

PROPERTY IN CIVILIZED LAW AND THE SCRIPTURES

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One of the strangest paradoxes in history is that Marxians have been unequivocally hostile to Christianity,¹ and of the Christian churches only the Roman Catholic has bluntly condemned communism. The Church of England has not yet disavowed the Red Dean of Canterbury, Dr. Hewlett Johnson, by any official disciplinary action. His fulsome praises of Moscow and its policies deeply offend many of us, notwithstanding the inevitable conclusion in the minds of many people that the church turns a kindly eye on his doctrine. It is true that the Primate has spoken severely and demanded resignation of Dr. Johnson, but there is no control over his propaganda. The late lamented Archbishop of Canterbury, Dr. Temple, sponsored many efforts to spread doctrines which are the negation of capitalism and of its source, private ownership of property.² A synod of the Presbyterian Church in Canada is said to have resolved that the church must "take communism seriously", and adopted a report which says that "the social ideas of communism bear striking resemblance to the social emphasis of the Christian gospel".³ With a strange failure to sense the incongruous, the report quotes the equivocal statement in St. Luke attributed to Christ: "he that is not against us is for us",⁴ quite failing to recall a less ambiguous and unequivocal later statement of the Master: "He that is not with me is against me: and he that gathereth not with me scattereth".⁵ The pastor of one of Toronto's United Churches invites the exposition of communist doctrine at Sunday evening forums held in his church. The Secretary for Moral Reform of the United Church of Canada is an unabashed political partisan, who advocates in the name of his church undiluted socialist doctrine.

One wonders if much emphasis on the humanitarian side of Christian doctrine, and an unwillingness to admit that any good

¹ Compare the League of the Godless, only disbanded by Stalin during World War II.

² See Christianity and Social Order; the Malvern Pamphlets.

³ At Kingston. See the Toronto Daily Star, May 4th, 1945.

⁴ Luke IX, 50. The context suggests, to a mere layman, that a very much more natural reading of the passage would be "he . . . is not against us [but] is for us". See also Mark IX, 39-40. One may properly invoke a well-known observation of Lord Halsbury in *Quinn v. Leatham*, [1901] A.C. 495, at p. 506, in respect of this passage: "Every judgment must be read as applicable to the facts proved or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but governed and qualified by the particular facts of the case".

⁵ Luke XI, 23. See also Matt. XII, 30.

thing can be unattainable in the perfect society, have not made both clergy and the more spiritually minded of the Christian laity unwilling to face harsh conclusions and to recognize that there can be no compromise between right and the denial of private right. They do not see that our Lord and Master was not concerned with the socialist problem: "What is my fair share of what you have earned?"

The Comintern had no doubt that Christ's teaching could not be reconciled with communism. The gospels must be discredited and religion exterminated. The doubts and frailties lie rather within the souls of believers. It is useful to see the why of it.

Throughout the twenty centuries of the Christian era there have been recurring periods of concern with the moral foundations of private ownership. The simple narrative that "the multitude of them that believed were of one heart and of one soul: neither said any of them that ought of the things which he possessed was his own; but they had all things common",⁶ and the subsequent disaster which overcame Ananias and Sapphira for untruthfully claiming to share when they held back part of their substance,⁷ seem unconsciously to have given a twist to a great deal of the thinking which honest men have done about the proper place of private property in the Christian scheme of life. All the numerous teachings with respect to charity and neighbourliness, and usury and poverty in spirit, are interpreted in the light of that one single incident in the post-Ascension period. And it is the sole incident in the New Testament in which community of property is mentioned—a very obscure foundation for a very large challenge to the processes by which civilization has evolved.

Whereas the Western world has progressed at a startling rate since the Puritan revolution in Britain and its counterpart on the continent unequivocally asserted the rights of the individual in matters as well of individual proprietorship and free status as in matters of conscience,⁸ the long period through the decline and fall of the Roman Empire under the twin impacts of Christianity and barbarian inroads and the slow evolution of the feudal order in the Middle Ages witnessed a very different kind of thinking. Since Christianity began in little "cells" among

⁶ Acts IV, 32.

⁷ Acts V, 1-11.

⁸ See, for example, an essay by H. G. Wood on the Influence of the Reformation in Ideas Concerning Wealth and Property, appearing in *Property: Its Duties and Rights* (London: Macmillans, 1913), pp. 146 ff.

the slaves, "where two or three are gathered together in Thy name" in the prayer of St. Chrysostom, and money could buy freedom, the earliest writings of the fathers encouraged the accumulation of wealth. It was not till Clement of Alexandria in the third and Lactantius in the fourth century of our era began to give system to the concept of community of goods⁹ that doubts were firmly planted in the minds of Christian men. In the seventh century St. Augustine, trained in all the sophistries of special pleading and the teaching of rhetoric,¹⁰ insisted that all property belonged to the state.¹¹ Gregory the Great in the eleventh century proclaimed and devoted his life to the achieving of identity between the Church and the State.¹² The history of mediaeval Europe is bedevilled with the titanic struggle between feudal princes and the papal hierarchy which ensued. On the claim to the mastery of men's souls and the title to their estates the Church became enormously wealthy.

It became so powerful that in the healthy secularism of our English forbears such parliaments as we had prohibited the transfer of great estates to the church. The 43rd head of Magna Carta (1215) says "It shall not be lawful . . . to give lands to any religious house" and such a gift "shall be utterly void".¹³ The mortmain law of Edward I, before the close of the 13th century, forbade any gift or sale to the "dead hand" of a corporation without the licence of the lord of the fee, for that deprived the overlord of his military and other customary feudal dues.¹⁴ That is to say in plain modern terms, created an unjustifiable exemption from the then equivalent of taxation. (We still have the problem with us.)

The great religious orders of the Middle Ages, the order of St. Francis of Assisi (Grey Friars), of the Dominicans (Black Friars) and many that are less well known, were characterised by communal ownership and the deliberate choice of poverty. St. Thomas Aquinas avowed that in great need all things are in common.¹⁵ The first germinations of Protestantism in England, the Lollardry of Wyclif's time, are associated with violent attacks

⁹ Property: Its Duties and Rights, pp. 100, 102.

¹⁰ See the Confessions of St. Augustine.

¹¹ Property: Its Duties and Rights, p. 122.

¹² Bryce, Holy Roman Empire, p. 106.

¹³ Story Deans, Student's Legal History (2nd ed.), p. 16.

¹⁴ *Ibid.*, p. 43.

¹⁵ This is not in accordance with the strict morality of the North American Woods Indian and the white man of the forests, whose tradition it is not to plunder the food cache of a stranger, for his life may depend upon it. Compare Stewart Edward White, *The Forest*, p. 225; Lieut. Col. Harwood Steele, *To Effect an Arrest*, pp. 57 ff.

on the institutions of private property.¹⁶ Very radical views on property right were put forward from church pulpits in the 16th century.

It is not important to trace their history, but it may be noted that many avowedly Christian sects springing from the witches' brew of European turmoil in the 16th and 17th centuries, such as the Albigensians, Hutterites and Mennonites, and in later days the Doukhobors in Old Russia, and the Mormons and Sons of David in 19th century North America, have adhered to communism and experienced violence in their spiritual and secular life.

There is then a history of persistent confusion and obstinate disagreement in respect of the spiritual bases of private right. That disagreement has always been associated with strong emotionalism, wherever the communist theory has been held. Nearly always there has been violent conduct on the part of the communist minority, and often a violent reaction from the rest of organized society. To-day, thanks in large measure to a habit of political tolerance unknown except in Western Christian countries — we call them democracies — there is no reaction of violence, but rather a feeble sort of ventriloquism about principles, where there ought to be firm and clearly held conviction.

Lawyers, the secular guardians of right, are in no small measure responsible for our lack of understanding. In our lifetime they have been so busy talking about the freedoms of speech and worship, freedoms from false arrest and arbitrary conviction for offences against the civil government that no attention has been paid in any speech I have heard to the foundations of those freedoms. They are after all merely the ornament of a solid edifice, without which no such freedom could ever exist, the "bubble and squeak" of our civilization, its froth and colour, but a mere consequence of the basic factors in its existence. We have let pass unchallenged all sorts of glittering plausibilities about a wholly fictional conflict between property rights and human rights. We have stood silent while people condemned capitalism, as if it were some vicious and inexcusable monstrosity. We have failed to insist upon the recognition that the so-called capitalism which is condemned is only the voluntary collective ownership of things which every one of us, even the most credulous of Socialists, claim the right to own as individuals — our tools, our motor cars, the money

¹⁶ J. R. Green, *Shorter History of the English People*, pp. 250 ff. It must be remembered that the struggle was in its deepest essence for relief from serfdom.

in our pockets and at credit with our banks, the right to our private homes and the very clothes upon our backs.

We have become distracted by the pseudo-scientists who tell us crime is the result of misplaced brain cells and faulty nutrition, the consequence according to Brock Chisholm of being brought up to tolerate Santa Claus. Crimes of sex are the result of sickness. Murder is due to irresistible impulse. Moral responsibility rests on society — not the individual. Punishment must not be severe.

It is as if the immutable law of the universe, which was manifest to the author of Exodus, is to be abolished. "I the Lord thy God am a jealous God, visiting the iniquity of the fathers upon the children unto the third and fourth generation of them that hate me; And showing mercy unto thousands of them that love me, and keep my commandments."¹⁷ Is it a silly and inhuman archaism? Can modern behaviourists find a new light?

We tolerate the public advocacy of the idea, and the young at our universities are not discouraged from urging, that laws forbidding violence between one man and another have no validity when the offender is an organized trade union.¹⁸ We fail to remind ourselves, and the public, that law emerged only when all men had the same rights, and privilege did not exist for some men at the expense of others. Until law came into existence, right depended upon the will and command of the prince or chieftain, as today in Russia it exists at the will of the Politburo, yesterday it depended in Germany on the Gestapo, and tomorrow there are those who would have it depend upon the government — meaning the Planners.

It is needful before passing to a consideration of the place of property right in the history of law and the Scriptures to remind ourselves of one further thing. There is in Hayek's *Road to Serfdom* a brilliant reminder that property is not merely a material thing for which men strive. It is a basic condition of the ability to achieve the good life, an important means to an end for which all men consider it right to strive. "If we strive for money, it is because it offers us the widest choice in enjoying the fruits of our efforts. . . . Money is one of the greatest instruments of freedom ever offered to man."¹⁹ All the

¹⁷ Ex. XX, 5-6.

¹⁸ St. John the Baptist once said something to soldiers which strikes close home on this: "Do violence to no man, neither accuse any falsely; and be content with your wages". Luke III, 14.

¹⁹ *Op. cit.*, p. 89.

scorn of all the poets and novelists directed at avarice and miserliness has nothing whatever to do with the basic correctness of that observation.

It is clear that there is an inevitable relationship between law and civilization. Civilization cannot exist without order. Order never has existed without law. Law does not exist, if it is not enforced. There is no civilization in the jungle. Civilizations which survive are distinguished as much by the degree of evolution of their legal systems as they are by developments in the arts of literature, music, sculpture and painting, or in the manufacture of countless types of goods, or in the researches of physics, chemistry and medical science. No memorable traces of any such developments remain from any society which had not a highly developed system of law. It may or may not have been by our standards a good system of law, but it was law and — as I shall show — the all pervasive element in the progressive systems of law was the right of property privately owned. Take ancient Sumeria, Greece and Rome, or modern France, Britain, even Germany and Italy. Compare the absence of contributions to culture from the Tartars, Mongols, Turks, Cossacks and Esquimaux.

Whence, then, comes law and its authority?

Sir Henry Maine avers that law began in the specific decrees of kings settling disputes between their subjects after they had arisen,²⁰ evolving slowly into a series of precedents, administered by an aristocracy or priestly class, largely for the benefit of a privileged caste or class,²¹ and thence into written codes which were the public right of all men and no longer the secret privilege of the few.²² By that process there developed the conception of equal right in all men (equity).²³ Codes of law are merely the result of the effort to put the seal of finality and inescapable certainty upon what their sense of justice led men to affirm out of past experience. The experimental process of defining a right led to the establishment of a law. To-day we try to improve upon the process by agitating for Bills of Rights and amendments to the Constitution — as if the secret of justice did not lie in the hearts rather than in the institutions of men; what the great Lord Moulton once called “obedience to the unenforceable”.

²⁰ *Ancient Law*, pp. 4 ff.

²¹ *Op. cit.*, p. 8 (for example, modern Brahminism in India).

²² *Op. cit.*, pp. 12 ff.

²³ *Op. cit.*, p. 48.

So much for generalities. Our specific concern is with the function of property in systems of law. Now, if we examine into the origins of private property, we discover that "property once belonged not to individuals nor even to isolated families, but to larger societies based on the patriarchal model".²⁴ In some backward societies, such as that of India,²⁵ "separate proprietorship is always on its way to become proprietorship in common".²⁶ It was so among the Esquimaux before the impact of civilization in the 20th century.²⁷ But mature Roman law, and modern law following in its wake, "look upon co-ownership as an exceptional and momentary condition of the rights of property".²⁸

The fragmentary records of the earliest civilizations reveal edicts about property. The code of Hammurabi in ancient Babylon contains specific records of title to land and injunctions as to the performance of contracts.²⁹ In the quaint language of a cuneiform tablet in ancient Babylon recording a purchase of a parcel of land, there is a series of prayers calling down wrath upon the man who denies the title and occupies the land by fraud, that the several gods may afflict him with leprosy, that he may be thrust into outer darkness, that his weapons may be destroyed, that his bowels may be infected with poison, his fields flooded, his first born suffocated, that his wishes may be blasted and he and his offspring be devoted to vengeance so that they perish utterly.³⁰ How much milder is the extended language of the statutory covenants in a modern deed under the Short Forms of Conveyances Act!

In pre-historic Greek legend the heroes of the Trojan War received each his share in the spoils of battle.³¹ In the Athenian code of the great law-giver Solon the most distinguishing feature is a new orientation of property law — that a man may not sell himself and his family into bonded slavery for a debt. Only his property may be seized.³² But then a law of contract which provides for mortgage debts is far advanced into modern civilization. The Athenian sentiment, says Grote, "was one of

²⁴ Maine, *op. cit.*, p. 222.

²⁵ One might add Modern Russia, or might one?

²⁶ Maine, *op. cit.*, pp. 216-7.

²⁷ Archdeacon Marsh, at Grace Church on-the-Hill, Nov. 23rd., 1947.

²⁸ Maine, *op. cit.*, p. 216. By "co-ownership" Maine here means communal ownership, not "tenancy in common".

²⁹ C. W. Johns, *Babylonian and Assyrian Laws, Contracts and Letters, passim.*

³⁰ *Babylonian and Assyrian Literature, University Classics ed.*, pp. 292-3. Cf the injunction against "removing thy neighbour's landmark, which they of old time have set in thine inheritance": Deut. XIX, 14.

³¹ See any translation of Homer's Iliad.

³² *Circa 594 B.C.*, Grote, *History of Greece*, Vol. 3, pp. 314-5.

high respect for the sanctity of contracts".³³ For the most part, "only men of desperate and selfish ambition", seeking despotic power, promoted "schemes of cancelling debts and redividing lands".³⁴ "The mass of the Athenian people identified inseparably the maintenance of property in all its various shapes with that of their laws and constitution."³⁵ There was even no debasing of the currency.

That was the Athens from which have come the brightest gleams of light in literature, the drama, philosophy, mathematics, physics, architecture and sculpture the world ever saw. It is not too much to say that civilization stood still until the Western world regained Hellenic culture.

The long dreary retrogression of European society into the feudal Middle Ages after the collapse of the Roman Empire did not see the disappearance of private property. It merely witnessed the concentration of the bulk of it into the hands of a powerful armed nobility, whose function it was to protect their vassals from the complete destruction of what little property — and security — remained to them.

The Renaissance in the 16th century merely breaks the chains of feudal bondage. The serf becomes free to shift for himself. In Maine's colourful phrase, "The movement of progressive societies has hitherto been a movement from status to contract".³⁶ And contract does not exist in any significant degree without property as part of its subject matter. Hayek suggests an interesting alternative to Maine's formula. "The Rule of Law", says he, "more than the rule of contract, should probably be regarded as the true opposite of the rule of status";³⁷ and by rule of law he means "the absence of legal privileges of particular people designated by authority, which safeguards the equality before the law which is the opposite of arbitrary government".

Hence it is that almost all change in our modern law governing the mutual relationships of citizens has to do with improvements in laws relating to property. Take the law relating to persons under twenty-one years of age. Their property is jealously watched over by an Official Guardian to see that it is not dissipated. Take the law relating to persons of unsound mind. The jurisdiction of the courts is supplemented by the appoint-

³³ *Op. cit.*, Vol. 3, p. 321.

³⁴ *Op. cit.*, Vol. 3, p. 327.

³⁵ *Op. cit.*, Vol. 3, p. 328.

³⁶ *Ancient Law*, p. 141.

³⁷ *Road to Serfdom*, p. 79.

ment of a Public Trustee. In the past century married women have gained control over their property and the old feudal law giving the husband dominion has been abolished.

Look for a moment at the law relating to the issue of shares and bonds of incorporated companies, and the correlative legislation governing stock brokers and investment dealers. It is all designed to improve the prospects of retention of property by investors. And directors and officers are prevented from making use of corporate assets and information for their own benefit by all sorts of requirements with respect to publicity and prohibitions upon borrowing.

Trustees are under much closer supervision by the courts than used to be the case.

In that part of the law which seems at first blush to be exclusively concerned with personal relations, it turns out that civil wrongs — breach of trust, assault, defamation, injuring the person of another by negligent conduct, deceit, to take the most conspicuous of them — are assuaged only by the award of damages. Damages are merely the money equivalent of the loss, a substitution of property for an injury. Destroy the right of property and there is no remedy but the policeman's club and the concentration camp.

Even the criminal law is chiefly concerned with preventing injury to property. Nine tenths of the cases which take up the time of magistrates and other criminal tribunals have to do with dishonesty — robbery, theft, embezzlement, fraud, arson. Only a minor volume of crime gives us our sensational murders, sex offences and common assaults.

One wonders how it can be that serious and conscientious persons can be so confused about the significance of property in civilized society.

The pattern of a free society demands that a man earn and deserve what he acquires. Yet social security laws deliberately transfer property to people who want it, but who too often have little if any concept of a duty to earn or deserve it — to give fair value. And it is puzzling to observe that it is avowedly atheistic and materialistic extremists, seeking to abolish private property, to destroy our form of government and to set up a dictatorship, who aim at the very community of things which our most uncritical Christian uplifters seem to claim, basing themselves on the Scriptures.

But do the Scriptures warrant the claims put forward? They speak with a conviction of ultimate moral right unsurpassed in

all the literature of law. And the Scriptures of the monotheistic religions have but one voice in their insistence on integrity, respect for the rights of others, charity to all men. The emphasis is on duty, not privilege, but nowhere do they suggest rights to coerce others. The significant thing is that God commands and the believer must obey because his conscience binds him.

It is here that we must draw an inevitable distinction between law and the moral code. Law is the measure of one's claims upon his fellows. It cannot in the nature of things extend as far as "the golden rule". The virtue of loving one's neighbours as oneself and of doing unto others as one would that they do unto him is precisely that no law compels such conduct. And the golden rule has nothing to do with justifying that vicarious charity which people practise when they claim credit for forcing sacrifices upon others in the name of social security. Confiscatory income and inheritance taxes, all the predatory machinery of the state, by which the rewards of self-help and superior economic intelligence or fortune are sterilized for the benefit of the masses, have nothing to do with the golden rule. They are merely the means by which the practice of the golden rule becomes odious to generous people because the demands of the state far exceed those which may rightly have a claim upon generosity.

The earliest scriptural law is still the valid law of the ten commandments. The first that deals with secular relations of man with man is the fifth. Honour to one's parents is enjoined "that thy days may be long in the land which the Lord thy God giveth thee". The gift is personal to the believer, not to his tribe or his family. There is no equivocation about the eighth commandment, but theft does not exist where there is no private property. The injunction against bearing false witness against one's neighbour has in a primitive society far more significance in respect of trade and the ownership of lands and livestock than it usually has in merely personal relations. The sin of covetousness condemned in the tenth commandment has a realism vivid beyond any in a nomadic society not yet established in the promised land.

The *Zend-Avesta* furnishes an interesting parallel. "He that does not restore a loan to the man who lent it, steals the thing and robs the man. This he doeth every day, every night, as long as he keep in his house his neighbour's property, as though it were his own."³⁸

³⁸ Sacred Books of the East, Univ. Classics ed., p. 76. Cf. Psalm xxxvii, 31: "The wicked borroweth and payeth not again". The injunction to

Mahomet dealt at length with matters of integrity: "Men ought to have a part of what their parents and kindred leave behind them when they die".³⁹ "Surely they who devour the possessions of orphans unjustly, shall swallow down nothing but fire into their bellies, and shall broil in raging flames."⁴⁰ "O true believers, perform your contracts."⁴¹

But the much learning of some Christian students seems to have produced confusion rather than clarity of mind. Dr. Vernon Bartlet, sometime professor of church history at Oxford, concludes that numerous texts in the Old Testament demonstrate the absence of finality in property right.⁴² There are the injunctions against the oppression of the weak by the strong (Isaiah I, 17), the grinding down of the face of the poor (Isaiah III, 15), the adding of field to field till there is no more room (Isaiah V, 8), the duty to do justly, love mercy and walk humbly with God (Micah VI, 8). There is the strong upheaval against mortgages placed upon lands to pay the king's tribute, the protest against usury and the restoration of lands to the poor, which followed captivity under Artaxerxes (Nehemiah V), the promise of judgment upon those who oppress the hireling in his wages, the widow and the fatherless (Malachi III, 5). From these Dr. Bartlet deduces an absence of finality in property rights.

Indeed, he argues, the idea of the Sabbatical year, when land is to lie fallow, is to provide for the poor who have the right to glean therefrom (Exodus XXIII, 10-11), and the law of the jubilee year that compelled land to revert to its former owners every fiftieth year, so that it "shall not be sold in perpetuity, for the land is mine" (Leviticus XXV, 10-13), both tell "against all accumulation of land and wealth as 'private property'".⁴³

Now there is to every person familiar with agriculture and the history of law a much simpler and more consistent explanation of the sabbatical and jubilee years. The fallowing and pasturing of land is necessary to preserve its fertility. It is the least of the devices for preventing the conversion of farm lands into desert. The reversion of land to its original owners, regardless of intervening sales and mortgage — so far from being a denial of property — is the most emphatic and unequivocal scriptural law

forgive debts at the end of seven years applies "save when there shall be no poor among you", and bears a striking resemblance to the Statute of Limitations and bankruptcy law: see Deut. XV, 1-4.

³⁹ The Koran, Ch. iv. So also for women a share must be set aside.

⁴⁰ *Ibid.*

⁴¹ The Koran, Ch. v.

⁴² Property: Its Duties and Rights, pp. 85 ff.

⁴³ *Op. cit.*, p. 90.

of entail to ensure to posterity the inheritance of its forefathers. It is nothing but a denial, with all the solemnity of a religious precept, of the right of the father to sell off the patrimony which in time will belong to his children. That continuity of inheritance is the thing which most of all underlies the duty of those near of kin to marry and beget offspring of female relatives, otherwise husbandless, which is found in ancient Egypt.⁴⁴

But when Dr. Bartlet says of the Old Testament that the Biblical idea of property "comes out more fully in the national story there unfolded than in the New Testament writings",⁴⁵ and that "In particular the teaching of the Founder of Christianity Himself, owing to its very genius and historical setting, does not furnish much reference to the subject", it is well to examine the texts themselves. For nowhere does Dr. Bartlet, nor do the Fathers to whom reference has been made, discuss the specific and unequivocal statements attributed to Christ himself in three of the four gospels. When one accepts the duty of charity, then there is no qualification on the right of property in any of those statements. There is, on the contrary, the most unqualified and explicit assertion of its existence. It is found in every passage where the Master discusses economic relations.

The case for idyllic poverty and its moral superiority is put at its highest by Renan.⁴⁶ With great respect and admiration for the moving vitality of Renan's interpretation and for his immense scholarship, the Jesus whom he recreates is an impossible Lord and Master of an industrialized Western State. Renan, himself, recognizes in an unmistakable phrase that the Jesus of his painting "might go to excess and injure the foundations of human society". But in recognizing the incongruity of the conclusions reached in his analysis with those which could be acceptable in a modern industrialized world, Renan, if I may say so, falls short of recognizing the universality of Jesus's teaching and of doing justice to the deepest significance of the spiritual teachings of Christ, their ability to reach and permeate all societies.⁴⁷

In the approach to scriptural teaching on all the relations of life the divines who wrote the Thirty-nine Articles made no

⁴⁴ Sir J. G. Frazer, *The Golden Bough*, Vol. VI, pp. 214 ff. Cf. the early scriptural duty to marry the childless widow of one's brother and beget children of her: Deut. xxv, 5-10.

⁴⁵ *Op. cit.*, pp. 93-4.

⁴⁶ *Life of Jesus*, Chs. 10 and 11.

⁴⁷ Notably, Renan fails to discuss Christ's refusal to adjudicate on a claim to share in the family estate, the parables of the talents, the vineyard and the virgins. He also fails to note the emphasis on the law which follows the Beatitudes and the subtleties of the versions of St. Matthew and St. Mark of the story of the rich young man. All of these are dealt with in following passages.

doubt that "it is not lawful for the Church to ordain anything that is contrary to God's word written, neither may it so expound one place of Scripture that it be repugnant to another".⁴⁸ There is need for balance in appropriating its sayings to the problems of life. Mahomet noted the waywardness of the faithful. "Do ye therefore believe in part of the book of the law, and reject other parts thereof?"⁴⁹ There is a stern and unequivocal as well as a tender side to the matchless body of Christ's teaching. The fashion of to-day is to ignore the one, and to magnify the other side. It is not by such emphasis that truth is reached, and that the proper scope of human rights is plotted out.

When the young man came to Christ saying to him, "Master, speak to my brother, that he divide the inheritance with me", Christ answers, "Man, who made me a judge or a divider over you?"⁵⁰

When the labourers in the vineyard are being paid off each with a penny at the end of the day, though some had toiled from dawn and others came late, and those who bargained early began to complain, the answer is simple. "Friend, I do thee no wrong. Didst not thou agree with me for a penny? Take that thine is, and go thy way: I will give unto this last, even as unto thee. Is it not lawful for me to do what I will with mine own? Is thine eye evil, because I am good?"⁵¹

When the lord of the manor entrusts to one servant five talents, to another two and to a third one, and goes away, he returns to demand a reckoning. It is not an easy one. Two servants are rewarded handsomely. The third is ignominiously cast out. "For unto every one that hath shall be given, and he shall have abundance: but from him that hath not shall be taken away even that which he hath".⁵²

When the ten virgins await the coming of the bridegroom and five of them have neglected their lamps, are they entitled to call for oil to save them from loss of the great moment? ". . . go ye rather to them that sell, and buy for yourselves", and when they come late saying, "Lord, Lord, open to us", the reply is rough, "I know you not".⁵³

⁴⁸ Article XX.

⁴⁹ Koran, Ch. 1.

⁵⁰ Luke XII, 13-14.

⁵¹ Matt. XX, 13-15. Is there not here something quite relevant to much that is involved in industrial strife? Compare the advice of St. John the Baptist to soldiers: "Do violence to no man, neither accuse any falsely, and be content with your wages".

⁵² Matt. XXV, 14-30.

⁵³ Matt. XXV, 1-12. Compare the observations of St. Paul on the question of industry, "if any would not work, neither should he eat": 2 Thess. III, 10.

Even the story of the prodigal son is an assertion, in one aspect, of the right of the father to rehabilitate the wanderer at the expense of the expectant heir to the remainder of his fortune, because his rights are not yet final.⁵⁴

Commonly the greatest of the narratives in the New Testament is dwelt upon as revealing little commendation of the institution of private property. The Beatitudes, which are the most conspicuous feature of the Sermon on the Mount, have been the solace throughout twenty centuries of those who are cast down and the benediction of those who follow the way of the Master. How many have paid any attention to the passage in that sermon which immediately follows the Beatitudes? And how many recognize the significance of that passage? For our Lord had the supreme gift of all great teachers — that of arresting and holding the attention of listeners by brilliant contrast. He was the Master of paradox.

These are the words of caution. "Think not that I am come to destroy the law, or the prophets: I am not come to destroy, but to fulfil. For verily I say unto you, Till heaven and earth pass, one jot or one tittle shall in no wise pass from the law, till all be fulfilled. Whosoever therefore shall break one of these least commandments, and shall teach men so, he shall be called the least in the kingdom of heaven: but whosoever shall do and teach them, the same shall be called great in the kingdom of heaven."⁵⁵

Is there in those words justification for suggesting that Christ was too busy to concern himself with property right and its correlative obligations? Listen then to this: "Agree with thine adversary quickly, whiles thou art in the way with him; lest at any time the adversary deliver thee to the judge, and the judge deliver thee to the officer, and thou be cast into prison. Verily I say unto thee, Thou shalt by no means come out thence, till thou hast paid the uttermost farthing."⁵⁶ It is plain that when Christ deals with the law, the enforceable as contrasted with the unenforceable, there is not a hint of criticism or shadow of obscurity.

The commonest source of belief that Christ decried property right is the story of the rich young ruler. Its subtleties are lost upon a host of persons who relish the hope of discomfort some

⁵⁴ Luke xv, 11-32.

⁵⁵ Matt. v, 17-19. Renan is very weak about this passage. See *op. cit.*, Mod. Library ed., p. 225, f. n. 3, where he merely says it "is not in contradiction with those in which the abolition of the law is implied".

⁵⁶ Matt. v, 25-26.

day for persons more prosperous in this life than themselves. It is not infrequently so dealt with as to suggest that the rich are excluded from the kingdom of heaven, and with a certain jealous satisfaction in a future reversal of fortunes. Such a reading of the text is unwarranted.

There are three versions of the story of the rich young man.⁵⁷ St. John does not tell it. He was more concerned with the mysticism and other-worldliness of Christ's teaching. The three versions are not all equally vivid. St. Luke's version is obviously and inevitably at second hand, whatever scholars may say as to the first two gospels. There are vivid elements in the versions in St. Matthew and St. Mark which give them an eye-witness quality. There are, however, identical stages in the development of the story as told by all of them.

In the first stage one comes running, kneels (according to St. Mark) asks "what good thing shall I do, that I may have eternal life" (St. Matthew). The uniform answer is, "Why callest thou me good? there is none good but one, that is God."

In the second stage, according to Matthew, Jesus says, "but if thou wilt enter into life, keep the commandments", and goes into some detail of the answer to the question "which?" The others plunge directly into the list. Each of the gospels enumerates in the same sequence, after forbidding murder and adultery, the commandments against stealing, bearing false witness, and that father and mother be honoured. Matthew alone says "Thou shalt love thy neighbour as thyself". Mark adds the injunction "Defraud not". So far there is no slightest question about the sanctity of property.

In the third stage comes the first doubt. The young man is not satisfied. He has done all these things from his youth—obviously a fine young man. Matthew gives the key: "What lack I yet? Jesus said unto him, If thou wilt be perfect, go and sell that thou hast, and give to the poor, and thou shalt have treasure in heaven." Mark has a very significant phrase, "Then Jesus beholding him loved him, and said unto him, One thing thou lackest: go thy way, sell whatsoever thou hast, and give to the poor". Luke is much less colourful. Is it not perfectly clear that Christ in this stage recognized such a spirit in the young man as made it impossible for him to find satisfaction merely in righteous conduct? "If thou wilt be perfect", "One thing thou lackest". The phrases are complementary and contain the full explanation of what follows. There was the man whose

⁵⁷ Matt. XIX, 16-30; Mark x, 17-31; Luke XVIII, 18-30.

discontent could only be assuaged by accepting the mission. For him there was an especial burden. Mark draws attention to it in what seems to be the anticipation of something not then revealed, a sort of casting back of later knowledge, "come, take up the cross, and follow me".

The third stage ends with the sadness of rejection and prepares the way for the final moralization on which so many and, if I may say so, so faulty sermons are founded.

In the fourth stage, Jesus says in slightly varying words: "How hardly shall they that have riches enter into the kingdom of God!" The disciples are astonished. Mark alone adds something which is very convincing. Christ repeats himself in a slightly different, but vivid and consistent passage, "Children, how hard is it for them that trust in riches to enter into the kingdom of God!"

Is not the key to what follows in those very words? The gaining of riches in the first century of our era could be achieved either by exaction as a publican, a farmer of taxes, one of the class with whom our Lord often dined and of whom Matthew was one; by trade, which was open to but few people; by service of the state under the Roman emperors; and by the vigorous prosecution of agriculture and stock raising—necessarily by the autocratic functioning of the ruler and by exercising such violence as was necessary to prevent theft.

Small wonder then that only St. Mark caught the key to the final passage about passing through the eye of a needle. In itself that passage is one of the most obscure in its mere translation from the colloquial Greek of the New Testament to modern English. Its exact equivalent is still a matter of doubt to scholars. Let it pass! It is of no profound importance. The essence of the matter lies in the final words of answer to the question, "Who then can be saved?" It is simple and consistent with all spiritual teaching: "With men it is impossible, but not with God: for with God all things are possible".

Does not this coincide with the warning that one may not so "expound one place of Scripture that it be repugnant to another?" Does any other interpretation satisfy the injunction?

And the story of Lazarus, the beggar, what of it? There is scorn for the heartlessness which left the dogs to lick his sores, and only crumbs, the leavings, for his food from the Master's table. What a contrast with the charity of the good Samaritan! There is the tragic awakening of the rich man suffering torment in the hereafter and realizing that reversal of rewards,

while Lazarus lies in Abraham's bosom. What then? He asks that Lazarus may be sent to earth to warn his five brethren, not, mark you, to discipline them, or to rouse opinion against them, or persuade rulers to legislate social security at their expense, but to warn them, beg them to choose another path. And the answer? Does it deny property? Or invoke earthly interference? Not a whit. It is exactly the opposite — a sad recognition of the inevitability of selfishness in some kinds of people who must be left to their inevitable reward. "If they hear not Moses and the Prophets, neither will they be persuaded though one rose from the dead."⁵⁸

With all humility one asks one question. In all the fields of human teaching has there ever been a collection of illustrations — and Christ taught mostly by illustration — more categorical, unqualified and single-minded in intent and content than these, the specific things, that our Lord and Master had to say about private property?

REASON IN ACTION

Sir Cyril Radcliffe has pointed out the danger to a society of allowing law to be tucked away in a corner, complicated and remote. He was thinking of the effect on social behaviour, but he could also have added another and not much less serious consequence, which is intellectual rather than sociological. If law and its administration are withdrawn too far from the general flow of life, the processes of law likewise disappear from sight and laymen lose the inestimable benefit of observing how lawyers deal with allegations in order to arrive at fact. Lawyers are not, of course, the only class which thus sifts evidence. Scholars do so, too. But the workings of scholars are irretrievably private; all the more reason, therefore, that the workings of lawyers should be in the public eye. Here and in America it is often said that lawyers have more than their fair share of places in Parliament and in Congress. Let it be said rather that, just as we cannot see too much of the way they serve the law, so equally we cannot have too many of them serving the State. (From the leading editorial in the *Times Literary Supplement* for March 13th, 1948)

⁵⁸ Luke XVI, 19-31.