and to the South, where the settlement had an aristocratic character, the natural complement of the large estates into which the land was carved was introduced in the shape of Negro slaves. But the first settlers of New England divided the land as, twelve centuries before, their ancestors had divided the land of Britain, giving to each head of a family his town lot and his seed lot, while beyond lay the free common. So far as concerned the great proprietors whom the English kings by letters patent endeavored to create, the settlers saw clearly enough the injustice of the attempted monopoly, and none of these proprietors got much from their grants; but the plentifulness of land prevented attention from being called to the monopoly which individual landownership, even when the tracts are small, must involve when land becomes scarce. And so it has come to pass that the great republic of the modern world has adopted at the beginning of its career an institution that ruined the republics of antiquity; that a people who proclaim the inalienable rights of all men to life, liberty, and the pursuit of happiness have accepted without question a principle which, in denying the equal and inalienable right to the soil, finally denies the equal right to life and liberty; that a people who at the cost of a bloody war have abolished chattel slavery, yet permit slavery in a more widespread and dangerous form to take root.

The continent has seemed so wide, the area over which population might yet pour so vast, that familiarized by habit with the idea of private property in land, we have not realized its essential injustice. For not merely has this background of unsettled land prevented the full effect of private

the area to be settled seemed so vast that we did not realize the essential injustice of private landownership.

appropriation from being felt, even in the older sections, but to permit a man to take more land than he could use, that he might compel those who afterwards needed it to pay him for the privilege of using it, has not seemed so unjust when others in their turn might do the same thing by going further on. And more than this, the very fortunes that have resulted from the appropriation of land, and that have thus really been drawn from taxes levied upon the wages of labor, have seemed, and have been heralded, as prizes held out to the laborer. In all the newer States, and even to a considerable extent in the older ones, our landed aristocracy is yet in its first generation. Those who have profited by the increase in the value of land have been largely men who began life without a cent. Their great fortunes, many of them running up high into the millions, seem to them, and to many others, as the best proofs of the justice of existing social conditions in rewarding prudence, foresight, industry, and thrift; whereas, the truth is that these fortunes are but the gains of monopoly, and are necessarily made at the expense of labor. But the fact that those thus enriched started as laborers hides this, and the same feeling which leads every ticket holder in a lottery to delight in imagination in the magnitude of the prizes has prevented even the poor from quarreling with a system which thus made many poor men rich.

In short, the American people have failed to see the essential injustice of private property in land, because as yet they have not felt its full effects. This public domain—the vast extent of land yet to be reduced to private possession, the enormous common to which the faces of the energetic were always turned, has been the great fact that, since the days when the first settlements began to fringe the Atlantic Coast, has formed our national character and colored our national thought. It is not that we have eschewed a titled aristocracy

And the fortunes that have resulted from appropriation of land, which are really drawn from taxes levied upon the wages of labor, have seemed like prizes held out to the laborer. Many of those who have profited by the increase in the value of land began life without a cent. Their great fortunes seem to many as the best proofs of the justice of existing social conditions.

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and abolished primogeniture; that we elect all our officers from school director up to president; that our laws run in the name of the people, instead of in the name of a prince; that the State knows no religion, and our judges wear no wigs—that we have been exempted from the ills that Fourth of July orators used to point to as characteristic of the effete despotisms of the Old World. The general intelligence, the general comfort, the active invention, the power of adaptation and assimilation, the free, independent spirit, the energy and hopefulness that have marked our people, are not causes, but results—they have sprung from unfenced land. This public domain has been the transmuting force which has turned the thriftless, unambitious European peasant into the self-reliant Western farmer; it has given a consciousness of freedom even to the dweller in crowded cities, and has been a wellspring of hope even to those who have never thought of taking refuge upon it. The child of the people, as he grows to manhood in Europe, finds all the best seats at the banquet of life marked “taken,” and must struggle with his fellows for the crumbs that fall, without one chance in a thousand of forcing or sneaking his way to a seat. In America, whatever his condition, there has always been the consciousness that the public domain lay behind him; and the knowledge of this fact, acting and reacting, has penetrated our whole national life, giving to it generosity and independence, elasticity and ambition. All that we are proud of in the American character; all that makes our conditions and institutions better than those of older countries, we may trace to the fact that land has been cheap in the United States, because new soil has been open to the emigrant.

But our advance has reached the Pacific. Further west we cannot go, and increasing population can but expand north and south and fill up what has been passed over. North, it is

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already filling up the valley of the Red River, pressing into that of the Saskatchewan and pre-empting Washington Territory; south, it is covering western Texas and taking up the arable valleys of New Mexico and Arizona.

The republic has entered upon a new era, an era in which the monopoly of the land will tell with accelerating effect. The great fact which has been so potent is ceasing to be. The public domain is almost gone—a very few years will end its influence, already rapidly failing. I do not mean to say that there will be no public domain. For a long time to come there will be millions of acres of public lands carried on the books of the Land Department. But it must be remembered that the best part of the continent for agricultural purposes is already overrun, and that it is the poorest land that is left. It must be remembered that what remains comprises the great mountain ranges, the sterile deserts, the high plains fit only for grazing. And it must be remembered that much of this land which figures in the reports as open to settlement is unsurveyed land, which has been appropriated by possessory claims or locations which do not appear until the land is returned as surveyed. California figures on the books of the Land Department as the greatest land state of the Union, containing nearly 100,000,000 acres of public land—something like one-twelfth of the whole public domain. Yet so much of this is covered by railroad grants or held in the way of which I have spoken; so much consists of untillable mountains or plains which require irrigation; so much is monopolized by locations which command the water, that as a matter of fact it is difficult to point the immigrant to any part of the state where he can take up a farm on which he can settle and maintain a family, and so men, weary of the quest, end by buying land or renting it on shares. It is not that there is any real scarcity of land in

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California—for, an empire in herself, California will some day maintain a population as large as that of France—but appropriation has got ahead of the settler and manages to keep just ahead of him.

Some twelve or fifteen years ago the late Ben Wade of Ohio said, in a speech in the United States Senate, that by the close of this century every acre of ordinary agricultural land in the United States would be worth \$50 in gold. It is already clear that if he erred at all, it was in overstating the time. In the twenty-one years that remain of the present century, if our population keep on increasing at the rate which it has maintained since the institution of the government, with the exception of the decade which included the civil war, there will be an addition to our present population of something like forty-five millions, an addition of some seven millions more than the total population of the United States as shown by the census of 1870, and nearly half as much again as the present population of Great Britain. There is no question about the ability of the United States to support such a population and many hundreds of millions more, and, under proper social adjustments, to support them in increased comfort; but in view of such an increase of population, what becomes of the unappropriated public domain? Practically there will soon cease to be any. It will be a very long time before it is all in use; but it will be a very short time, as we are going, before all that men can turn to use will have an owner.

But the evil effects of making the land of a whole people the exclusive property of some do not wait for the final appropriation of the public domain to show themselves. It is not necessary to contemplate them in the future; we may see them in the present. They have grown with our growth, and are still increasing.

We plow new fields, we open new mines, we found new

Our population continues to grow.

cities; we drive back the Indian and exterminate the buffalo; we girdle the land with iron roads and lace the air with telegraph wires; we add knowledge to knowledge, and utilize invention after invention; we build schools and endow colleges; yet it becomes no easier for the masses of our people to make a living. On the contrary, it is becoming harder. The wealthy class is becoming more wealthy; but the poorer class is becoming more dependent. The gulf between the employed and the employer is growing wider; social contrasts are becoming sharper; as liveried carriages appear, so do barefooted children. We are becoming used to talk of the working classes and the propertied classes; beggars are becoming so common that where it was once thought a crime little short of highway robbery to refuse food to one who asked for it, the gate is now barred and the bulldog loosed, while laws are passed against vagrants which suggest those of Henry VIII.

We call ourselves the most progressive people on earth. But what is the goal of our progress, if these are its wayside fruits?

These are the results of private property in land—the effects of a principle that must act with increasing and increasing force. It is not that laborers have increased faster than capital; it is not that population is pressing against subsistence; it is not that machinery has made work scarce; it is not that there is any real antagonism between labor and capital—it is simply that land is becoming more valuable; that the terms on which labor can obtain access to the natural opportunities which alone enable it to produce are becoming harder and harder. The public domain is receding and narrowing. Property in land is concentrating. The proportion of our people who have no legal right to the land on which they live is becoming steadily larger.

Says the *New York World*: “A nonresident proprietary,

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like that of Ireland, is getting to be the characteristic of large farming districts in New England, adding yearly to the nominal value of leasehold farms; advancing yearly the rent demanded, and steadily degrading the character of the tenantry." And the Nation, alluding to the same section, says: "Increased nominal value of land, higher rents, fewer farms occupied by owners; diminished product; lower wages; a more ignorant population; increasing number of women employed at hard, outdoor labor (surest sign of a declining civilization), and a steady deterioration in the style of farming—these are the conditions described by a cumulative mass of evidence that is perfectly irresistible."

The same tendency is observable in the new states, where the large scale of cultivation recalls the latifundia that ruined ancient Italy. In California a very large proportion of the farming land is rented from year to year, at rates varying from a fourth to even half the crop.

The increasing poverty perceptible in the United States is but a result of natural laws as irresistible as that of gravitation. Unless we come back to first principles and acknowledge the equal right of all to land, our free institutions, common schools, discoveries and inventions will but add to the force that presses the masses down.

The harder times, the lower wages, the increasing poverty perceptible in the United States are but results of the natural laws we have traced—laws as universal and as irresistible as that of gravitation. We did not establish the republic when, in the face of principalities and powers, we flung the declaration of the inalienable rights of man; we shall never establish the republic until we practically carry out that declaration by securing to the poorest child born among us an equal right to his native soil! We did not abolish slavery when we ratified the Fourteenth Amendment; to abolish slavery we must abolish private property in land! Unless we come back to first principles, unless we recognize natural perceptions of equity, unless we acknowledge the equal right of all to land, our free institutions will be in vain; our common schools will be in vain; our discoveries and inventions will but add to the force that presses the masses down!