

THE PHILOSOPHY OF OWNERSHIP

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The Philosophy of Ownership

by

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Chapter I

Property and Ownership

The significance of property ownership has rarely been fully appreciated. All sentient life is concerned with property, either instinctively or rationally. No organism capable of volitional action can escape the demands arising within it for some kind of property relationship. Survival of all beings capable of consciousness is predicated directly upon some kind of property relationship.

Simple forms of life are propelled instinctively toward food, which they possess and ingest. Possession is a property relationship. Complex forms of life are guided, partly by instinct and partly by rational processes, toward the mastery of their environment which occurs when property is acquired and utilized. A propertyless living organism is inconceivable.

Man, the most complex of all living creatures, has the most numerous and varied demands to express in relation to property. Guided by reason or by a few residual instinctive drives, man dominates his environment more than any other living thing. His mastery of environment is primarily if not totally a matter of property acquisition and utilization.

Since the concern of this study relates entirely to man's well-being, and is not concerned with the well-being of other living things, the approach here will be to develop a philosophy of property ownership within a human context. Since virtually all struggle for existence and for improving the conditions of existence deals directly or indirectly with property, this philosophy must include an examination of the gigantic role property plays in human living. Any philosophy must include an examination of the facts and principles of reality, and since property comprises an order of fact and principle of overwhelming magnitude, no philosophy of practical significance can overlook this area. Nearly all philosophical studies up to the present time have concentrated their inquiry in the theological,

mystical, and metaphysical realms, seeking to probe the mystery of life's origins and to chart the methods and epistemology of knowledge, yet circumventing the question of property or, at best, skimming briefly over the surface.

One of the obvious reasons for this avoidance appears to be the very early assumption that property and property relationships were somehow crass and materialistic. The yearning of the early lovers of wisdom was for an unfoldment of the real character of life. Property was viewed more or less as impedimenta. But this is probably because the early tendency was to look at property as "things," or simply as land, and to fail to realize that the desire and drive for property, the yearning for ownership, is one of the most fundamental facts of life. Human beings long for personal and individual identification. The desire to own property contains the concept of exclusiveness, of individualization. Ownership is an expression of this longing. Human beings long to possess items which they admire and appreciate. Conceivably, love, recognized as fundamental with humans, is somehow related to this deeply imbedded drive to possess, to own, to master personally, to exclude the rest of the world.

Property viewed as the object or objects of man's drive to own, is of far less importance than the drive itself. To own, to possess, to control and master, to acquire and utilize—these motivations are basic to man. The objects of these drives vary and are essentially incidental to them, many different kinds of property serving satisfactorily as the targets for men's yearnings.

Had the attention of the early savants focused primarily upon the human propensity to own, they might have recognized its fundamental nature. Instead, they focused upon the objects to be owned, the "things," which were deemed of less importance than man. Thus, in early efforts to understand, property and ownership meant the same thing. Property (the item to be owned) and ownership (the act of owning) were somehow indiscriminately merged, which led to oversimplifications and devious thinking. While these philosophers evaluated correctly the primacy of man in relation to property, they considered man's yearning to possess it an undesirable trait which superior men could and would sublimate.

This type of reasoning is implicit in Plato's *Republic*; the Stoics adopted it.¹ The Epicureans, who rejected the proposition and re-

¹Whitney J. Oates (ed.), *The Stoic and Epicurean Philosophers* (New York: Random House, 1940).

versed it, were viewed as hedonistic or as gross sensualists. Christianity, which borrowed so much from both Plato and the Stoics, carried forward the idea that virtue was somehow related to propertylessness; the poor were in a more favored position because they were not burdened with possessions. To follow the Master, one was admonished to give away what he possessed.

Buddhism, which preceded Christianity, proposed that it is desire itself which constitutes man's major problem. It is not enough to abandon property; mental and emotional discipline must be imposed to the point where the individual loses all desire. Nirvana, the state of transcendent nothingness, arrives only for the individual who has stopped all yearning, including even the yearning for Nirvana.

After the study of economics had been organized and its first monumental work published,² economic examination was viewed by Carlyle as "the dismal science." What could be less inspiring than an examination of the physical facts of reality dealing with production and distribution? But the economists, too, tended to overlook the significance of ownership. They became engrossed in property itself, as well as its utilization. Most of them became pre-occupied with statistics in an effort to prove either that there are natural laws which govern the flow of goods and services in the market, or that there are no such natural laws.

Criticism of the classical economists is not intended. They pointed out that man is acquisitive, that his wants are apparently insatiable, that he will struggle, indeed, he must struggle for the scarce items that make survival possible. But the classicists, along with many others, called for a central agency of force to regulate man and his relationships to property. Man's desire to own was viewed as both a natural endowment and something that was fraught with much danger.

In all this, men were viewed as either workers and laborers, or as consumers. Those few who served as capitalists and entrepreneurs were rarely recognized for what they were, merely specialized kinds of workers or consumers. Almost all men play both roles, serving as producers and then as consumers. Workers, entrepreneurs, capitalists—producers all—unite in being consumers. But popular misconceptions placed capitalists and entrepreneurs in a separate category, under the supposition that they were extracting wealth or

²Adam Smith, *Wealth of Nations* (1776).

money from the market and hence preventing workers as well as consumers from their full and deserved rewards. The argument became heated and political. Less and less thought was given to the nature of man as an owner, and more and more thought was given to amounts of property owned and to the social and collective implications of scarce amounts of property (poverty) and abundant amounts of property (riches).

Man's true role as an owner was first glimpsed by the Austrians who, in developing the theory of marginal utility, recognized that value is a peculiarly human characteristic placed upon items of property, having little to do with production or the costs of production. Praxeologists have emphasized that it is acting man who must be understood. But even here, a search into the desire to own has faltered, for again more attention has pursued property, and its ebb and flow in relation to supply and demand. The nature of property, its acquisition, development, production, distribution, maintenance, preservation, and protection must not be overlooked. But the first and most important effort must be made to separate property from ownership, which is a relationship between man, the owner, and property, the item to be owned.

Property is anything that is subject to ownership. Property exists whether owned or not. In a virgin area, where men have not yet penetrated, the land and all the natural appurtenances are property. The advent of man does not change the character of the land, as property. But the relationship of the land to man does change when men acquire this land. I would identify this kind of property before the appearance of an owner as *unowned property*. I would similarly identify items in discard, which men have once owned and which they now disclaim.

A second classification of property encompasses *property that is correctly owned*. In this relationship an owner (man) has assumed sovereign control over that property which he claims as his own. Assuming that there are no prior or rival claims to the property, and thus decisions respecting the property derive from the authority of the rightful owner, and assuming that the exercise of authority is limited to the property owned, then the ownership is complete and a condition of correct or proper ownership ensues.

A third classification is *property that is incorrectly owned*.

1. A man may presume to own something that is not property.
2. A man may acquire ownership of a property through theft or fraud wherein the rightful owner is deprived of what is his through

the establishment of a conflicting claim resting solely upon the physical possession or control of the property, but denying the rightful claim of the real owner.

3. A man may acquire a property, paying for it in full, yet find that another man or a group of men, who have not paid for the property, are empowered to interfere with his sovereign control of the property, thus denying his authority over what he owns.

The search for a single word that conveys the meaning intended insofar as incorrect ownership is concerned has been fruitless. The person or institution that possesses property through force or fraud can, after possession becomes a fact, act as though the property thus acquired were correctly owned. A contest over its control may or may not ensue, depending on legal or compulsory intervention. But the property acquired by force or fraud does not retain some special characteristic that makes it possible for us, upon seeing it, to declare unequivocally, "That property is not correctly owned." The onus of theft, fraud, or force attaches to persons, not to property. Property remains innocent.

All property is subject to sovereign control by some human being. Someone somewhere has the ultimate decision-making power. When the claimant to property has paid for the property in full or has rightfully acquired the property through first claim, sovereign control rightfully belongs to him. If a man or an agency exists to which the owner must repair for permission to use his property as he wishes, or to dispose of it as he sees fit, then in fact he is not the sovereign owner, but some other man or agency has sovereign control.

In the present age, a discussion of the ownership of property is vital. For many years it was supposed that conflicting ideologies disputed the question as to whether a system of capitalism would pertain. Socialism was viewed as the antithesis of capitalism. But this question has long since been settled. Capitalism will survive. By capitalism is meant an economic system in which wealth, in the form either of natural resources or of manufactured goods, can be employed for the production of more wealth. There is no longer a question plaguing humanity at this point. Wealth will be employed in the production of further wealth. The question that remains to be answered relates to the ownership of wealth.

Is wealth to be owned by private persons who will manage what they own (private capitalism)? Or is wealth to be taken from private persons under one pretext or another, and collectively owned

and managed (state capitalism)? Or is wealth to be retained in a kind of ownership by private persons, but its management relegated to collective groups, either governmental or otherwise, which, while not owning, may exercise certain prerogatives of ownership (mixed capitalism — fascism)?

If a system of private capitalism exists, it must be founded upon private ownership and management of the tools of production and distribution. In a word, capital goods (entrepreneurial) are to be retained and controlled by private persons.

Socialism, either wholly or in part, champions the abolition of private ownership of the tools of production and distribution. Private property of a non-productive character may remain, but productive goods (capital goods) are to be owned and controlled by the state or by some other collective agency (not a privately owned corporation) under some type of centrally planned economy.

There is a particularly popular brand of socialism now prevalent which is usually classed as fascism. Fascism is "national socialism" (nazi-ism) in which the uses and management of property have been nationalized (socialized) while private ownership shorn of its management and regulatory functions, continues.

In all types of socialism, the good of the social whole is sought. Individual rights to property may be abrogated at any time by the controlling group. A centrally planned economy is implicit with private ownership limited to consumer goods.

It is instructive that in those nations which have adopted socialism either under a communist banner or the banner of a welfare state, a kind of state capitalism ensues. Government becomes ever more active as a partner in economic matters, serving as producer, manufacturer, distributor, and financier. Thus socialism does not lead to the abolition of capitalism; it leads to the abolition of the private ownership and management of capital goods.

The correct antonym of socialism is individualism. In an economic system of individualism, private ownership and management of the tools of production, distribution, and finance would be preserved.

Chapter II

Coercion and Ownership

It is often presumed that it is force and force alone that assures against trespass of property. This may have been true to some degree in earliest times. But as properties multiplied, opportunity for theft far exceeded the ability of physical defenders, both in time and numbers. Non-trespass of private property became one of the earliest taboos, substituted for still earlier taboos against tribal trespass. Here is the early root of the Golden Rule, and even of the late development of the Decalogue. Moral behavior was in essence the recognition of another's ownership over a given property whether the owner is present or absent. It was the kind of behavior one hoped to obtain from others. Thus, in one of the first *quid pro quo* concepts, the individual refrained from trespass with the unspoken assurance that if he so refrained, others would similarly restrain themselves.

Today, most men believe that the state is absolutely necessary to protect property and property owners and that man must rely upon the state for this service. Curiously, classic economists and modern Keynesians, as well as other, more avant-garde socialists, agree here.

So widespread is this belief that it is common to hear it said that the traditional usefulness of the state, or the justification for the existence of the state, lies in this area exclusively. The state is to limit itself, or by some process is to be limited, to the function of protecting life and property. Beyond that, it is not to venture. Yet, based upon this concept, applications of this limited function have led us repeatedly into what could now be called the "modern state," with its enormous accounting and record-keeping apparatus, its constant erosion of the privacy of men, and the launching and conducting of modern warfare. All of these functions are nothing more nor less than the protective function over property.

The traditional view of the classicists is that if they have the power of the state at their disposal, they will use the state for the

good of the economy, inhibiting aggressive selling and discriminatory price fixing, and maintaining a police force which will maximize protection for property owners, big and little.

The views of the socialists vary according to the particular complexion of the socialist theory being offered. Some socialists, including both the anarchist and the communist branches, see the state as a danger, either to be eliminated outright since its retention protects property (the anarchist view), or to be eliminated ultimately, after the state has been employed to "wrest by degrees" all property from the productive property owners. (After everything is expropriated, theoretically there will be no further requirement for an agency of expropriation; but with the long-heralded dictatorship of the proletariat there will of necessity be a central authority empowered to control and manage production and distribution.)

Socialists believe that only socialists are sensitive to the wants of the poor and only they will employ state power toward the elimination of poverty and the control of greed.

In this respect, both classic economists and socialists seek much the same solution from much the same base. Though they differ as to *who* should own property, both view the state as an essential to the ownership and protection of property. Both believe that conditions of benefit will be maximized if THEY are in charge. Conditions of benefit will be maximized, according to the classicists, if the economy is protected and if greed is controlled by laws which tend to encourage competition and to discourage unfair and inhibitory practices, including criminal actions. Socialists, meanwhile, contend that conditions of benefit will be maximized when distribution of goods on the basis of need is encouraged, rather than the production of goods for profit. The anarchists, who are the most independent of the socialists, contend that if they have their way, the state will vanish and with it all ability of anyone to protect his property; thus property ownership as such, except in rather meager quantities, will vanish. But fundamental to both socialist and classical positions is the assumption that the state is the instrument, and the only instrument, that provides protection of property.

What is important is the truth. And curiously, both classicists and socialists of various shades of view have failed to grasp the significance of the fact that property ownership was not an invention of the state but, rather, that the state was an invention of property owners. Ownership of property preceded the erection of states and

would continue if the state were to disappear. Actually, the private ownership of property arose in tribal economies and was originally protected by taboo and primitive religious ritual. Sir Henry Maine observes:

When a king decided a dispute by a sentence, the judgment was assumed to be the result of direct inspiration. The divine agent, suggesting judicial awards to kings or to gods, the greatest of kings, was *themis*. The peculiarity of the conception is brought out by the use of the plural. *Themistes*, *themises*, the plural of *themis*, are the awards themselves, divinely dictated to the judge. Kings are spoken of as if they had a store of "themistes" ready to hand for use; but it must be distinctly understood that *they are not laws, but judgments*. . . .³
(Emphasis added.)

De Coulanges insists:

In the greater number of primitive societies the right of property was established by religion. . . . The first religion that exercised its empire on their minds was also the one that established the right of property among them. . . . Religion, and now laws, first guaranteed the right of property.⁴

Nor are we left with nothing but earlier authorities on which to base this contention. Modern anthropology, archeology, and other researchers in the field have tended to show that instruction given to children, either under tribal custom or under religious stimulus, resulted in respect for property and the self-control necessary for private ownership of property to endure.

What is not easily grasped is the fact that ownership of property and its retention in private hands are dependent upon understanding and belief, and not upon force. The only real protection we have arises from the unwillingness of individuals to commit trespass, and not upon the willingness of certain men, hired as a constabulary, to pursue those who have violated property rights, in order to bring restitution or to punish the offenders, or both.

At the core of modern thinking is the assumption that property cannot be protected and that the state must act after the fact in bringing a belated balance after criminal violation. When there is little property, such as in poor or primitive societies, discovery and punishment of thieves and recovery of goods are possible. As modern industrial production multiplies goods and properties in owner-

³H. S. Maine, *Ancient Law* (Boston: Beacon Press paperback, 1963), p. 4.

⁴Fustel de Coulanges, *The Ancient City* (Anchor Books edit.; New York: Doubleday and Co. [original edit. 1864]), pp. 66-67.

ship, and as the unique character of various items in ownership is replaced by mass production, recovery and retribution become increasingly cumbersome and costly, and less feasible. Indeed, with increasing populations complicating procedures, police are increasingly unable to solve crimes. Criminals can disappear in crowds and the goods they confiscate can be just as easily hidden.

In the modern world, there exist so many kinds of property and so many units of ownership that protection by force of all these items is out of the question. Prof. Oscar Cooley grasped this fact when he stated: "The notion that, without a policeman standing by, the property right would be ignored and flouted is quite unwarranted. Self-interest impels people to respect the property right of others so that their own will be respected. It is this practical application of the Golden Rule, not state threats, that largely makes private property possible today."⁵

All modern war is predicated upon retributory functions of the state in seeking to create "justice" after the supposition of injustice. Actions of police in pursuing criminals essentially operate from the same principle of retaliation.

When states base their functional necessity upon retributive justice, individual members of society become nothing more than pawns in the game. That they are to be trespassed and victimized is assumed. But this is to set up individuals as units of possible sacrifice.

Further, taxation is instituted to provide for retribution in the event a trespass occurs. Taxation, by definition, is nothing more than legalized theft. And here is the illogical practice of installing and sanctifying a general practice of theft on an ever-grander scale for the alleged purpose of punishing illegal theft should it occur.

What has been overlooked is the enormous susceptibility of mankind to correct understanding concerning property. Yet it is as simple to instruct children and adults in the inviolability of property ownership as it is to instruct them in the sacredness of Baal, Buddha, Vishnu, or any other religious way-shower. And people who have been thoroughly and correctly trained simply will not become thieves. The problem is an educational and not a retaliatory problem. Given a community in which trespass will not occur because of prior conditioning and training, such a community will require little or no policing on any retributory basis.

⁵Oscar W. Cooley, "What Is Property?" *Rampart Journal*, Vol. I (1965), No. 4, 28.

Fear of punishment and the force embodied in police powers may inhibit a few criminals and their actions. But it is increasingly apparent that reliance upon the state in these affairs leads into as many new problems as it solves.

A new force is now emerging to challenge the role of the state in the hands either of classic liberals or of modern socialist liberals of any stripe. This force is clearer perception and better education along lines which will insure that future generations understand the significance of private ownership of property. New schools will have to be formed which provide this training. Such institutions must arise out from under state control, state sponsorship, or even state assistance, to do the job.

Chapter III

Earliest Property Concepts

The difficulty in discussing ownership as one of the major factors of human existence and experience is that little data exist. Most of those who have examined economics, whether they were concerned philosophically with man, or materialistically with property, have had many of their thoughts molded by written history. But written history does not encompass the experience of man. At best, it plunges into the past only briefly. The written record is confined to the last five or six thousand years of human experience. By the time we find learned men examining property and property relationships, we are in the historic period and these men are dealing with the findings of the historians. Nearly all the early historians were men who looked at government and war as the major factors which mold human social order. They entered the story at a point where the fundamental guide lines were disappearing in a welter of working relationships already aged and warped with custom.

Examination of pre-history calls for logic and imagination, for data are not available. We must consider possibilities and probabilities, for the facts are not known and probably never will be known with certainty.

When did the human yearning to own something first appear? It is impossible to know. However, the precise date at which such yearning occurred is not too important. Of significance would be understanding of the actual character of this yearning and the results emerging from it.

Evidence produced by scientists and scholars, conducting original research in far-flung locations where bones and artifacts relating to early man have been found, provides a few important clues. First, it is safe to conjecture that man, developing slowly from earlier and more primitive times, emerged in a kind of social order. No evidence has yet been found of the existence of isolated and single

men, living alone. Obviously, a failure to discover such evidence does not prove its non-existence. We cannot know a negative. But it can be stated that, in view of a lack of evidence to the contrary, earliest man maintained some kind of group organization. Remains of our prehistoric forebears indicate that dawn men coalesced in a kind of hunting society, probably structured around the leadership of a superior hunter.⁶

Great quantities of pebble tools have been found in various places, showing that men of this early period, possibly a million years ago or more, had contrived to make a kind of hand axe, lacking a handle, which could be used for the important task of hacking flesh or wood, or of pounding various objects.⁷ Bone structures indicate that some early men were flesh-eaters while others probably maintained a diet primarily of herbiage of some type. Since pebble tools were in wide and general usage from earliest times, I will conjecture that the existence of these tools in no way indicates the emergence of the urge to own property privately. Ownership as we think of it today was probably unknown.

Since men appear to have organized into groups at an early date, we can assume they had some means of communication, probably by grunts, squeals, and gestures. Further, it can be presumed that the earliest notions of ownership or exclusive possession were somehow related to the group rather than to individuals. Men lived in hunting units, and the survival of the group would have been the primary value. Men served the tribe or the hunting unit. This is particularly likely in view of the evidence that at least some of the earliest men practiced cannibalism. Respect for men as individuals was probably slow in coming, except in cases where physical strength and endurance made respect necessary. The individual who did not serve the unit well, might have been marked for early extinction in the event of game scarcity. This would have helped cement the concept that all men lived to serve the tribe, and even in death a kind of dinner service was rendered.

The kill would have been for the use of the entire tribe. Those tools, such as pebble axes or stones used as missiles, would probably have been viewed as adjuncts to tribal survival, hence, as tribal property.

⁶The idea that man did not invent society but inherited it, is conveyed in the writings of Dr. L.S.B. Leakey and Dr. Raymond Dart and included in Robert Ardrey's *African Genesis* (New York: Atheneum, 1963).

⁷L.S.B. Leakey, *Adam's Ancestors* (Torchbook ed.; New York: Harper & Brothers, 1960), pp. 57, 66-68.

It is conceivable that hunting units claimed territory as the exclusive possession of a particular tribe. The penetration of an alien hunting unit into territory thought of as the exclusive territory of an occupying group, might have stimulated the first kind of military activity. It is likely that a tribe having exhausted the game resources in a given location moved into more favorable areas as predators, willing to attack any groups of men opposed to their foray, even as they were prepared to run to earth any food animals they flushed from cover. The tribe then shared in the feast.

The advent of private ownership as opposed to tribal possession seems to have been related to reproduction. Even though women were also viewed as creatures whose service was to the tribe, it is unlikely that they gave birth to offspring without feeling a personal identification with the product of their own bodies. The mother, in most instances, would surely have known her own child. And her care and feeding of the infant, without which survival of the species would have been impossible, may well have provided the first dim awakening of the idea of exclusive personal ownership. "This baby is mine." As the child grew, other members of the tribe would have construed the child as tribal property. This would have run counter to the mother's sense of property in her child, and her possession was doubtless thwarted by collective action on the part of the tribe. In most primitive tribes (there are exceptions) the male was valued more highly, and the women were viewed as something of a sub-species, existing to serve the tribe in labor and in a child-bearing capacity.

Among many early peoples, the role of the male in procreation was but dimly understood. Australian aborigines even as late as the mid-twentieth century believe that conception occurs, not because of male participation, but as a result of a ceremony invoking the fertility goddess.⁸ Among the earliest man-made artifacts are fertility idols notably female in character, with the genitalia enormously enlarged, although some aborigines in New Guinea today carve out enormous phallic symbols indicating the fire and purpose of the generative organs of the male. Reproduction was mysterious and women played the leading role. The man's participation was transient, and often not seen as a direct cause of pregnancy. Hence, it is reasonable to assume that the very first yearnings toward personal identification and personal ownership of property awoke

⁸Douglas Lockwood, *I, the Aboriginal* (Adelaide, Australia: Rigby, Ltd., 1962), pp. 34, 101-103.

within women; here the budding awareness of self took on added meaning.

While women were viewed as tribal property, it is likely that men simply mated with them at the male's convenience. But if logic may be stretched this far, it is probable that some female, attracted by the growing biceps of a particular male, sought to attract his attention exclusively to herself, not with sexual contact the object, but with personal identification of herself, as an individual, the motivational drive. How could she rivet his attention upon herself to the exclusion of all other women, when all women looked pretty much alike and served the same general tribal functions?

Quite possibly the woman, seeking personal identification, took to marking her body in some unique way, probably at first by creating artificial scars, or by daubing her epidermis with various clays or berry juices, or even with blood from the kill. The yearning for personal adornment and decoration is far more deeply seated in the human female than in the human male at the present time, possibly indicating prior adoption of the custom. However, when males first discovered that women had gained a march on them in the matter of decoration and personal identification, the males copied the practice. There is little left to the imagination when male decorative impulses have been stimulated.

It is probable that the woman crooning to her infant awakened the early love of music, rhythm, and song; that women were the first to be conscious of form and color, and were the first artists, dancers, and actors.

Women were in touch with the mystical "beyond" by virtue of their role as child-bearers. But males are enormously imitative, and the man who was able to invoke a following because of his declared contact with the mystical and invisible powers, both of birth and death, would have eclipsed the natural role of women in this particular. Almost mesmerized by the female display of magical powers, males firmly usurped the role of magician.

The shaman sought to rule the tribe as a man born with the mystical powers of the woman. For millennia, shaman-invoked taboo and ritual, and shaman development of the mask and the costume, provided rivalry for the hunter in tribal leadership.

In her presumed ownership of the child and in her sensitivity in matters artistic, the woman was probably not seeking to own property but rather was seeking individual identification through these means. Private property ownership resulted. In addition to the

child viewed as property, it is likely that a cache of decorative material, a musical instrument such as the musical bow (the forerunner of the lyre), or some other artistic utensils were the first items to be privately owned.

It is possible that this conjecture is in error. Some male, attracted by an unusual shell, a particularly strange or attractive stone, a rare feather, or an unusual bone structure taken from a kill, may have evinced the first urge to possess himself of a property exclusively.

The desire to own a property of some sort would conceivably be more impelling among the elderly. The young would have a larger satisfaction in the collective procedures, the group responses, the interhuman relationships. As maturity came and as the competitive urge was dulled by time, property could have been sought to compensate for the increasing negligence and disinterest shown by younger members of the tribe. Some hoary patriarch, enfeebled with age, may have sought solace in private possession of some inanimate object to make up for the neglect and possibly the threat of positive aggression from his more vigorous rivals.

What is most likely is that no single pattern manifested itself universally. Factors which would stimulate the somewhat dull-witted primitive to the point where he would defy the tribe by shutting it away from something of his own exclusive possession would have been slow to appear. This, in itself, may account in part for the long passages of time in which men lived in eolithic or paleolithic conditions. It took the unusual individual, with rare endowments of vision and courage, to break from the mold of collective tribal ownership. He would have been distrusted and opposed by the tribe. The hostility directed against him might very well have been a fatal obstacle in case after case before private ownership of anything became general practice.

The rare endowments of the exceptional savage who first visualized an item of property as an extension of his personal self can hardly be overemphasized. This was a penetration into abstract reasoning on a par with the most complicated metaphysical formula. To think of an item as inseparably linked with a human being, when that human being has not manufactured the item, is still a thought process which stretches the minds of moderns.

The abstract character of ownership should be recognized at this juncture. It is a simple matter to suppose that an item of property held in the hand or in physical contact with the owner in some manner, belongs to him. But contact of this sort is actual *possession*

and is not the same as ownership. When ownership occurs, the relationship to property is perpetuated during the absence of the owner. An item is put down and the owner departs. Others recognize and respect the fact that the absent owner is still the owner, although absent. This respect leads them to leave his property alone in spite of ready physical access to it. How was this abstraction first explained in the absence of a competent vocabulary?

It is easy to suppose that the first man to secure this respect for his property was a strong man capable of punishing a trespasser. Possibly he was the hunting chief or the shaman. But the thought of ownership, that is, the retention of control over a property when the owner is not physically present, would have required some skill in expostulation.

Possibly each member of the tribe had assigned to him a tiny plot of ground, which became his sleeping site, and in consequence a more or less sacred precinct, upon which items he wished to own could be placed and trespass avoided. Possibly the odor of the owner clung to various objects and early men, doubtless more sensitive in their olfactory powers than modern man, may have been able to use scent as a mark of exclusive ownership.

In time, markings were added to indicate private ownership. Sir Leonard Woolley, in his *Excavations at Ur*, comments: "We generally connect seals with written documents, and for many historical periods that is natural and correct; but seals as marks of private ownership antedate by many centuries the invention of the art of writing—indeed, they go back as far as the Stone Age. . .this is the beginning of writing, and our seal impressions give us in graphic detail the evolution of the Sumerian script."⁹

The fact is that IDEAS of private ownership did emerge, whatever the difficulties. One can marvel at the ability of dawn men to bridge, with a kind of mystical cord of attachment, the gap between an object and an absent owner.

This much appears reasonable. So long as man relied upon the tribe, insofar as his direction and behavior were concerned, and so far as properties he needed for survival were viewed as tribal, so long was he prone to remain in the lowest primitive state. Since no man could acquire more property than his fellows, incentives for self-improvement if they appeared must have been stifled. And the story of progress rather clearly shows that when progress ap-

⁹Woolley, *Excavations at Ur* (London: Ernest Benn, Limited, 1954), pp. 39-40.

pears, the occurrence is not general. Individuals and not groups violate the tribal taboos of collective ownership. Individuals and not groups perform inventive and pioneering acts. Individuals who do these things are the likely persons to develop private property concepts. The human race has not marched upward out of its dim and primitive past shoulder to shoulder. Groups tend to stagnate and to preserve the status quo. Individuals seeking to better their conditions, unquestionably are those who construe property into something that is private and exclusive.

I am also of the view that the first private property was not an item of utility to the owner. The usefulness of an item would have tended to cause the person to view it as something that rightfully belonged to the tribe. It was perhaps an exclusive personal relationship, such as mother-child, wife-husband, friend-friend, which relationship itself had little or no utility, that transcended the concepts of tribal collective property. Or possibly it was the item of rare beauty, unusual configuration, or startling appearance which was viewed as an exclusive treasure, not to be shared.

It appears that man, in his earliest hunting and foraging social organization, did not individualize. He was a unit of the group and he doubtless viewed the group as a kind of employer. He was under the requirement of taboo to labor for the group and to serve it in his best capacities. Everything that he acquired would have belonged to the group, nor would he have had any contrary views for long ages of time, at least on the basis of the known evidence. Primitive men thought of themselves as herd animals. They watched the behavior of animals upon which they preyed. And they saw clearly that so long as an animal remained in its herd, it was relatively safe. To succeed in the hunt, man had to contrive to separate an animal from the herd. Then, and then only, would it be available as food. And men must have looked at themselves in the same light. Only within the tribe were they safe. Thus, all tribal ritual and all tribal taboos contained the magic leading to survival. Innovators were dangerous. Violators of taboos were criminals. They might tend to weaken the conformity to herd patterns.

The tribe was a kind of primitive bureaucracy with tribal religions mirroring the bureaucratic structure. All early primitive religions appear to be pluralistic. They have a host of spirits, both malevolent and benevolent, arranged in something of an hierarchical order. The idea of one God, embodying all divine qualities, was a much later conceptual break-through. The tribe contained its vari-

ous units in a ranking order of importance. The divine tribe of ancestors, gods, and demons also had a ranking order.

The awakening consciousness of man led him to individualization. The concept that he was a person, somehow both a member of the tribe and at the same time separate, led to the acquisition of private property. With private property came the idea of privacy.

It is likely that in earliest times men performed all actions, even those of the most intimate character, in full view of other tribal members. No effort would have been made to screen one's behavior. But as individualism and the concept of private ownership emerged, increasing respect, both for other persons and for one's own person, would have stimulated the idea of secrecy and privacy. Further, only when properties are kept hidden can they be safe from the straying hand of a thief, especially when ownership concepts are new or little understood.

A number of scholars have attested to the fact that in certain neolithic communities theft did not occur. This was probably true because little property was viewed as privately owned. No value was placed on the exclusive possession of anything. Hence, neither privacy nor exclusiveness resulted. But in these same communities when contact was made with persons representing a more developed culture, the idea of theft quickly developed. Properties owned by visitors were frequently stolen, whereas properties within the tribe remained tribal and hence not subject to theft.

When men adopt a societal view and think of themselves as units within a greater social whole, the idea of exclusiveness, privacy, private ownership, and so on, is viewed with antagonism. Similarly, when men adopt an individualist view and think of themselves as having independent merit, self-respect, self-responsibility, and so on, they view a societal whole as somehow antagonistic to their well-being. It is apparent that both of these views survive today with the opinion fairly well divided.

It is likely that both the socialist and the individualist will bridle at the statement that opinion is relatively evenly divided between their two points of view. The socialist will contend that the difficulty in establishing a world social order arises from the prevalence of "poisonous individualism," which exists on such a broad scale that it hampers all his organizational efforts. Conversely, the individualist will cry out that the world is engulfed in socialism, which is advancing on all fronts and is in process of depriving him of his rights and his property. To a degree, both are correct. The socialist

of today does not seek a return to primitive conditions. He does not favor theft as a constant practice. In fact, so far as is known, even the most disturbed kleptomaniac does not always approve of theft. He steals, but he resents theft if it occurs against him. The thief, whether operating individually or with social approval provided by the state, primarily seeks a redistribution of goods, after which he intends to act as though the loot were privately owned by himself. He really supports private ownership, except in the transitory stage of redistribution.

The individualist is rarely committed to his doctrine with consistency. He will emphasize the importance of private ownership and of private management of property in most cases but he is prone to strike his colors when he confronts major problems which seem difficult to solve.

The preponderance of evidence sustains the view that collective ownership of property precedes private ownership. Recently, certain data have appeared which indicate that all people living under what we must class as stone-age conditions, are not necessarily void of private-ownership concepts. An outstanding instance is the Kapauku Papuans of New Guinea.¹⁰ Here, in the remote central section of the island, is a tribe of primitives displaying many of the characteristics of a private-property society. However, there is some reason to suspect that in this case the idea of private ownership may have been ingrafted by contact with a more advanced culture. These Papuans use the cowrie shell, not native to their territory, as a medium of exchange. They must have absorbed the idea of money in trade with tribes along the coast having access to the cowries. Additionally, these Papuans count in units of sixty, a rather typical mathematical subdivision among those having had contact with traders using the standard chronometer of sixty seconds to the minute and sixty minutes to the hour. Since knowledge of these interior peoples is limited to recent years, and since their economy has not developed beyond a simple agrarian form, it is reasonable to assert that ideas of private property here are a late development, hardly indigenous, and conceivably absorbed from traders, either native or otherwise, coming into this or adjacent areas.

Strong words have been uttered in condemnation of both collective ownership and private ownership. Yet it appears that once the concept of private ownership takes root, progress begins on an as-

¹⁰Leopold Pospisil, *The Kapauku Papuans of West New Guinea* (New York: Holt, Rinehart and Winston, 1964), pp. 29, 89-90.

cending scale, which ascent is marred in those intervals in which private-property concepts are eroded or abandoned.

Scott Gordon reminds us in reviewing the writings of Thomas Hodgskin, "They considered property to be a right conferred by law, whereas the true theory is that property is a NATURAL right, devolving from the fundamental principle of individuality—a man's right to himself. 'It is as impossible,' he said, 'for men not to have a notion of a right of property, as it is for them to want the idea of personal identity. When either is totally absent, man is insane.'"¹¹

Reasoning from the assumption that it is good for men to survive, and to survive in an increasingly comfortable and rewarding economic condition, one would have to agree with Hodgskin, once men have evolved to the point where individuality has been attained.

Man, as a complex, living entity, is entirely dependent on property of various kinds and utilities. In general, it is sought in accordance with two divergent drives. Collective property is sought when men subordinate their persons to the "good of the group." When men live as tribal units, individualization, self-seeking, privacy, and personal possessions appear to be undesirable. Such a collective system apparently has considerable staying power and has survived for thousands of years. The major drawback of the system is that it tends to inhibit progress. Conformity is the prime requirement. Self-responsibility and self-control are viewed, to a degree, as selfishness. In such a system, the concept of freedom either does not appear at all or, if it does, it would seem a kind of madness, a type of wild invitation to anarchy, a destruction of law and order, a breakdown in all restraints with destruction of the tribal unit the ultimate result.

Private property is sought when men stop subordinating themselves as individuals to taboo and ritual, to the tribal "good," to custom and conforming usages. Private property is the mark of individualizing man. When man's value of himself is elevated, he no longer wishes to be dependent on others of his kind. He breaks away from established patterns to become an innovator, an individual, a self-reliant and responsible person. This entails a degree of privacy and a considerable willingness to confront danger and to be alone. The principal drawback of this type of behavior relates to the potential risk. When one pioneers in any area, the chances of error

¹¹Gordon, "The London *Economist* and the High Tide of Laissez Faire," *Journal of Political Economy*, Vol. LXII, December, 1955, p. 472.

are enhanced. But private ownership of property, once man has individualized, is viewed as so fundamental a condition as to be worth the risk. When any considerable number of men, in a given location, accept the idea of self-responsibility and proceed to become innovators and producers, progress become possible and even likely.

This much is certain. Whether men view property as a desirable item privately or collectively, they are dependent upon property ownership. The drive to own property and, in our increasingly populous world, the desire to own it privately, is a fundamental urge.

Once a man has owned something he values, and owned it on a private basis wherein he excludes the world, the degree of satisfaction coming to him is so great that it is entirely likely he will never again be satisfied completely with collective ownership concepts.

The importance of private ownership increases day by day. While it may be true that usages tending toward collectivization reappear from time to time, the overwhelming data suggest that the desire to own property is enlarging.

Chapter IV

Self-Ownership

If the idea of owning property privately began as I have conjectured, then the self-identification of the individual as a unique center of consciousness not only assisted in orienting him to his surroundings, but awakened in him the recognition that he owned himself.

Each person grows to maturity, taking particular note of his own configuration, skin texture, features, appendages, and blemishes. Never will he know anything quite as well as he knows his own body. As he identifies himself with his physical structure, he will turn his attention within to note his own mental processes and to wonder at this strange function of cognition and this utterly fascinating ability to think and remember and even to think about thinking and remembering. He develops cravings for food and drink and for other satisfactions, he experiences pain and joy, and centers himself in the property of his person. If he does not formally think through the process wherein he recognizes that he owns himself, he nonetheless adopts all the attributes of ownership over himself. Doubtless, many early thinkers recognized the fact of man's ownership of his person, although no one phrased it better than John Locke: "Though the earth and all inferior creatures be common to all men, yet every man has a 'property' in his own 'person.' This nobody has any right to but himself."¹²

The process whereby the child first becomes conscious of himself, and finally awakens in maturity to the recognition of his full self as incontrovertibly unique and separate from the rest of creation, is the process of maturing. There is no fixed time schedule for this maturation. Some develop rapidly and sense their complete control over their energies and facilities before they reach their teens.

¹²Locke, *Two Treatises of Civil Government* (London: J. M. Dent & Sons, Ltd., 1924 [first published 1690]), Book 2, V., p. 130.

Others develop slowly, passing into the twenties and even the thirties until the process is as complete as it ever will be for them. The parental task in raising children is essentially telescoped into the attainment by the child of self-realization and self-control. The more rapidly this can be accomplished, the more thoroughly the task can be done, the quicker the person can emerge as an adult, irrespective of his chronological age.

From man's recognition that he owns himself, and from the idea of private ownership which begins at this point, if not chronologically at least rationally, it is but a step to the creation of one kind of improper ownership, the condition in which it is presumed that one person owns another.

If a man owns himself, why can't he own another? It would seem, superficially, that he could. Certainly, mothers and, later, fathers looked upon their offspring as chattels. Children were viewed as property and not as persons. For centuries, women were treated as chattels belonging to their fathers, husbands, brothers, or uncles; they were never actually released into full adulthood as self-owning persons. The woman who, through circumstance, might find herself alone in the world and essentially unowned, was deemed either an evil person or the epitome of misery. Someone must assume responsibility and take her into a condition of ownership, through marriage or some other relationship.

The custom of one man owning another opened the door to long ages of slavery. On the field of battle when the vanquished surrendered to the victor, it was presumed that he lost all rights to his life and hence all rights to any property. If the victor spared him, he was a slave, whose life was instantly forfeit at any time that suited the victor's pleasure. The concept of slavery might also have arisen through the generative process wherein it was presumed that women were natural slaves to men, or that children were the properties of either or both parents.

If one contemplates the situation, it will be seen that the slave relationship is wholly improper for it presumes to transfer the control of one living man into the hands of a second living man. The condition is contrary to nature and can only be maintained if both play their specific assigned roles. The slave must act as though he did not control himself; as though, indeed, the slave-master did control him. The slave-master must act as though he really could and did control the slave. But the slave always controls himself, even though he may do so in harmony with his owner's wishes. It

is simply impossible for the owner to exert control. By no process of the mind can the owner of the slave cause the slave to flex a single muscle. The only process open to the slave-owner is to impose force or the threat of force. If obedience is obtained, it is because the slave elects to do as he is told. But he must be the actor in respect to his own energy. His owner cannot generate or control the slave's energy. A condition of slavery must be classified as one instance of incorrect ownership. In this condition, a man seeks to control another man as though he were a property and not a man.

A marriage relationship in which it is presumed that one spouse owns the other is equally fictitious. The same fallacy would appear if a parent or both of them presumed to own their children. The child is an owner of himself, from birth. The fact that he may not know this, and the fact that he does not have full control of his physical or mental facilities, in no way remove his ownership of himself. An adult who is injured in some way, who may be ill, or decrepit in old age, is still recognized as an owner of himself and his other properties. He may have to be waited upon hand and foot, yet his ownership of himself is not questioned, so long as he lives. The same realization should apply to all persons, infants included.

I would set down as the fundamental instances of incorrect ownership: the ancient practice of possessive marriage; possessive child-parent relationships; and control of the slave obtained in battle or in any other way.

This idea of owning another person is so prevalent that it is not unusual for employers to think of themselves as the actual owners of their employees, and to act accordingly. Labor-union leaders often act as though they owned their dues-paying members.

The difficulty here relates to contracts as property. For a contract to exist as property, each contracting party has a property interest in specific performance on the part of the opposing contracting party. But a property interest in specific performance is not a property interest in the person. The employer contracts with an employee for specific performance. The employee also contracts with the employer in similar style. Each has a property interest in the performance of the other, but neither owns the person of the other.

The labor-union leader may obtain a member but he does not own the member, nor does the member own the organization or the labor leader. Each has contracted for certain specifics; the one for

the payment of dues, the other for certain collective assurances.

Government officials frequently view the taxpayers as a kind of productive herd to be milked, and controlled just as the ancient slave-master presumed to control the person of his slave. The relationship between government and taxpayers is probably closest to the ancient idea of slavery. The relationship is hardly contractual, however one stretches the imagination. For a contract to exist in fact, both parties to the exchange must voluntarily agree to the terms of the contract. When governments are imposed and the taxpayers placed under control, the consent of the latter on an individual basis has never been sought, so far as is known. Rather, governments are imposed in much the same way that the victor imposes his ownership over the man defeated on the field of battle. The victor has the power; the vanquished is helpless and must submit.

Here a mystique has been created which supposes that a few men may, by right, impose governmental controls on all with consent of a majority or even a plurality. Usually, those imposing such controls do so after a war in which the vanquished, utterly without the means to resist, are tossed into political serfdom, bound to obey the new state, rather than being claimed by individual warriors as the personal property of the winner after a passage of arms. This practice is so common that few detect in it any form of slavery; most presume that their political control by a party of strong men can be equated with freedom.

Whatever is to be said of this practice of installing political vassalage on whole populations, any effort on the part of one person to own another, and all practices wherein this type of ownership is assumed, lead into much of the sadness and unhappiness that mar so many human relationships.

However, the fact that an improper ownership condition may occur does not justify abandonment of the ownership concept, as many contend. Rather, it behooves us to understand the nature of ownership; to recognize that it is so fundamental to man that it cannot be swept aside, and then to institute self-disciplinary procedures wherein incorrect ownership conditions are not attempted.

Ownership can be said to begin with an effort of will. This can occur when man views himself as the exclusive owner of himself and realizes that decisions to be made affecting his person must invariably be his own. Whether he begins with the recognition of himself as his first property, every property he will ever own will require an act of will. He wishes to possess something—a piece

of land, a house, clothing, a tool—as an exclusive owner. A property he acquires, either through original claim or through subordinate claim, becomes an actual extension of himself by this same act of will. Thus, a trespass against a property that is owned, either by theft or some type of vandalism, is actually a trespass against the owner of the property in the same way that a trespass against the person of the owner would be.

All through his life, each person establishes thousands of property relationships and many other thousands of relationships which involve property owners but do not involve the acquisition of property. To converse with others, associate with them, shake hands with them, or even to experience such intimacies as a sexual relationship, does not constitute a property relationship, but rather a relationship with a property owner. The idea insensibly arises through the marriage contract that a sexual partner is somehow a property of his opposite number. This is not the case. Each person owns himself and all of his functions, including those of sex, digestion, cognition, and so on. Among the greatest satisfactions available to human beings are those which recognize other persons as equals in the property ownership of self. Although a man may wish an exclusive association with a particular friend, and while it may be possible to contract for such an exclusive relationship, the fact remains that each party to any association always remains the owner of himself.

Chapter V

Rights and Property

The concept of property rights is a subject about which there is broad misunderstanding. The term *right* always relates to man as a property owner. We say that a man has a "right" to his life. What we mean is that he is the proper owner of his life, of his own person, of anything that is functionally related to him as a living being. In no way does this guarantee that a man will stay alive. A man may have an incurable disease, yet even at death's door he has a right to life.

Of what use is such a concept when it is clear that although a man may have a right to his life, he may not be able to retain his life? The value of the concept lies in its universality. By setting forth the doctrine of rights, we set forth the proposition that all men are equally endowed, "rightfully" (properly, morally), as property owners. When we say that a man has a right to his life, what we are in effect saying is that only he has a right to his life. Thus, even though a man may be on his death bed, no other man can come forward to live for him. Rights may not be transferred, although most properties can be.

A man can sell his services, or even his body, but he cannot dispose of his rights any more than he can dispose of his life to another. Granted, a man may be able to contract in such a way that another man will kill him. But this does not transfer his right to life to another. It simply results in death. Neither man now owns the life of the one who is dead. A man's right to his life is non-transferable.

Seen in this light, a right is a kind of property which cannot be sold or transferred. A man may sell or transfer most other properties he owns. By so doing, he expresses his right as a property owner. He cannot sell his rights or transfer them for, regardless of what arrangements he may try to make, he still retains his functional ability to own and utilize property. A contract in which a man pretends or

attempts to transfer his rights to another is an absurd contract and has no validity.

A right exists for a man to acquire any property he wills to possess. He may be an original claimant; that is, he may be the first to own an item extracted from the sum total nature has provided. Additionally, he may be a reclaimant; that is, he may become the owner of a property which at one time was owned by another and has been discarded. Also, he may be a secondary or subordinate claimant, obtaining his right to own a property by the process of exchange with another property owner. This explains one meaning of the word *right*. It is the right to acquire a property. A man's *ability to own* a property will always be subject to variables, depending upon his capital, his energies, and so on. But his *right to acquire* a property is total. That is, he has a right to seek to own anything, provided in so seeking he keeps in mind that all others with whom he must deal have the same rights he has as a property owner.

A right is expressed in a second way. Any man may do precisely as he pleases with what he has totally and honestly acquired. All rights that a man has relate to his functional ability as a would-be owner, and his functional ability as an actual owner. As an actual owner he is totally sovereign over what he owns and his decisions are final.

Since many properties are large, and many persons may be involved in the ownership and control of these properties, ownership is sometimes a complex procedure. Even a simple purchase of a small property, such as a refrigerator, which occurs through some type of credit plan, becomes more complex than an outright purchase. When credit is used, the acquisition of all control over the property purchased is delayed until the full price has been paid and total authority and control is passed from the seller, the mortgage holder, or other intermediary. The concept of property ownership is a total concept. Until such time as the seller has been fully satisfied, and all obligations are retired, total ownership of a property is not transferred.

The final test of absolute ownership is to inquire whether the owner may **RIGHTFULLY DESTROY** the item owned. If no other party has any interest in the property, then the owner may rightfully decide that if he wants to do so he can destroy the item he owns. If there is a mortgage holder, lien holder, or other intermediary maintaining some interest in the property, obviously the "owner" is not yet the total owner and the question will have to be answered

in the negative. When the owner is the total owner in fact, then the question can be answered in the affirmative.

All rights to property, once established totally, preclude the necessity of asking permission of anyone concerning its use or disposal. If a man orders a meal at a restaurant, he does not have to ask permission of the restaurant owner as to whether he can eat. He is the owner. He may utterly demolish this property which he has acquired. If he purchases a suit of clothes, he does not inquire of his tailor whether he can wear the suit or burn it up or give it away. It is his. He may do as he pleases with it, wisely or foolishly, once he has paid for it in full. All rights of the seller have been satisfied. The owner has all rights to the property.

Of course, if a man buys a suit of clothes or an automobile or a house and then puts an insurance policy on these properties so that he may be indemnified in the event of loss, he has created a contract with an insuring company and the company has a property in the contract. He has placed the goods owned under contract and may not, without first cancelling the policy, or otherwise obtaining permission, do as he pleases with the property. The insurance company has a property right by virtue of the policy issued.

Unfortunately, in the development of this country, a general theory of societal interest in major properties has been maintained so that absolute private ownership of land and the appurtenances to land, such as buildings and other improvements, is not viewed as possible. The owner of a home who has satisfied all lien holders, has obtained title in fee simple, and views himself as the sole and exclusive owner of what he has acquired, is still not the sovereign of his property. It is presumed that the "community" or the "city" or the "county" has a vested interest in his property and so he must submit to the decisions of planning boards, zoning commissions, licensing agencies, government engineers, and inspection bureaus. A home owner who wishes to add a room or subtract a room, build a fence, put in a garage, or make other alterations, may find that in spite of the presumption that he is the owner, he is not really the sovereign of what he owns. He must seek permission from others who have no financial interest in the property. This is an invasion of the total concept of property, and an unfortunate inheritance from savage and barbarous times which preserves the practice of collective ownership.

Land taxation illustrates the point. Each tax assessment levied by a taxing authority creates what is viewed as a "lien" upon the prop-

erty. This lien precedes any actual property interest a mortgage holder or other lender might have. It constitutes a kind of social rent paid annually by the presumed owner of the property. If he fails to pay his "rent" (tax), his property may be taken from him and sold to the highest bidder to satisfy his unpaid tribute to the group. This could result in wiping out the actual interest in the property held by a mortgagor. The presumed "rights" of the tribe are protected by governmental agencies. No man may ever be certain that his property won't be taken from him because of his temporary failure to pay an annual tribute in rent (tax) to the tribe for his presumed private ownership.

In dealing with land, an owner may sell certain rights while retaining others. He may sell water rights. He may place easements or liens of various sorts. He may dispose of mineral rights, mining rights, agrarian rights, and so on. The seller would retain the unsold rights to the land, but would have transferred certain property rights to others.

Eminent domain, an unhappy custom traceable to early tribal control of property, is a legal device maintained in many countries wherein actual confiscation of a property can be engineered by the government when and if, in the judgment of the king or other potentate, the "public good" demands such confiscation. This is merely a reassertion of the tribal rights of the chieftain over all property.

Some states in the United States impose involuntary liens upon certain types of personal property. A man may buy an automobile but he may not legally drive it upon a government highway until he pays the fee demanded by the state in the form of a license, an inspection charge, or other sums it may levy. Clearly the use of highways not owned by the automobile owner must be paid for. But here is an instance where private use of a property is limited by collective "ownership."

States which collect personal property taxes prevent the ultimate and the total control of private property by the purchaser and presumed owner. So far as is known, the owner of an item of personal property may destroy such property without seeking permission from some political agent. However, if he has it in his possession at the time assessment is made, he will be forced to pay a kind of tribal rent (personal property tax). This type of tax is particularly onerous for it discourages merchandising, inhibits the choices of customers, and penalizes efficient business operations.

To provide for the ultimate satisfaction of all owners, full property rights for all must be recognized.

No man may acquire rights in such a way that he exercises more rights than another; hence, no man has rights that are less than those of another.

Implicit in this universality of rights, extended to all men, is the fact that human rights are unalienable (inalienable), and hence not subject to alienation even by an owner. A man may transfer property (except his property in rights) to another. But he cannot transfer his rights. He may transfer what we call a "property right" in a given property to another, but he retains all the rights he ever had and may immediately exercise these rights again in attempting to regain that which has been transferred as a "property right." If we presume that a man's conduct can cancel his rights, then we would have to dismiss the concept of rights as having no usefulness or validity.

It is widely held that if a man steals another man's property, in some way he loses his rights to his own property or even to his life. This assumes that rights do not arise from the nature of man as a property owner and user, but from the nature of his conduct. This would lead to the supposition that some men, those conducting themselves in some approved manner, have rights, but other men, conducting themselves in a manner not approved, have no rights. If we are to presume that rights are retained only when human conduct is approved in some fashion, it would follow that no universal concept of human rights would ever be possible. Human conduct is such that a single wrong-doer would disrupt the scene. Let one man perform an act which was disapproved by others, and it would be claimed that others had rights *OVER* him. This would mean that he had fewer rights and others had more. If rights can be transferred on the basis of human behavior, then no system of equal and universal rights can even be imagined. The only usefulness in the concept is the supposition that rights arise from the nature of man, that they are equal, and that they are unalienable, in spite of human character or human behavior.

The very nature of rights presumes an unprivileged ability to own and to utilize what is owned. If only some men may do as they please with the acquisition of property or the utilization of property, then it follows that owning property is not a right but a privilege that descends to certain persons but to no others.

There is only one position possible in respect to a concept of

rights. Either all men have equal rights or no such concept is possible. Were we to say that some men have rights but others do not, we would have to change the terminology and contend that owning property is not a right but a privilege bestowed by some upon others, or bestowed by human conduct on some but lacking for others. Or we might contend that no man has any rights to own property. This would not only destroy the concept of rights but the concept of privilege.

Customarily in the United States we give lip service to the idea of equal human rights. In practice, we act as though all rights were merely political privileges which can be extended or withdrawn at the whim of the government. Government men become a class of permanently privileged persons, and men not in government become a class of temporarily privileged persons at the decision of the men in government. The idea of equal rights for all men as property owners has never been fully recognized in the United States.

To their credit, many legal minds have been concerned with this problem of unalienable rights and have endeavored to write law which would protect the rights of the wrong-doer. But even in so doing, they have created a permanent privileged class, the men in government such as lawyers and judges, who administer the law and who, at least to a degree, live in a privileged atmosphere.

In a system where privilege holds sway, no man's property is truly his own, nor ever truly safe from intrusion. Since a privilege is a special permission, granted by some to others, such a grant of privilege can be, and often is, withdrawn. In such a system, government is viewed as a sovereign. The property owners are subject at all times to the denial of their property rights, which if rights exist are actually bestowed upon them by their own natures. This bestowal is denied by any system of taxation, legalized confiscation of earnings or other property, regardless of the reason given for the taxation or the confiscation.

No connotation is intended that privilege is somehow undesirable. Privileges, when extended by owners respecting what they own, are in the main advantageous. But all privileges are subordinated to rights. The man having the right extends the privilege. He may also withdraw it. Rights are not granted and cannot be withdrawn.

Chapter VI

Sovereign Ownership

The act of ownership is the assumption of sovereign control over property, to the exclusion of the rest of the world. Total control is vested in the rightful owner.

By total control, I do not mean that an owner may contravene the nature of the property he owns merely because he is the owner. A man who owns a plate of food may not be able to control the food in such a fashion that the food can bark like a dog, emit music like a symphony orchestra, or otherwise violate its own character. When total control is claimed, what is meant is the rightful exclusion of all other persons. The rightful owner may do as he pleases with what is his and whatever he does, his procedure is a correct one, since all the world is already excluded by the condition of ownership. He may be wise or foolish with his own property. He may be profligate or thrifty. Since it is his, he has all rights over it to the exclusion of any possible right in another.

Rightful authority, the power of control vested in each and every owner over what he owns, arises from property ownership and from no other condition. Improper authority is a usurpation, wherein one man presumes to exercise authority over properties not his own, or persons other than himself, and contrary to the will of the others.

There are three characteristics of all owned property. It must be valued by the owner. It must have a boundary that is recognizable to others, so that the sovereignty exercised by the owner can be located with precision. Each property must be subject to the will of the owner in the sense of control already stated. An item that has no value to an owner will not be owned. An item that cannot be bounded, and hence cannot be precisely identified, cannot be owned. An item that is not susceptible to the control of the owner will not be owned. Thus, items failing in these characteristics are not properties.

The condition of ownership, in which rightful authority is born, also creates responsibility. Each owner is responsible for his own property. He has no rights, authority, or responsibility over any other owner or over any property owned by another.

An item need not be three-dimensional and sensible to touch to be a property. To be sure, most properties are recognized as physical objects, such as land and its appurtenances. But properties can also exist in abstract or metaphysical areas. Contracts, both written and oral, can be properties. So can ideas, sounds, odors, gases, and fluids. Additionally, property can consist of other living things such as birds, fish, and animals, which we do not recognize as property owners and hence which a person may rightfully view as items subject to his ownership.

To become an owner of anything, requires an act of will. The individual seeking to own, determines to extend his control beyond his person. His primary property is the property of his will and the property of his person. When he extends his will beyond the ownership of himself, he establishes a claim over some object, physical or abstract.

Claim can be established either as an original claim (no other claim has been made) or as a secondary claim, wherein the claimant, in order to rightfully possess himself of the property, must deal peacefully with the earlier claimant.

To establish an original claim, the would-be owner first ascertains that the property he seeks to possess is unowned. If it is unowned, he may rightfully lay claim to it. He does this when he values the item, when he establishes recognizable boundaries for it to the place where precise limits of his intended sovereignty are located, and when he assumes total control over it. That is, he excludes the world.

If the property he seeks to own already has an owner, the would-be owner must deal with the existing owner. There are two rightful methods and one wrongful one he can pursue. He may seek to convince the owner that the property owned should be given to him. If he succeeds in this effort, the owner merely relinquishes his established claim in favor of the new owner. Or the would-be owner may exchange some property over which he is the rightful owner with the owner of the item he wishes to own. This is a trade, an exchange. It is completed when both parties to the exchange voluntarily relinquish their respective claims in favor of each other.

If the would-be owner neglects either of these two methods, the only other avenue open to him is an improper one which, if fol-

lowed, will result in incorrect ownership. He may fail to search for the rightful owner (in the event he is seeking to make an original claim), or he may fail to deal with the rightful owner and simply appropriate the property for himself.

This act of appropriation is a violation of the rights of the true owner and constitutes an act of theft. Whether he obtains possession of the property by means of misrepresentation, fraud, threat, actual force, or stealth, his ownership is a violation of the rights of the real owner. Although ownership may, in fact, result from this procedure, it is improper for it rests upon an immoral relationship with another owner.

It is implicit in ownership that all would-be owners recognize the established claim of the existing owner. A person who obtains property by theft may experience constant challenges to his ownership since it is an incorrect relationship. To make certain that his ownership remains unchallenged, he must make known his claim in such a way that others will recognize it. The ownership of property is possible only in a societal structure wherein valid claims are recognized.

Since the process of ownership begins with an act of will, it follows that it takes an act of will to begin the process of disowning. As in the case of acquiring property the process is sometimes long and tedious, so in the process of disowning, it is not always possible to dispose of one's property by merely "willing" it away.

The essential ingredients of property, as will be recalled, consist of value, identification by means of a discernible boundary, and the element of control. All property ownership entails authority by the owner over the property and responsibility for the property, its use, maintenance, and so on. When an individual decides that he no longer values a property, then that essential characteristic of property is not present and the process of disowning begins. But the mere act of devaluing a property does not totally remove ownership. Authority and control as well as responsibility must all be severed before total non-ownership again emerges.

To acquire ownership requires a positive action, and to disown requires an equally positive action. Let us suppose that a householder breaks a number of bottles over a year's time and carefully collects the pieces in a bushel basket preparatory to taking them to a place of positive disposal. The bushel basket is kept in the garage. Obviously, these bits of broken glass are not valued by the householder and he is in process of disposing of them. If he is careless in

the process of disposal so that a friend driving into his driveway runs over a shard of this glass, the householder is involved in the resulting flat tire on his neighbor's car and shares a bit of the responsibility entailed. This responsibility is heightened if the neighbor puts his car in the driveway by express invitation. Although the householder has, in his own will, already dispossessed himself of the broken glass, his authority and his responsibility continue until such time as total disownership ensues.

Assume that a man buys some dynamite and stores it in his garage for a commercial purpose. When his purpose is completed, he has several sticks of dynamite in excess of his requirement. At this point, his value of the dynamite, one of the requirements of property in ownership, either disappears or is discounted to the place where he no longer wants to own the dynamite. Still, the dynamite remains on his premises. A small boy comes into the garage, plays with the dynamite, and causes an explosion. Even though the man who owned the dynamite wishes not to own it, and in this sense has already lost his "interest" in owning it, it would rightfully be presumed that he is the owner and hence the authority and the responsible party in conjunction with it. Obviously, if the child is a trespasser, the responsibility of the owner is reduced. Nonetheless, the owner of the dynamite is still the owner, and the child is not. The owner would be morally involved with the explosion, even though he doesn't value the dynamite and was in process of getting rid of it. He is the last true owner and, as such, is still responsible, at least to a degree.

Another example: A man is flying his private plane above a city and the engine stalls. He cannot start the engine no matter how hard he tries. Obviously, his value judgment respecting this expensive plane now undergoes a virtually instantaneous revision.

But no act of will can cause his authority over the plane or his responsibility for the plane to cease to exist. He cannot flick on his radio and state to the nearest control tower: "I hereby serve notice that I no longer am the owner of this plane, and hence have no responsibility for whatever happens when it crashes." Regardless of his wishes in the matter, he is the responsible owner and fully in authority, even though his value and his control have both terminated. The boundaries of the plane are still clearly discernible and the owner-pilot is still the owner, in spite of his mounting reluctance to have anything to do with the plane as it falls. Terminating ownership is as total a condition as acquiring ownership. When ownership

truly ceases, it ceases as totally as when ownership become total when fully established.

A very interesting development occurs in this area of disownership which has had a rather baneful effect upon the private ownership of land and improvements. This is the effort indulged in by many, to dispose of property in a total fashion and yet to retain some degree of authority over the property after it has been transferred to another. A man sells a lot and places a restriction in the deed that the lot can be used only for purposes of recreation and never for building. Clearly, no one has to purchase the lot with such a restriction, but let us suppose someone does. Since this is a contract voluntarily assumed, the restriction is binding. But let us suppose, after a number of transfers of this lot, all for recreational purposes, no new buyer appears who wants to use the lot for this purpose. The ultimate result, assuming a free market, would be the disownership of the lot, either by published notice and the removal of control, or possibly by the death of the last owner with no heir willing to accept the lot by virtue of the restriction placed upon it. In such a case, the lot would have reverted to its original state and would at that moment be open to first claim, since there is no existing claimant.

Similarly, property other than land is often disposed of by carting it to some disposal area, a dump or other place of abandonment of property, where the last owner simply throws away the property he no longer wishes to own. Any and all of this property is now available for the establishment of claim on a first-claim basis. Scavengers invariably appear who search through such property in an effort to find something they can value. When they find it, they simply establish a claim over it by possessing it and taking it away with them. Such an act of repossession and reclaim is entirely moral and proper for there is no owner, and any kind of property is subject to ownership.

It is important to emphasize that our ability to get rid of property is as essential to our well-being and happiness as our ability to acquire it in the first place. This is the reason for waste baskets and garbage pails and garbage disposal units. Such organizations as the Salvation Army traditionally receive castoffs, items of property the rightful owners no longer wish to own. The Salvation Army serves as a kind of second-hand market in such properties and either sells these castoffs at very low prices to persons who wish to own them,

or possibly gives them away to some who appear to be in a state of need.

Many auction houses, churches, and second-hand dealers in various commodities serve in this area, too, paying small prices for goods they buy from those who have devalued their properties, but who have not totally devalued them, and then selling them to others who value them more highly and now wish to become owners.

A person's right to dispose of what he owns is as total a right as his right to acquire a property in the first place. Nor is there any moral prohibition against a person giving away an item he still values. If he values the act of giving at a higher level than he values the item he is to give, he must be free to dispose of it. However, the recipient of any gift must establish a claim. No one is constrained by nature or by any moral involvement to accept automatically anything proffered. If the recipient refuses to establish a claim, even though something is given to him, the item does not become his property but is merely rejected, or temporarily possessed so that it can be passed to another who may establish a claim.

All acts of ownership and all acts of disownership begin with an act of will and terminate, in the first instance, when authority, responsibility, and control are fully established and, in the second case, when authority, responsibility, and control are fully abolished.

Until a property has been transferred totally to the new purchaser, the prior owner, the seller, retains authority and responsibility over the property in transfer. For example, in the sale of an apartment building requiring many months in escrow before all demands of buyer and seller are satisfied, the control, authority, and responsibility do not shift to the purchaser until the final moment. In the event a fire wiped out the building only a few hours before the exchange was to be consummated, the loss would be presumed to be that of the seller, even though the buyer might have had all the money necessary to make the purchase on deposit with the escrow officer for months in advance. Responsibility and authority over a property are presumed to reside with the last owner until a new owner is fully established as the controller of the property.

Sometimes a property that someone values very much escapes his control. When this occurs, he is no longer the owner, however much he wishes to be. Nor can he hold others responsible for his loss or failure to retain his control.

A man owns a cylinder filled with a rare gas. He values it highly.

The valve jams open and the gas escapes. He no longer owns the gas. Nor has he a claim against others to return his gas.

A man has a watch which he values. He loses it. If he cannot find it and cannot re-establish his claim over it, he is no longer the owner. This is why many people mark properties such as watches with identification symbols, serving notice to any possible finder that the owner of the watch has not disclaimed it, even though he may have lost it. This practice also serves to discourage theft, for the thief is a person dealing in properties which are incorrectly or improperly owned.

Similarly, a man may have some ideas. He discloses his ideas to others without placing them under any contractual obligation to respect his ownership. Later, he regrets that he has done this and tries to re-establish his ownership. However he tries, the ideas have left his control. Further, the ideas are dispersed and he cannot possibly determine what stimulation they may have caused or the persons who make use of them without acknowledging him as the owner or originator.

No property, unless clearly marked by some identification symbol, ever reveals the name of the owner. Let us suppose that a man has a chair in his home which he has borrowed from a friend. It will be assumed by visitors that the chair belongs to the householder. But there is nothing about the chair that announces this fact. In our dealings with property and with owners, most of us know fairly well what we own. Thus, although we may not know who owns a given property, and we cannot tell by examining it who the owner is, we know full well that we are not the owners. Thus, unless we are thieves, we refrain from seeking to establish claims on property not belonging to us, until we have diligently conducted a search to determine who the rightful owner is. Then, if we really want the property, we will deal with the owner in an effort to cause him to relinquish his claim in our favor. If we find that the property we desire is not owned, then the first-claim custom emerges and we establish our ownership without having to deal with the prior owner, since there is no owner.

It is important that we do this with all properties, whether tangible or intangible. Probably one of the greatest areas of trespass occurs in the realm of ideas. If a person obtains an idea from another, and if he presumes that the idea is valued by the originator of the idea, it is incumbent upon him to offer acknowledgment.

But there is no known way in which he can restore the idea to its original owner in such a way that he no longer has it.

Each person, to be undisturbed in the rightful possession of what he claims, must make certain that he establishes his claim without in any way violating any prior claims.

The certainty and safety of possession of anything does not, in the final analysis, relate to the employment of force. Force is usually relied upon by those who do not propose to establish a claim rightfully. Since all men (even thieves) wish their own claims to be recognized, it is imperative that they earn this recognition by establishing only rightful and valid claims.

Dr. F. A. Harper in his book, *Liberty—A Path to Its Recovery*, shows that there are only three societal conditions possible in respect to property. “(1) Each person may have whatever he can grab. (2) Some person other than the one who produces the goods and services may decide who shall have the right of possession or use. (3) Each person may be allowed to have whatever he produces. These three methods cover all the possibilities; there are no others.”¹³

In system number one, wherein everyone steals from everyone, no property claims would be recognized by anyone. Thus, even the thief would always be subject to further acts of theft.

In system number two, wherein some persons steal (jump claims) from other persons, this would be a system of license, in which it would be advantageous to be a thief and disadvantageous to be a rightful owner of anything.

In system number three, wherein no one steals from anyone, such a system is only possible when the established rightful claims of others are generally recognized and respected. This last system, obviously the only desirable one, depends entirely upon the understanding and educational level of the persons in the society. Since any property relationship can always be trespassed by force, peaceful possession of property relies fundamentally upon peaceful recognition of the claims of others. Only in such a societal structure is it likely that one's own claims would be recognized and respected.

It is at this juncture that many persons, desiring to be owners, become confused about property. Since the desire to own is, of necessity, universal, men are prone to view their property as justifiably owned, but they tend to believe that the property owned by

¹³Harper, *Liberty—A Path to Its Recovery* (New York: Foundation for Economic Education, 1949), p. 28.

others is possessed by them in some unworthy manner. It appears to them that the only way property ownership can exist is by an action of the state to protect ownership. In their minds, human beings are fundamentally evil and depraved, and would, unless prevented by force, constantly prey upon one another, seizing whatever property each could appropriate. It appears to many that the state has created the condition of ownership rather than that ownership arises from the nature of man.

Those who look at men as fundamentally good, view the state as harmful; some of them because the state appears to protect property owners who rightfully ought not to own all they do; others, because the state is an agency of expropriation and consistently deprives men of what they have honestly acquired.

These two views of the evil of the state in relation to property illustrate the contrary opinions expressed by anarchists and autarchists.

Chapter VII

Joint Ownership

While it is apparent that individual ownership occurring under moral conditions is correct or proper ownership, there is no reason why joint or corporate ownership cannot be equally correct, at least within limits.

For correct ownership to occur, the lines of demarcation designating the owner who exercises sovereign control and authority, and who also is held responsible for the item owned, must be precise. In such case, the owner has obtained the property either by first claim or by subsequent claim, the property is clearly identified and bounded, and the decision-making facility of the owner is unquestioned and unimpaired. No other decision-maker is in a position to intrude between the owner and the item owned.

If two or more persons decide to combine in the ownership of a given item, correct ownership entails the placement of responsibility and authority in a single person. One of the serious problems which often confront joint owners is that this provision is overlooked or purposely left vague and uncertain. If two men combine their resources on a fifty-fifty basis in the purchase of a business, who is the ultimate authority? This question should be resolved before the partnership agreement is entered. If it is not, conflicts of interest arising from the variables of independent value judgments are bound to appear to upset the harmony of authority in ownership. However we like to idealize human relationships, the facts are plainly in evidence. Some one person must act *as though* he is the owner. Any other partner must be placed in a subordinate position in respect to decision-making. This would be true irrespective of the numbers of partners involved. So long as this fact is recognized at the outset, then correct ownership can ensue. There is, of course, nothing to prevent subsequent shuffling or rearrangements in the matter of ultimate authority. But ultimate or sovereign authority

and responsibility must be provided on some basis, or correct ownership is lacking.

This is more difficult, of course, as the number of persons involved in the ownership process enlarges. The problem is most clearly observed in the formation of corporate structures where large numbers of persons, the stockholders, each own a relatively small amount of the corporate body. Most corporations rely at this point upon the democratic process in electing their directors or trustees. But this process is not always as fruitful of favorable results as is fondly imagined. It encourages the introduction of political methods and processes within a business arrangement, which, as much as possible, should avoid any reliance upon a mere weight of numbers in decision-making.

Corporations which sell a very small number of voting shares, which shares are purchased by the original founders and entrepreneurs, will avoid many pitfalls. This is particularly true if the voting stock is owned entirely or nearly so by a single individual. Authority and responsibility in such a case rest correctly upon the primary owner and all additional owners are subordinate. Such a procedure eliminates proxy fights and "raids" wherein control of a corporate structure can be upset by the sudden emergence of an owner who, as a result of his control of a large percentage of voting stock, can actually take over a corporation and oust its management. Certain corporate bodies where the control of voting stock is kept within a family have shown a remarkable facility to survive and to perpetuate successful business policies and practices.

It should be noted that the small investor who purchases a few thousand shares is still the absolute owner of those shares in a given corporation. He may do as he pleases with his shares even though he may not do as he pleases with the corporation. He does not own the corporation, and his purchase of shares is usually predicated upon his anticipation of dividends under the management extant at the time he purchases the shares. He may buy shares in hopes that the value of these shares will rise on the market so that he can sell at a profit. He is actually purchasing shares of a corporation, not shares in its management. His control of his own shares is absolute; his control of the management is essentially non-existent.

It is well known that a bloc of voting stock can be manipulated by one or more stockholders. It is also well known that such manipulating can topple management and replace it. It is also apparent that there is no guarantee that a reorganization performed in this

manner will be either malignant or benevolent; the chances are equally good in either direction.

A corporation which sells an extraordinary number of voting shares in the open market is simply asking for difficulties which it can avoid by a more judicious distribution of voting privileges. If the control of the corporation is firmly established in a single person, so that ownership lines are clearly established and maintained, proper ownership and proper management are far easier to preserve. Ideally, a corporation, like a partnership or independently owned business, should have the lines of ownership clearly drawn and maintained without the hazard of unnecessary diffusion.

Chapter VIII

Ownership of Land

Land has been owned both collectively and privately. The evidence reveals that in earliest times, before men learned to establish cities, they laid claim to hunting and foraging territories, establishing a kind of collective control over the area. This is collective ownership, for it excludes the private owner and presumes that all items of value found in the claimed territory are to be used for the good of the group. Primitive tribes forbade private exclusiveness in land.

American Indians, at the time the first Europeans came to the Western Hemisphere, in the main practiced collective ownership of the land. The tribe claimed the territory. White men, seeking to make treaties with the Indians, purchased such territories from the Indians without completely conveying the meaning of their purchase to the aboriginals. Indian chiefs, swapping land for so many hatchets and glass beads, looked upon the property they were conveying as having existence only in those things they themselves valued. Thus, they were dismayed when they found white men clearing land, taking out the trees, and putting up permanent-type structures. It is entirely reasonable to assume that many a chief, bartering away his land for so many trinkets, thought of the trinkets as a fair exchange for the game animals, fish, or water rights in the territory up for barter. Perhaps he was, in his own scale of values, conducting a shrewd trade in an area where most of the game animals had already been killed or run off. He may have thought he was giving the white man little if anything of value for these elaborate man-made items of cutlery and decoration which the Indian could not possibly produce. When the white man cultivated the earth and thus more fully utilized the hunting ground, the Indian may have belatedly awakened to the nature of the white man's intention. This could well have served to stimulate a number of Indian hostilities and uprisings.

In many places in the world, some land passed into private ownership or control while other territory was maintained as the basic collective property. In early Russia, under the *mir* system,¹⁴ long in vogue, each young man as he reached maturity was ceded a certain number of acres for his own use and that of his family. These acres were taken from the collective *mir* and exploited privately. In a sense, this pre-czarist and czarist system has been re-established by the Soviet system, which contends that all land is socialist property but permits each household of a collective farm to have a "subsidiary husbandry" on a plot of land between one-fourth and three-fourths acres in size. This "husbandry" is generally viewed as "private" property and to date, in Russia, produces proportionately far more food crops than the huge collective farms. Since the household pays no taxes on this land, a degree of private ownership exists in Russia which is, in an economic sense, far more in harmony with laissez-faire ownership than our own system. Of course, the Russian government can confiscate this land at any time, but until it does so, the Russian peasant has an advantage over his American counterpart in this particular.

Currently in the United States, although we praise private ownership of the land as the bulwark of our system of land ownership, the taxes levied actually perpetuate a kind of collectivity in ownership. The social group (the city, county, or state) collects a fee for the use of the land. The governing body has a prior lien upon any property where the fee (tax) has not been collected. In this sense, all "privately" owned land in the United States is fundamentally owned by the collective. This practice, aided by the customs of eminent domain, central planning, and zoning, emphasizes that we still pay tribute to the primitive system of collective land ownership.

A curious phenomenon in which private ownership ran afoul of collective ownership concepts in this country relates to the early conflict between cattlemen and "nesters" or dirt farmers. The cattlemen, unable to conceive of private ownership of the vast grasslands of middle North America, apparently believed these huge territories would never be privately owned. Hence, they viewed the cattle as private property, and appropriately slapped a brand on the quivering flank of horses, cows, and other animals, marking them as private property. The land was "open range" which anyone could use. When the dirt farmers moved in, fenced off plots for agricul-

¹⁴Emile de Laveleye, *Primitive Property* (London: Macmillan and Co., 1878), II.

tural purposes, and laid claim to the unclaimed prairies, the cattlemen took up their Winchesters to defend property which they had already indicated was not their own. In the exchange of hostilities, the permanent settlers won the argument for they demonstrated that a negative claim to non-ownership by anyone is inferior to a positive claim by someone. The cattlemen retaliated, belatedly, by fencing off hundreds of thousands of acres so that grazing lands could be preserved for themselves. Had they done this originally, the prairies would probably not have been eroded by the plow, and the development of the central and western plains would have taken on an entirely different complexion than they wear today. It is reasonable to assume that in this case, the development of periodic dust bowls and the defoliation of the prairies might not have occurred, at least on the present scale.

Among ancient peoples, the idea of private ownership of land emerged as early as pre-Biblical times. There is considerable evidence that when cities were first developed, and possibly before, land was privately claimed for farming purposes in Egypt and the Middle East. Some of our earliest documents in the form of papyrus or clay tablets are deeds in land, privately conveyed by an owner to another owner. Land was also conveyed by will.

One of the earliest land transactions is recorded in the Book of Genesis (XXIII, 2-18), wherein Abraham bought a plot of land for the purpose of burying Sarah, his wife. The scriptures note a price of 400 shekels of silver "current money" paid to Ephron, the son of Zohar, for the purchase of the cave of Machpelah, to be used as a crypt for the deceased Sarah.

F. de Coulanges, in developing the history of the gens, reveals how land was owned by families rather than by individuals.¹⁵ This formed a type of genetic private ownership in a familial collective. It was believed in India, Greece, and Rome that the boundaries of land were maintained by household gods, whose function was, at least in part, to preserve the sanctity of ownership. Property boundaries were not contiguous, and spaces between properties were preserved for free passage. This system may have given rise to the idea of public roads. It was viewed as a fundamental affront to any household god to touch, or to trespass in any way, the boundary which a particular gen established through its familial religion.

Land, including the family hearth, could not be conveyed to an-

¹⁵*Op. cit.*, pp. 62-72.

other family regardless of circumstances. This ancient custom, perpetuated through the gens and phratries, may have led to the fear often evinced by modern socialists that those who own land become a privileged and perpetual landed aristocracy. While it is certainly true that during long ages the son inheriting property from his father under the rules of primogeniture could not divest himself of this property, this custom has long since vanished.

In a modern economy, land is freely conveyed in the open market. It is almost axiomatic among American real estate brokers that any piece of land can be sold if the price is right. Manufacture and the development of industrial production have doomed ancient agrarian notions of the use of land. Yet most theories relating to land use and land ownership are presently based upon ancient agrarian customs which no longer have application. If a free market is assumed, even though property in land remained in the ownership of a particular family line, no real problem could or would arise. If the property were utilized to its highest advantage, the entire economy would benefit irrespective of the name of the owner. If the property were not utilized according to its highest utility, market factors would arise in time which would make it advantageous to alter utilization or to transfer ownership.

In those nations, such as Central and South America, where a landed aristocracy still holds sway, the requirement is an industrial revolution and development, not a political revolution employed to redistribute the land for agricultural purposes. Socialists frequently champion the cause of "agrarian reform," seeking to redistribute the land by force. Such forceful redistribution almost invariably leads to state collectivization of the land in place of private perpetuation of land tenure.

A precise example of this procedure is before us in the land history of Mexico. When the Diaz government of Mexico expired in 1911 and the revolution sired by Zapata, Villa, and Carranza called for land reform, the reason given was that the aristocratic land holders were preventing the peasants from owning the land. The revolutionaries were successful in establishing their particular form of land expropriation, and the large holdings of the land owners were confiscated. But this did not lead to the establishment of many small farms, as was fondly hoped. Rather, the state seized the land and then belatedly discovered that the peasant was poorly equipped to face up to the manifold problems of private farm management. Thus, in Mexico today a system closely patterned

after the Russian *mir* pertains. Individual peasants are granted tracts of land for their own use, so long as they work at the task. If the peasant does not use his land for a prescribed period of time, the land passes from him, back into the collective state land, to be parceled out again when an apparently worthy peasant appears. Fortunately, in Mexico in recent years an industrial expansion has begun and the Mexican government, essentially socialistic on a Marxist base, has adopted more lenient policies with respect to the private ownership and development of land by those willing to purchase and use the land.

There are still many who champion collective ownership of land. They apparently believe that owning land constitutes a monopoly; that since man does not labor to produce the land, he cannot rightfully own it privately. The anarchists believe that private ownership of land would not ensue except that government makes it possible, thereby protecting the landlord by means of law and political privilege.

But the collective ownership of land has these disadvantages:

1. When all land is owned and managed by the collective (government), no private point of view or interest can be maintained. This results in curtailment or abolition of those innovations and long-term developments which flourish when land is independently and privately owned and managed.

2. The charge that private ownership of land is a monopoly is certainly not offset by creating a governmental monopoly in place of private (and necessarily competing) transactions in land.

3. It is self-evident that individual men do not labor to produce the land. By the same token, government does not labor to produce the land. The land is a natural resource and the origin of nearly all our natural resources. But one obvious fact emerges. When an individual owns land privately and knows himself to be the proprietor in fact, he will labor with enormous self-commitment to improve the land. On the contrary, when the individual is merely a tenant, either of a farm or a dwelling or a business site, his interest is in taking out all he can to compensate for the cost of the rent he pays. This is true whether his landlord is a private person or a government. Actually, in those cases where government has become the landlord, the evidence abounds that tenants are even less interested in improving or even maintaining the property they occupy.

If a landlord-tenant relationship occurs privately, then the private owner of the land is in a position to keep up his own property and to

influence the tenant against careless behavior or wanton destruction. But when the state is the only landlord, the supervision of the land by the state representative becomes parallel to that of ancient stewards who supervised the behavior of serfs. If the only land available is state land, then the entire human race will become nothing more than tenants, entirely at the mercy of state officials. If private ownership flourishes, the tenant has a remedy. He can always purchase land and thus remove himself from the renting class.

4. The charge that private ownership of land could not exist except for government protection will not stand on the strength of the evidence. Government's role in respect to land has been aggressive rather than protective. Private holdings have been wrested from the hands of individuals or groups the government attacks, either in war or by legal decree. In both ancient Egypt and Assyria, as well as India, Greece, and the Roman provinces, private holdings of land were respected and held safe and sacred long before governments of any kind ever pretended to defend the ownership of land. The idea of the sacredness of a land boundary emerges from primitive religious beliefs and early tribal customs, and government, as such, is a late comer to the field.

When land is privately owned and managed by the owner, or a manager responsible to the owner, sovereign control exists. The control of the owner is total. It is limited, however, by the boundaries which mark the confines of his property. No owner has any authority over property other than his own. For private ownership to exist, control must be total within the territory owned, and non-existent beyond it. By this process, the dignity and the productivity of man can be upheld. Each man becomes the "lord" of his own domain, whether large or small. The early British view that a "man's home is his castle" is sustained. And only by this process can freedom of the individual endure.

Much of the uncertainty relating to land ownership and tenure today arises from the trend toward collectivizing the land. To support human liberty and to further the development of a vital, dynamic economy among men, private ownership of the land is the primary essential.

When land is collectively owned or collectively managed, a dispersion of rightful authority ensues. Consider a city park. It is claimed that "the city" owns the park. But what is "the city"? It is a word we have devised to indicate that a number of people live in a compact urban area. To say that the city owns the park merely

means that the residents within the urban area are forced to pay a tax in support of the park. They may not ever enter the park, but they are required to pay for its maintenance. The payments they make can not be redeemed. Thus, the payments made do not constitute an investment which could be sold or transferred. If the resident moves from the area, no refund is made to him. Nor can he sell that portion of the park he has paid for to a late comer. The resident may use the park, provided the city "authorities" permit him. But he can be excluded from the park, in spite of the fact that he has paid for it in part. Additionally, while he is said to be one of the "owners," as all other city residents are identified, he has no authority over the park. He cannot be shown that particular portion of the park his money has purchased and maintained. He can evince no preference as to how his portion of the park is to be used. The city officials, who have no more financial interest in the park than he has, can exert authority over the property, but he cannot. His only recourse in the event he is dissatisfied with the park management is to attempt to elect other officials.

Thus, the lines of authority, which properly run from the purchaser and owner, to encompass the boundaries of what is owned, are dispersed. The "owner" cannot exercise authority. Non-owners exercise authority. And use of the park falls to the decision of the authorities who are not owners.

This results in inevitable conflicts of interest. A man who has paid "his share" in maintaining the park, decides he and his family will picnic in the park. He is told when he arrives that picnicking is forbidden. His "rights" to the park, which he has purchased (theoretically) with his money, are ruled non-existent, in favor of those others who have also purchased "rights" but who do not want to picnic. Whose rights are supreme? Only those of the politically sustained "authorities" and not those of the purchasers or owners. One is reminded of a news item which appeared in the *Catholic Digest*: "Sign in downtown square of a small Kansas town: 'No ball playing. No pets. No bicycle riding. No loitering. Remember, this is *your* park!'"

The same situation pertains to other institutions run by a collective. Consider the so-called "public" school. The taxpayers pay for the school. Can they decide what is to be taught and how the lessons are to be managed? No, they cannot. While some will approve of what the "authorities" (political) decide, others will be dissatisfied. If the schools belong to the people, each taxpayer has an equal right

to decide what shall be taught, who shall be admitted, and so on. Currently and primarily in the South, enormous conflicts have arisen over this point. Taxpaying Negroes demand, and rightly, that their children be admitted to schools they have helped to buy and maintain with their taxes. Taxpaying white citizens demand the right to exclude Negroes. The political decision will positively rule against one group and in favor of another, since both policies cannot be followed at the same time in respect to the same school.

If schools were privately owned and managed, the individual wishing to educate his child could select the kind of school he desires in much the same way that each selects the kind of church pleasing to him. Each can support the church of his choice and refrain from supporting some other church. But in "public" (government-controlled) education, all are compelled to support schools which, in the final analysis, few if any really approve. Management is in the hands of politically elected or appointed "authorities" who enforce collective decisions upon all.

To maximize human well-being and to minimize disputes, private ownership and management of land and all appurtenances to land should be encouraged. Further, the land should be untaxed. The owner should own totally, once all encumbrances have been removed.

Chapter IX

Ownership of Objects

Chiefs of tribes, kings, potentates, and rulers of the earth were among the first to claim land as property. At that exciting period in our remote past when men were changing their way of life from a foraging, hunting society, dependent upon the wild things they could find in forest, stream, or prairie, to an agrarian economy depending upon what the soil could produce, a major development occurred in the societal organizations of men.

Instead of accepting the proceeds of the hunt as the item of highest value, men began to take an interest in land, as a permanent, tangible asset. And when they did, patriarchs and kings laid claim to vast territories, asserting that these lands were royal and hereditary and were for the use of the tribe. The foraging tribe gave way before the development of agriculture. Men settled in more permanent dwellings and cultivated the land, in order to benefit by the harvest resulting from their labor.

Long before this transition, individual men in hunting and foraging tribes in various parts of the earth had begun to claim objects as personal and private property. Ultimately, they claimed the land itself as exclusively their own.

Whether or not the first concept of private property centered on persons, such as children, slaves, or spouses, or upon sea shells, feathers, bones, tools, or other physical objects, private ownership of objects became a reality. This is the kind of personal possession that is easiest to understand, partly because objects have so long been accepted as property, and partly because objects by their nature have the qualities of discernible boundaries and admit readily to individual control.

When an object appeared valuable to a person, that is, when he reached out by an action of his will to possess himself of such an object, the object thus selected was separated from all others. A shell has a discernible limit. The possession of a particular shell

does not mean the ownership of all shells. The claim to a particular feather or bone can be quickly established. By grasping the object an individual can take "control" of it. And though at first there may have been a certain amount of violence wherein the strongest acquired ownership, the fact emerges that at a very early date, personal ownership in the form of exclusive possession of such objects became a way of life. Even the weakest members of a tribe owned "things."

It is noteworthy, I believe, that these things were not "produced" by primitives, any more than the land was "produced." No man can make a tree. No man can make an acre of ground. No man can make a sea shell. The assumption of John Locke, thinking as he was of agrarian development, that the admixture of the labor of the man with the property being produced creates ownership, clearly will not hold.

If it is said that the mere picking up of a pretty stone is a kind of labor, I will have to contend that the setting forth of a claim over land is also a kind of labor; but this is to overlook the essential: that it is the claim that creates the relationship of ownership, not the labor. A man may pick up many stones and throw them all away. He does not value them. He establishes no claim. But when he finds some particular stone that pleases him, he has labored no more in picking that one up than he has labored in picking up others he has discarded. Those he discarded may even have cost him more labor. Does he "own" all stones he picks up and discards? Obviously, no. It is his retention of the item he values that creates ownership. And his retention is based, not upon his labor, but upon his claim.

It took a remarkable extension of the mind into the abstract to make the next assumption. If a man possesses and "owns" an object when he has it in his hand—a point rather easily sustained—suppose he puts it down, but does not throw it away. What then? Does his control of the object cease the minute he stops holding it? Sometime in our dim past, the idea must have emerged among our forebears that ownership does not relate merely to immediate physical retention of the item.

A man values a pretty object and claims it as his own. But he cannot hold it forever. He must hunt and fish and move about, employing both his hands in mere survival. Will the object of his claim be taken by the first man who sees a value in what he has claimed?

Here is the essential requirement for all private ownership. If ownership is to be more than temporary use of an item, the own-

er's rights to the item must endure in time and space beyond his immediate and physical contact. When property of any kind is viewed as collectively owned, then use and not ownership becomes the standard of behavior. Since no individual can own any collective property, he must await his turn in the use of anything available. It would follow that control of one's environment would always be at the mercy of other users. No one could plan in advance beyond the immediate next step. What he had in his hands, or what he was immediately using, would be the only property over which his control could be extended.

While some have contended (notably Proudhon, *What Is Property?*) that such a procedure would be beneficial to the human race, it follows, upon examination, that little if any economic development could ensue from such a policy or practice. For any production to occur at all, some person or some group of persons (organization) would have to pre-empt the uses of some so that accumulations of raw materials could be set aside, so that tools could be devised, so that ultimate production could ensue. Production never truly occurs until savings have been accumulated, either of money or goods. Since any accumulation of anything would be subject to the immediate use of anyone who happened to discover the stock-pile, the entire concept is unworkable.

Where socialists have championed the idea that all tools should be owned by the state for the benefit of the people, the net result is to create a monopoly of control or ownership in the hands of the state, wherein the people have neither control nor rights, and all is left in the hands of the political overlords.

Since the socialist is fundamentally motivated, at least in theory, to act in such a manner that he benefits all, and hence has traditionally viewed monopoly at any level as essentially detrimental, it boggles the imagination to note that socialist programming invariably leads into state monopoly. The socialist confuses monopoly, which is a condition arising in the market by means of state intervention, with the condition of private ownership, which is rightfully an individually expressed sovereignty over the item owned. The two are not even remotely similar.

If we reason that private ownership is not desirable but that the use of property is, then collective socialist control of all property and all men in society is implicit. Any people so organized would be the victims of regimentation, poverty, and apathy, for the incentives provided by all private ownership are absent, the variables deriving

from diverse ownership are banned, and the production for use to ensue would in time reduce the standard of living to a subsistence level.

The difficulty of accepting the concept of private ownership relates to its abstract character. There is usually nothing about any particular property which reveals, by its nature, the identity of its owner. To make such identification it is necessary to inscribe a name, a number, or some other identifying symbol upon the property. Or, in the case of works of art, literary or musical compositions, etc., where style and other identifying characteristics are clearly established by a creative person, the matter of identification is implicit.

It is likely that the alphabet was first devised as a set of symbols by means of which items of property could be identified with their owners. Written language is probably an extrapolation from the fundamental urge to own property privately.

It is obvious that language itself is a remarkable systematic development of abstractions. Words and letters merely symbolize reality. The urge to possess property privately may have formed the the abstract base both for ownership and for written expressions of precise ideas.

I would argue further that the entire concept of morality stems from private ownership of property. Morality inescapably concerns inter-human relationships and what they should be. If on every occasion when a man deposits an object he possesses, someone else assumes control of it, private ownership of anything would be completely impractical. For private ownership to have practical meaning, it follows that conduct which "ought to" occur would be conduct in which each person recognized the ownership of the other person. For the assurances that ownership of private property creates, possession and control of property must extend beyond momentary physical contact. If it does not, then private ownership is wholly impractical and without meaning. The morality arising from private property is based upon respect for the property owned by another when the other is absent. The conduct that "ought to" occur in respect to property relates to non-trespass of the property of another. In a very real and practical sense, the tangible boundaries of properties, once claimed, become sacred markers across which no other than the owner may properly advance. It is instructive to note that the Golden Rule, one of the earliest admonitions to the human race, and in such general usage that its origin is lost in

antiquity, essentially sets down a moral injunction to the effect that one ought to measure his own conduct toward others as he would hope the others would measure their conduct toward him. This provides the abstraction of moral law respecting property. The boundary of any property is sacred; not because it is physically impossible to commit a trespass but, rather, because trespass is so universally simple an act that a general rule of behavior setting forth the desirability of non-trespass is a moral imperative.

It is also instructive that the Decalogue, recognized in the Judeo-Christian tradition as the base of moral behavior, contains in its most impressive sentences prohibitions against property trespass. The admonitions against theft, killing, adultery, and covetousness **clearly admonish the individual to refrain from crossing private-property boundaries without permission of the rightful owner.** The only variables in these injunctions relate to the kinds of property trespass under consideration. Thus, theft is merely a trespass of boundary for the purpose of acquiring property belonging to another. Killing, in this context, becomes a kind of theft in which a life, as a specific property, is stolen. Adultery is clearly seen as a trespass of an existing contract, and hence a violation of a property boundary. And covetousness is merely a mental lusting after a property which belongs to another and which is not on the market.

It is not too extreme to suggest that the only code of morality ever suggested which has been generally accepted as desirable by human beings, regardless of their geographic location or the type of social structure they support, is a code of moral behavior which forbids trespass of property boundaries. Such a code is of such universal usefulness that it actually provides the base for all major (higher) religions, and is not unknown even among primitive peoples who have had no access to advanced theology. It could be argued that this moral rule arises, not from divine revelation but from the physical nature of man. Man, as a consumer, must be able to produce before he consumes. For him to produce in any satisfactory degree, he must have the assurance that his savings or accumulations will not be trespassed. Since he cannot keep all his savings on his person, it is essential for his well-being that he be able to set down his accumulations and know that he can return to them, without running the risk of their being taken from him in his absence.

Arguments against this moral requirement usually take the direction of suggesting that when accumulations go beyond a certain

place (no rational line has ever been drawn to indicate just where this certain place may be), then the "surplus" of the person may be rightfully stolen in order to alleviate the "needs" of others who do not have such accumulations.

This argument is based, ultimately, on a number of fallacies, only one of which relates to the impossibility of ever finding a proper line of demarcation wherein theft can be justified.

Another fallacy is that wealth or money that is being saved is of no utility and whoever accumulates anything is, in fact, performing an act of robbery upon society. But while it may be true that a very few persons do hoard, out of fear or from a desire to act as misers, their numbers are so negligible as scarcely to affect the market. Nearly all who save, put their savings to work one way or another, thus benefiting themselves and the market generally.

Still another fallacy has it that there is a fixed and limited amount of wealth in the world. Hence, accumulations in one quarter result in deprivations in other quarters. Actually, accumulations which are saved and invested are used to create tools, which in turn provide jobs and more wealth, which is then circulated through market channels for the benefit of all. The total amount of wealth in the world is not static. Wealth is constantly being created. The matrix of all wealth is the investment, the savings that are employed in such a way that still more wealth is produced.

When natural resources are considered as wealth (some economists agree and some do not), this particular order of wealth does not fluctuate particularly. However, the fact that natural resources cannot be made by man in their original state in no way precludes their ownership privately, nor does it preclude considering them as wealth. No natural resource is of any use to anyone unless it can be put to work. Natural resources of all kinds and descriptions are constantly flowing into the market for those who know how to employ them constructively. Men will only claim those natural resources as their own when they see a value in them.

Assume that a given individual who wishes to own something doesn't intend to part with it. Nor does he intend to "use" it in any commercial sense. He merely admires the object or the resource and intends to keep it in his possession so that his admiration of the item will not be interrupted by the intrusion of others. This in itself is a kind of use. The man who admires the pretty sea shell is "using" it himself as an object of beauty, an object to stimulate conversation, an object from which he derives satisfaction.

All things that men own are either owned by them to admire, to use directly, to save, or to exchange in commercial ventures. Since what we seek is a system which will enhance satisfaction for men, there is no valid reason for precluding any of these dispositions of property. To ban ownership of items which are merely admired would be to ban ownership of all works of art made by men as well as all works of beauty made by nature. Since such admiration is a fundamental quality which men have as an endowment, to curtail this would be to remove a major area of fundamental satisfaction from the human race.

If others desire what a man owns more than he does, they have only to seek to exchange with him on the basis that they have something else they hope he will accept in place of what he already has. Either they can effectuate an exchange or they cannot. If not, the would-be purchaser is dissatisfied, as we are all dissatisfied when we do not have our way. But all he has to do is to obtain what the owner wants, and the exchange can occur. And if the item desired is still not for sale, at least the would-be purchaser has everything he owned before and no injury has ensued. Assuming respect for property, no one is ever compelled either to buy or sell. The immediate status is sustained unless both parties to a potential exchange agree. And in any case, each man ends with those things in his ownership which he values most, thus fulfilling his innate sense of values and increasing his satisfactions in life.

To prevent private ownership of an item simply because many people wish to use that item, is to destroy the satisfaction of the person willing to produce the item in favor of those unwilling to produce it. To prevent ownership of items that are to be used in exchange is simply to deprive all persons of the opportunity of improving their lot as a result of their own efforts and judgments.

Any man may own anything he wishes provided he acquires ownership through honest means. He begins by owning himself. All properties beyond himself are merely extensions of himself. These may include objects in nature, manufactured items, interests in contracts, and media of exchange. He may rightfully own anything that is subject to ownership.

Chapter X

Ownership of Intangibles

The difficulty experienced in establishing the abstract concept of ownership when the owner is absent, is merely the forerunner of additional difficulties which are glimpsed as consideration is given to the ownership of intangibles.

Intangible properties are characterized by boundaries that are invisible to sight or not subject to discovery by touch. In this category we find contracts of all kinds, both real and implied; odors, sounds, and ideas.

Odors and sounds can be dealt with first. At the moment, our technology is such that to deal with them as property, we deal with tangible containers rather than with the items themselves. An odor is a distinctive olfactory stimulation emanating from a source. The source can be identified by its physical boundaries, and the owner controls and is sovereign over that source. Sounds have much the same characteristic. They arise from a source and the source is tangible and subject to ownership. We have phonograph records and sheet music. We attend concerts or operas and exchange money for the privilege of listening to sounds for a period of time. We never really own the sounds we hear. A musical performance offered to the public falls into the category of a contract which has a boundary other than a physical source. As listeners, we never presume that we own the performers or their instruments, although we have paid to hear them.

Contracts of all kinds are usually bounded by time. Many written contracts have a phrase included to the effect that "time is of the essence of this contract." When we purchase a ticket to a musical performance, the purchase entitles us to remain and enjoy, for its duration, whatever sounds are offered.

A man owns a field and hires a worker to harvest his grain. He agrees to pay the worker on a time or a quantity basis. He either

contracts for so much an hour, a week, or a month, or he contracts for so many bushels of grain at such and such a rate per bushel. The owner of the field has not purchased the worker. But he has obtained a property right in the projected labor of the worker.

Similarly, and in harmony with all contracts, the other party to the contract has bound the owner. He does not own the field, nor does he own the owner. But he has obtained a property right to so many dollars and cents in the projected reimbursement he is to receive as a result of services rendered.

Since every contract is essentially a matter of trust, an act of extending credit, it invariably includes time as a boundary. The worker extends credit to the owner of the field while he labors. The owner of the field extends a trust to the worker by permitting him access to his property. It is understood that the produce garnered by the worker does not belong to the worker; it belongs to the owner, even though it is the labor of the worker that brings in the grain.

Any extension of credit by anyone to anyone is nothing more than a property right extended through time. When the time has elapsed, the contract has expired. It can only be renewed by the agreement of both contracting parties.

All contracts, of necessity, involve two or more parties. No contract exists in the singular. And each contracting party becomes an owner of the agreed-upon terms or conditions made by the other side which will be delivered in time. All contracts, whether they relate to anticipated services fulfilled, or anticipated delivery of goods or tangible property, are properties in themselves. They are jointly owned by the contracting parties, each party obtaining a property right in the promise of the other to specific performance when the contract is fulfilled.

The marriage contract is essentially an intangible property involving mutual exchange of goods and services. It is important to realize that all valid contracts assume a property to exist, either in performance or relationship, and do not make of either contracting party a property per se. Thus, a contracting man or woman is not property. The contracting party is an owner, and acquires a right in the goods or services of another, not in the will or identity of the other.

Unfortunately, this distinction is not always fully grasped. It is quite common for one or both spouses in a marriage contract to presume that their opposite number is actually a possession of theirs. Our language gives credence to this supposition for it is usual to

hear a man refer to his partner as "my wife." She is not his in a property sense. But he does have a claim to her services by virtue of the contract into which they have voluntarily entered. Similarly, though the wife may refer to her mate as "my husband," she does not own him. She merely has a property right in his services or goods.

A similar problem frequently arises among employers who may, since they rarely take the time to think about it, presume that employees working for them are actually "owned." They are not. They retain their ownership of themselves. The employer merely has a property right contracted for, during a specific period of time, and involving the labor, skills, or energies of the employee. Similarly, an employee may look upon his employer as "my boss" and view him almost as a possession he has managed to acquire. Or, the employee may suppose that once he has been hired, the job is his property, regardless of the length of the contract. Unless an employment contract is specifically set forth to cover an extended period, it is usual and reasonable to assume that the point wherein wages are paid is the terminal point of the contract. Thus, if an employee wishes to terminate his working relationship with a given employer, it is usual and reasonable for him to notify his employer, at the beginning of a pay period, that this will be final pay period he will remain under contract with the employer. Similarly, if an employer wishes to dispense with the services of an employee, it is reasonable and usual for him to notify the employee of this fact at the beginning of a pay period. While today most employment occurs on an "until notification" basis, in actual fact no real contract exists beyond the agreed-upon pay period unless otherwise specified. It is merely tacitly understood that unless notification occurs from one party to another, the contract is automatically renewed after each pay period.

The ownership of an idea is probably the most difficult and abstract area of property to consider. All ideas are the product of the mind. In this respect, the mind itself is the perfect receptacle. As long as the idea remains in the mind that conceived it, it is unlikely that any question can be raised concerning its ownership. But when a person expresses an idea either verbally, in writing, or in an art form, the idea is no longer exclusively bounded by the mind that conceived it. Nor is there any automatic time factor that can be invoked. Expressing an idea is somewhat analogous to emptying the water from a bucket. The interior of the bucket may still contain traces of moisture just as the original mind may retain the original

idea. But the boundary by means of which the original idea was positively contained has now been extended without limit. This is particularly true of any verbal expression.

An idea in writing is bounded to some degree by the paper to which it is confided. Ownership of the paper is easily established. The paper has boundaries, and control of it is a simple matter. Similarly, an idea reduced to an art form, regardless of the kind of form utilized, has a kind of boundary in the sense that the form has boundaries and the form itself is subject to the control of an owner. Even so, the person who reads what is written on the paper, or studies the art form and from it deduces an idea, is in a position to extract the idea while the form remains in the ownership of the person expressing the idea. But a verbal expression of an idea releases the idea into the minds of any persons within hearing distance. The words employed in a verbal expression are not subject to ownership. The mere fact that a word can be used to convey an idea reveals that no word can be the exclusive property of anyone. Words are abstractions in the form of symbols. Their usefulness relates to the fact that they are not property, but rather they are symbols which can be generally recognized and understood.

One can attempt to set forth a contractual understanding in advance of one's expression of an idea. A person can enjoin his hearer or audience that the idea he intends to express is private property and although he wishes them to know of it, he does not wish them to use it. Assuming they agree in advance to this restraint, then, depending on their respect for intangible property, he can, to some degree at least, retain control. But to demand of a man that he listen to your idea but not use it, is a little like demanding of a sponge on which you are about to pour water, that it not absorb the water.

The human mind is a kind of sponge which absorbs ideas from many sources. Although a man may be completely honest and have the best intentions imaginable, an idea transferred to him is bound to enter into his consciousness if he grasps it at all, and while he may live up to this promise not to use the idea, it is entirely possible that the idea he has heard will stimulate his mind in such a way that the new thought will germinate a growth other than the one originally presented. Thus, while he scrupulously avoids use of the idea as he heard it, he may very well use a tangential outgrowth from that idea. Nor could this be prevented.

The mind is stimulated to some degree by everything heard, seen,

or comprehended. Further, even when an idea is scrupulously copied, it takes on a new quality from each new mind that accepts and ultimately expresses it. We are all different and, to some degree, unique. To forbid a man to think, but at the same time to ask him to listen, is somewhat incongruous. It is like suggesting to a man that as he looks about him viewing various objects, products, and processes, he refrain from understanding them and applying the ideas in them.

While there is certainly nothing wrong with keeping an idea to oneself, or even placing others with whom the idea is shared on some kind of contractual basis, to attempt to do this totally is in essence to ask for some kind of tyrannical power over the minds of men. If an idea is so precious that you do not want others to use it, perfect security is possible by refusing to discuss it. The curious thing here is that many men, believing their ideas to be unique and of enormous value, wish to share them with others, impress others with their importance, and at the same time retain total control and ownership of what they express. This desire reaches somewhat absurd proportions when men who have possibly come up with something new presume that they are the total originators of what they offer as their own. The very words they use to express a thought are words for which they are indebted to their forebears of ancient times. Dare they use a word to express a thought without acknowledging the originator of the word, and possibly setting some money aside for the estate of that individual, together with all his descendants? Since ideas are always composites of other ideas, no one is truly original.

Further, if one man can come up with a new development relating to ideas he has absorbed from many others, so can other men. It is common occurrence for two men, in widely spaced geographic areas, to come up at the same time with ideas which are virtually identical. Since each man accomplished his own cerebration, it is reasonable to state that each man has actually conceived of the idea and hence that neither man has total ownership of the idea, since all that has happened is the production of duplicate copies of the same idea. It is no more wrong for two men or many men to come up with the same idea than it is for two men or many men to manufacture chairs. Obviously, each chair will be much the same in concept, while no two will be precisely alike.

It is entirely possible that the lack of original thinking at the present time is tied directly into our patent and copyright legal system.

Many men entirely capable of reasoning in pioneer areas and methods spend so much of their time and energy worrying about the possibility that someone may get hold of their ideas that they curtail their ideation, and we are all the poorer as a result.

This situation is most visible when some men offer courses of instruction wherein they present ideas, to which they have added their own unique touch, and after having accepted a fee for the course of instruction they offer, forbid a purchaser to make use of any of the ideas offered without paying an additional fee. They demand of their students that they comprehend the ideas offered, and at the same time seek to place each paying student under a contractual obligation never to make use of what was learned without acknowledgment, both verbal and financial.

The same practice can be found in the realm of recorded music, filmed and taped entertainment, and the like. Artists are hired and paid fabulous sums to make a permanent record of their skills and talents. Then, every time these recordings, tapes, or films are exposed publicly, an additional fee is demanded. By this process, the investor who pays for the original work never really owns what he has purchased. Still, he presumes that he is an owner. And the resulting legal entanglements, lawsuits, bickering, and bad faith are almost incalculable. Is this not something akin to selling a man a chair and then requiring that every time the chair is used, an additional fee be paid to the man who built the chair? Or possibly an additional fee to the man who first conceived of the idea of a chair, if he or his heirs can be located (and etc.)?

The problem relates to ownership. If a recording, a piece of sheet music, or taped or filmed entertainment were rented and a fee paid for its use, there would be no problem. The difficulty arises in the conflict between ownership and rental. If ownership exists, then use should be unrestricted since total control accompanies ownership. If a rental or leasing arrangement exists, then the ownership of the item remains with the lessor and there is no problem.

I would contend that ownership is enhanced and greater human satisfaction will ensue when the purchaser of any product or service obtains total rights over what he has purchased and thus may employ his product or service as he sees fit without some retroactive obligation. While I would uphold the right of any man to contract in any way he wishes at the time he does anything or proposes to do anything, I would oppose any effort to limit or control total ownership. Ownership of anything is a total condition, when rightfully

seen. To sell something to another yet at the same time to retain rights in the use of that item is to make a conditional sale. This process leads to endless bookkeeping and much wasted energy. It is not immoral, per se, but it is far from being fully productive.

Chapter XI

Authority and Responsibility

Rightful authority is that which a person exercises over himself and what he owns. There is no other rightful authority. All authority which exceeds this limit is a usurpation. Thus, authority by one man over another, unless it arises through a voluntarily assumed contractual arrangement, is an imposition of force that runs counter to the will of the person so placed under authority. A rightful authority falls within the boundaries of property. Each man is the authority, the full sovereign, over himself and whatever he owns. The full meaning of authority, seen in this light, helps to reveal the problem that arises when ownership of property is presumed to be collectivized or shared in some public manner.

Life being what it is, ultimate decision-making must occur in a single mind. Although discussions and debate may ensue endlessly among those interested in a property, sometime, somewhere, someone must make the final decision as to the use or disposition of a property. If the owner and the decision-maker are one and the same, there is no problem. But if the owner (the man who has paid for the property) and the decision-maker (a political steward of any sort) are two different people, a problem immediately arises which is bound to create dissatisfaction, annoyance, and often many results far more serious. This is especially true when we have a condition in which it is presumed that several thousand or even millions of taxpayers are the "owners" of a property and are compelled to pay for that property and its upkeep. Meanwhile, however, a man known to only a bare handful of those who are said to be the "owners" is appointed to manage the property and to set up policies for its operation.

Since ownership is dispersed, but management is centralized, the manager will have things his own way contrary to the wishes of all but a very few owners. It is immoral and a violation of rightful

authority to force people to pay for something on the assumption that they are "owners" when in fact they cannot control what is owned, they cannot exercise authority over it, and they cannot make use of what they have helped to provide if political policy and their own personal wishes are in opposition at any given moment. This is an instance of property that is incorrectly or improperly owned. It is owned, in the sense that it is beyond the area wherein an original claim could be established. But it is out of the control of those who have purchased it, and under the control of a man who is not directly responsible to those who have paid for it.

The idea of "representative" management should be explored more fully. There is obviously no problem if the concept of agency is employed. If a man is an owner and employs an agent to manage his property for him, the relationship between owner and property is not disturbed. Similarly, if a group of stockholders or joint owners of any property decide mutually to select a manager who will represent their interests, which interests they have in common, again there is no problem. The real problem of representative management arises when concepts of agency are violated. This occurs when the political method is introduced. The taxpayers are compelled to pay for a property. The "representative" chosen is selected by a majority process wherein the wishes of some of the taxpayers are bound to be betrayed in favor of the interests of other taxpayers. The kind of management to ensue from representation rather than from agency will always result in betrayal of some kind. Nor does it matter whether the "representative" is appointed or merely hired by some agency of government. Government itself cannot possibly "represent" all the taxpayers and support all of their individual and conflicting interests. Thus, government, and any management obtained through government, will invariably betray the interests of some in favor of the interests of others.

Many suppose that so long as the vote remains in the hands of the people at large, they are "represented" in the management of the property the government acquires. But control is invariably less than desirable or more than desirable in any case where governmental management is imposed.

When authority over any property, personal, real, or otherwise, is divided, specific notation of the boundary of that division may prevent problems. A father with two sons gives one pony to the two boys jointly. Unless he makes further provision by allocating the use of the pony to each boy at different hours or days and, similarly,

makes specific provision for the care of the pony divided in like manner, he is merely asking for domestic civil war. Both "owners" cannot use the pony at the same time in the same way. The boundary between the authority to be exercised and the property over which it is to be exercised must be precisely set forth and maintained if difficulties are to be avoided or overcome.

Two separate human beings cannot both exercise total control over anything at the same moment. This is an ever-present problem in marriage relationships where it is often presumed that such joint control will automatically proceed from identical interests, values, and desires. Even two people who are devoted to each other will not have identical values and interests simultaneously. And since property must always be under the control of an ultimate sovereign, confusions and difficulties abound until ultimate authority in a given area is firmly placed.

This fact, in itself, may ultimately result in an erosion of the family system as we know it, in favor of larger individualism. From the dawn of history (exclusive of pre-history), the family unit, as such, comprised the major units of any tribal or urban group. In modern communities, we see an insensible drift toward more and more individualism, even when political reaction has set in toward larger collectivization. It is possible that the family unit of the future will operate under a different type of understanding or contract, with less and less joint ownership of property and more and more individual sovereignty over property expressed. Many marriages are made today with the property of each spouse reserved individually and exclusively at the time of the marriage. Properties acquired after marriage are sometimes viewed as joint property, in such contracts, with property held prior to marriage retained by each partner. The day may come when property acquired during marriage will be similarly retained by individuals and thus greater individual control over property will be maintained and expressed.

A great deal could be said about the property relationships which arise within the marriage contract. In earlier times, men practiced plural marriages as a matter of course, but as property ideas became more distinct and more meaningful, exclusive pairing became the prescribed although not necessarily the practiced rule.

Currently, there are a number of influences at work which are having an effect upon the family as it has progressed from the time of the gens and phratries. The partial emancipation of women has played a great part in setting these influences at work, as have im-

proved technology, urban living, various economic migrations, mass schooling, and the like. Communist and socialist theorizers, anxious to root out all tendencies toward private property, have seen in the family a veritable matrix leading toward private capitalism. In both Russia and China major steps were taken to destroy familial ties, but to no avail. It is entirely likely that any direct attack against the marriage contract and the tie between parents and children will come to naught. What is evident is that the lasting marriage contract and the raising of children within the private home have become sanctified along with a recognition of the sanctity of private property and the rights of man as a property owner and manager.

Beneath the surface, however, can be detected certain unconventional forces at work which, if they are not in process of eroding the familial conventions, are at least initiating free and open discussion in this area. It is doubtful if there is more promiscuity than heretofore. But it is certain that marriage, the rearing of children, sexual practices, and the intimacies implicit in the current marriage custom are now talked of with greater latitude than was true even half a century ago. The trend, as with property, is toward more and more privacy, more and more private ownership, more and more exclusive contractual relationships. It is economically sound to favor monogamous marriage relationships in preference to pluralistic marriages. It is also economically sound for parents to limit their offspring to numbers which are economically feasible.

A few generations ago it was taken for granted that women had little if any voice in the matter of selecting a life-time partner. Today, many people of both sexes deliberately experiment sexually before they select the person to whom they expect to be married. The double standard whereby it was assumed that a young man would perhaps have premarital experiences but a "nice" girl would remain virginal until after the wedding ceremony is being challenged on virtually every front.

Forty years ago and more, "trial marriages" (short-term marriage contracts) were being advocated. Today, in many cases, the marriage ceremony is being bypassed entirely, and with the new-found freedom of choice women are experiencing, it is hardly to be wondered at when young ladies of exemplary background and training embark on a sea of adventure sans marriage vows. A portion of this so-called "sexual revolution" doubtless stems from rebellion against both church and state. Young people point out that a sexual union is a personal affair that is either right or wrong intrinsically.

If sexual behavior is wrong, they tell us, then it cannot be made right by a church ceremony or the issuance of a license after payment of a small tax. Further, if sexual behavior is right, we are advised, it is right implicitly and not because of any ceremony, theological or otherwise.

What is lacking so frequently, although by no means universally, is the seriousness with which any contractual relationship should be viewed. The marriage relationship has served for millennia as one of the vital forces leading toward self-discipline, character development, productive effort, and sound economic behavior. The raising of children is an enormous responsibility and cannot be entered into successfully in an offhand manner.

But many of our moderns tell us that they do not wish to have children and are well enough informed to prevent child birth. Nor is this observation mere braggadocio and overconfidence. The improvement in knowledge and in various regulatory devices can remove the matter of pregnancy from the arena of chance to the realm of deliberate and careful planning. It would appear that young people are as eager as they ever were to accept the responsibility for their actions, while they have become far more able to predict the results of their actions. And if concern is real in seeking to establish a more moral and responsible world, then, however shocking they may appear to be at first, when responsible choices are made, compulsory intervention cannot rightfully be invoked.

If we are to support the idea of absolute sovereignty of the individual over his person and effects, we can hardly oppose his private contracting, exclusive of fraud, deceit, and double dealing, even though that private contracting is unconventional.

Economic history sustains the view that lasting contracts in marriage, whether monogamous or polygamous, are more conducive to a high order of economic progress than either haphazard or irresponsible mating. In this respect, the monogamous union has the advantage over the polygamous, just as the family of two or three children has an economic advantage over the family of twelve to fifteen children.

When all else has been said, the fact remains that human beings will continue to have children. And human offspring require an extensive period of time in which they remain under constant care and surveillance, during which parental responsibility cannot be shrugged off. How the parents meet this responsibility is a matter of personal choice but the responsibility remains fixed until such time

as the child assumes his own responsibility and economic independence.

Responsible parenthood requires freedom of choice on the part of parents. At the moment, the world is experiencing a population explosion, which has occasioned many expressions of concern. The real concern is not in the numbers of children born but in the irresponsible attitude taken by many parents who simply shrug off their involvement and leave their offspring to the haphazard and impersonal interventions of the state.

It would be better, now that advanced means of birth control have been devised, if parents planned their own families with economic forethought. With full parental responsibility restored, it is possible the population explosion would be halted. If freedom of choice is sustained, then parents should have the latitude of raising the children themselves or providing for professional help as they can afford it. It is obviously a gross injustice for some persons to procreate indiscriminately and to pass the product of their behavior off on the taxpaying ability of the productive, while others, who assume responsibility, are financially impaired and unable to plan intelligently for their own offspring.

Knowledge concerning birth control should be as readily available as knowledge relating to the prevention or control of disease. If full responsibility is vouchsafed, the joys of parenthood will be more broadly recognized. The fundamental rules relating to property and property ownership are indispensable here if the parent-child relationship is to be redeemed and elevated to the position it correctly holds.

Just as property is an extension of the person of the owner, and hence subject to his authority in much the same way that each is the authority over his person, similarly, responsibility for property owned resides with the owner. Authority and responsibility go hand in hand. Correct use of property, including its retention by the owner, its maintenance, preservation, and protection, rightfully descends along the same line that authority arises. Choice of the use to be put to property is the choice of the owner. And each owner must, of necessity, be responsible for his own choices and actions in relation to the property he owns. I have used the term, sovereignty, in relation to ownership to convey the idea that the owner of a property can do no wrong in respect to what he totally owns. He is sovereign of his property, and his decisions, whether wise or foolish, are not subject to the review of a non-owner.

Today, there is a broad tendency to suppose that somehow society in a collective sense retains some responsibility over privately owned property. Hence, laws have proliferated to "protect" the societal interest presumed to exist and thus to curtail the actual responsibility of each owner. This is nowhere more noticeable than in areas where theft occurs, or arson and vandalism arise. It is presumed in such cases that the responsibility exercised by the owner is somehow shared by "society" and hence "society" can employ policemen and judicial systems, hiring these collectively and using them to preserve, in some small measure, the individual ownership of property. But primarily these collectivized agencies of defense and protection must be seen in a collective light and arise from the presumed societal interest, authority, and responsibility retained by the group at large.

If private ownership of property is ever to develop in full, the total responsibility for the property owned must accompany the total authority over the property owned. Each owner must be at liberty to provide whatever protection he deems advisable and for which he is willing to pay in order to make certain that his property is not taken from him by stealth or force. If his protection is inadequate for any reason, there is still no justification for imposing some penalty upon the members of society at large. Yet this is the current practice.

A man who fails to provide adequate insurance for his home and loses it through fire or some other hazard, is viewed correctly as having personally made an erroneous assessment of the risks he ran. We may permit him to carry the cost of the damage himself. If the same general practice applied in respect to other hazards faced by any property owner, we would advance materially toward a full recognition of just what private ownership entails. In such a case, each owner would purchase for himself such protection or defense he thought economically feasible and practical. If it proved for any reason to be inadequate, we would hold that his own judgment was at fault, and losses thus experienced would fall to him.

This procedure is fair and reasonable because the person having the largest amount of property to protect would in all likelihood be in a favorable position to provide it, while the man with little or no property, running little risk of loss through theft or fraud, would have little reason to pay enormous fees for the protection of what he owned.

In such a move toward private responsibility we would have to

discard almost entirely the ancient concept of justice which still rests upon the idea that retributive justice is desirable and feasible. While there would be nothing immoral about a man seeking return of property stolen from him, it would have to be specified that in seeking such restitution, only moral means could be employed. This would eliminate compulsory collective action.

The thief, while obviously in violation of the rights of the property owner at the time he stole, would nonetheless retain all his own rights to his own person and his own property. A *quid pro quo* violation of the rights of the thief cannot be viewed as desirable.

What is desirable is a condition of non-theft. If private persons protect their own property and are viewed as being responsible in the matter of providing their own protection, then the victim of an act of theft is no more victimized than he would be if a fire destroyed his property. A person can indemnify himself by having obtained a fire insurance policy in the latter case. With equal clarity it can be seen that a person can indemnify himself by having obtained protection in advance, or by having an insurance policy which reimburses him in the event of theft.

Too often, in our present state of moral understanding, punishment of the thief or the transgressor is deemed the highest of motivational forces at work. And this presumes a collective responsibility in place of personal responsibility of the property owner over what he owns. Yet this entire idea of retaliation or retribution has, in the centuries it has been tried, led us into every war, and nearly every act of torture and murder that has been performed by the state. The concept of retributive justice, so strong in Roman, British, and American law, is still the concept of an eye for an eye, and a tooth for a tooth. If this concept is to endure, with it will endure the ancient family feud along with national and even international hostilities. The solution to these enormous problems will only be found by accepting the idea of private ownership of property along with the idea of total acceptance of responsibility for his property by each owner.

If it is wrong for a thief to steal, it is wrong for his victim to steal from him in return. The act of theft is either wrong in principle or it is wrong only under certain conditions. Stolen property, like all property acquired by government, is merely property which is, at the moment, incorrectly owned. The government (or the thief) owns it in violation of the rights of the person who has honestly acquired it. Our task is to realize that theft in any form, and by any

person or group, including government, is not a satisfactory method whereby to build a stable and workable social structure. Nor can we carry forward this argument by claiming that theft by all individuals or groups occurring on a Thursday, warrants a retaliatory act of theft on Friday. If theft is intrinsically wrong, we can only avoid theft when we stop practicing it for any reason whatever. And this we can do, when we recognize the full meaning of individual responsibility and individual authority over property privately owned.

Many properties owned by individuals are potentially or actually dangerous, and the owner is responsible for the use of such property. Should injury to another's person or property ensue from the use or ownership of any property privately owned, responsibility rests with the owner. The individual exercising control and authority over property is clearly the responsible party. I am not supposing the requirement of any agency of violence to compel a responsible party to make restitution in the event property for which he is responsible contributes to the injury of another person. Rather, when full responsibility is recognized, a social order in which such responsibility is practiced will tend to reward and trust those who assume their full responsibility. Those who are careless or neglectful of their responsibility will generally be distrusted and hence will be avoided or even ostracized, since it will be risky to have dealings with them. The market will find ways of identifying persons who can be trusted. The trend will be toward full responsibility and full trust since nothing less is desirable.

This matter of responsibility has still another dimension. To discover it, let us suppose the following situation:

A owns a horse. A mare rightfully acquired has foaled this particular horse. It is his. Since it is a horse, it is individually marked (by nature, not by brand). Further, the owner, who has lavished affection upon the animal, has it trained to respond to his whistle or command and to perform the various orders he imparts to it. In consequence, the owner can readily recognize his horse, and the horse is trained to recognize its owner.

One night, B enters the corral where the horse is kept and steals the horse. B is a thief. He rides away with the horse, taking it to another part of the country where the horse would not be recognized. Here, B forges a bill of sale, indicating that he had purchased the horse honestly from its rightful owner, in this case an entirely

fictitious person. He now offers the horse for sale, and C appears and purchases the horse for \$250.

C keeps the horse for a period of time and offers it for sale.

D appears and buys the horse for \$500. Now D offers it for sale and E arrives, buying it from D for \$750. In each of these transactions, a bill of sale is exchanged. C, D, and E have all behaved honestly and, on the basis of bills of sale furnished them, believe the horse to be honestly acquired.

E now takes the horse back to the vicinity of A's ranch, where A discovers E in possession of the horse. A whistles to the horse, and the horse responds as it was trained to respond, thus establishing that a former connection must have existed between A and the animal.

At this point A demands that E surrender the horse to him and accuses E of being a thief.

We can fittingly inquire, who really owns the horse?

The system of retributive justice under which most of us labor would at this junction require that E surrender the horse to A or suffer the consequences. But the injustice of such a procedure insofar as E is concerned is quickly evident. E has done nothing wrong. He purchased the animal in good faith and paid a good price for it. Additionally, he is quite attached to the animal and does not want to give it up. To accuse him of being a thief is obviously a wrong in itself. And although some will say that he was a receiver of stolen goods, the fact is that the horse was not passed to him by a thief but by a proper owner who himself had honestly acquired the horse in a forthright and open manner.

Customarily, it would now be presumed that the state would have to intervene and E would be forced to return the horse to D, and try to get his money back from D. Then D would have to seek out C and try to obtain his money from C, leaving the latter to try to find B so he could retrieve his money.

But B, as we have already learned, is a thief. Hence, he cannot be found. C cannot produce the evidence that B is a real person and it is presumed at this point that C is the thief. Unless C can provide an absolute alibi for himself on the occasion when the horse was stolen from A, it is entirely possible and even likely that he will go to jail for a crime committed by B, yet C has committed no crime at all.

Thus, our modern system, based upon retributive justice, in this case accomplishes the following wrongs:

1. It wrongs E, an innocent man, by compelling him to part with a property he desires to own and to accept his funds in return.

2. It wrongs D, another innocent man, who has spent the \$750 he obtained when he sold the horse. Since he spent the money in paying for an operation for his daughter, and has no money with which to redeem the animal, he is forced into bankruptcy.

3. It wrongs C, another innocent man, not only by forcing him to redeem the animal, but by putting him in jail to serve a term for theft of which he is innocent.

4. B, the only wrongdoer, escapes the punishment called for by retributive justice.

5. A, the original owner, is rewarded.

6. The taxpayers of the entire area are punished by having their funds confiscated in taxation so that this series of injustices can be perpetrated.

When we recognize that ownership entails both authority and responsibility, we will see that retributive justice, while it may obtain retribution, is not just. The obvious fact is that A took less care of his horse than he could have done. Had he properly safeguarded his corral in the first place, it is unlikely that B would have succeeded in stealing the horse. Thus, A was careless and irresponsible with his own property. Yet, as a result of our system, all the taxpayers were punished, B escaped punishment, and C, D, and E are all punished. And the man who was careless is rewarded. Could anyone devise a system which is more unjust and less practical?

Assuming that a system of private ownership were to be recognized and upheld as the social system in vogue, then A, when he discovers E riding the horse that was at one time his, would recognize that he is NOT the owner in fact, even though the horse was taken from him by an act of theft. Ownership, as such, had ceased when he was victimized. Granted that B improperly acquired the horse, this does not mean that the horse is still owned by A. It means, rather, that following the theft, the horse was owned by B, although his ownership was immoral and improper. But C, D, and E are all innocent parties and may not morally be punished. C was the victim of deceit in our illustration, but C is punished, not for being deceived, but for being judged to be a thief.

Let us suppose that A does recognize his horse and it is now in possession of E, an innocent man. What may A do morally to get the horse back? He may proceed on any moral course of action open to him. Certainly, he has no call to accuse E of being a thief. He has

only two modes of moral procedure open to him. He can recognize that he was careless and hence failed in his responsibility as a property owner. Thus, he can tell E what the circumstances were and ask E to give him back the horse. E is at liberty to surrender the animal or to retain it. A can also offer to buy the horse at any price he wishes to offer. In this case, E is at liberty to accept the offered price, bargain for a higher price, or refuse to sell. A's dilemma is caused, not by immoral behavior on his part, nor by immoral behavior on E's part, but by his own careless and irresponsible behavior.

Let us assume that the system of responsible individual ownership is recognized. What are the benefits?

1. A, who was at least irresponsible, is not rewarded. He may or he may not obtain the horse through gift or bargaining. But at least no one other than himself is punished for his carelessness.

2. B still escapes any punishment.

3. C escapes punishment.

4. D escapes punishment.

5. E escapes punishment.

6. All the taxpayers escape punishment.

The question to be asked is this: Are we so conditioned to insist on a societal and socialized responsibility that in order to punish B we will insist on punishing C, D, and E, and all the taxpayers? Note that in our example, B escapes punishment anyway. Yet a great number of innocent and helpless persons are victimized by the system we have in vogue.

If B is to be punished for his act of theft, he will at least have to be identified. There is no reason why A, in pursuit of his horse, could not hire a private detective agency to try to discover the identity of the thief. But lacking an agency of coercion, what could A do? There is one very potent weapon he has at his disposal, if upon confronting B with the knowledge of his crime he can obtain no satisfaction within a moral framework. He can at this point publicize the facts concerning B. Further, he can let B know that this is what he intends to do.

Many people will rightfully contend that the plight of a given person does not create a societal responsibility wherein the individual in difficulties must be assisted. If a poor man appears on the scene, those who believe in individualism will argue that his condition of poverty does not entail an automatic obligation that "society" end his poverty. But isn't this to also argue that A, a poor

man in that he lost a property which was rightfully his, has no claim upon any societal obligation or service to make restitution? If A may rightfully demand recompense, then a poor man may also rightfully demand an end to his poverty.

When we recognize the full meaning of responsibility over property, as well as authority over property, we will see the significance of individual ownership. The owner of property may rightfully take whatever steps he deems feasible and economically warranted to PROTECT his property. That is, he may fence his property, hire watchmen, put in alarms, or make whatever preparations he wishes with his own money and in respect to his own property. He may take out an insurance policy to indemnify himself in the event of loss.

However, he may not seek to involve all of society with his losses, any more than he can rightfully be made to share his gains with all of society.

Our present system presumes to move in two directions at once. It presumes that the individual may gain privately, but must share his losses with society. Indeed, persons in society are forced to contribute from their gains in order to overcome the losses others experience.

The illustration used here relates to a horse. Expand the illustration to include land, and we at once see the invalidity of attempting to rectify improper ownership on a retroactive basis.

Much of the land in this country which is held in title by private persons, who themselves are innocent of wrongdoing, was originally wrested from the Indians by the American government, or in some instances by private parties. If retributive justice has validity, then all the present "owners" must be dispossessed and the land handed back to the Indians. Many socialists including anarchists favor this procedure. Agrarian reform, the name given to such a procedure, is often at the core of socialist endeavors. But agrarian reform, like a legal action against E to recover the horse, will injure many innocent persons.

This argument is not for the purpose of justifying theft nor of creating a situation in which thieves may operate with impunity. On the contrary, once individual ownership with its concomitant of responsibility and authority is fully understood, PROTECTION rather than REVENGE will dominate our thinking in this area. In such cases, individuals will grasp their full authority over property and their full responsibility. And, because they will not wish their prop-

erties to be stolen, they will expand their efforts at private and personal protection of what they own. They will see that the best protection they can acquire will result from prior steps toward protection, consisting primarily of their own unwillingness to trespass others for any reason whatever.

Property which is presently "owned" by the government is, in final analysis, improperly owned property. That it is "owned" cannot be questioned. That it was acquired improperly is clear. To bring an end (or at least a reduction) to stolen property, theft must be abandoned as a practice. We ourselves must not only cease to steal, we must cease calling upon the government to steal for us in favor of some benefit or retribution we hope to acquire. If we expect to gain privately, we must also expect to experience our losses privately.

In considering the nature of trespass, the damage wrought by a given act of molestation cannot and should not be ignored. Nonetheless, all trespass is predicated, not upon molestation *per se*, but upon a psychic violation of the will of the owner.

Each person is the owner of himself, and all additional property beyond his person is merely an extension of his person. A trespass is a violation of the will of the owner respecting that which he owns. When a person enters upon my property, uses my possessions, or even destroys something that I own, but does so in harmony with my will, no trespass ensues. But a person who enters upon my property against my will, even though he does not injure anything, is a trespasser.

Because of the difficulty of knowing the will of another unless communication has ensued, most persons tend to act in anticipation of the expected willing of the other. This is where the Golden Rule is generally applied. Another person's property catches fire. I have no rights over the other person's property. It is not up to me to put out the fire or to concern myself with the fire. But I place myself in the position of the person whose property is burning. If our conditions were reversed, if it were my property burning and if the other person were available to help put out the fire, where would my will stand? Would I prefer to have the other person attempt to put out the fire? Or would I prefer to have my property burn with a man standing by who could put it out but who, because he has not ascertained my will in the matter, and because he knows he has no rights over my property, prefers to stand by, letting my property be consumed?

By this conceptual reversal I detect where I *think* my neighbor's

will would be in respect to his property. So, I put out the fire. *If* I have accurately interpreted my neighbor's will in the matter, then moving onto his property to perform a service for him was not a trespass. However, since I had no rights to his property, I must be prepared to face the consequences. If my neighbor was not desirous of having his property saved from the fire, and I have saved it because I falsely concluded the position of his will, then I would have committed a trespass and would be placed under the moral compunction of having to rectify the matter as best I could.

None of us is able in advance to ascertain the will of another in respect to his property, prior to the communication of that decision on the part of the owner. But the human propensity to seek to maximize gain and to minimize losses is so common that we can usually act in anticipation of the decisions of others. But such conduct is always fraught with moral risk since we have no rights whatever over the person or property of another. We act in response to our best judgment in the matter, respecting the rights of the other, anticipating the probable position of the owner's will, and preparing to take the consequences of our actions if our evaluation of the other's will was in error.

Thus, in a very real sense, trespass is invariably a psychic phenomenon, whether damage of a physical nature ensues or not. The owner of a property is the victim of trespass when his will is violated in respect to something he owns.

Chapter XII

The Desire To Share

While many stoutly aver their antipathy to sharing anything, the facts speak to the contrary. While it is true that at the outset, the desire to own property privately must result in an exclusive relationship in which the whole world is excluded from the property owned, there is a countervailing desire which exists in us all. Having acquired a property which is valuable to us, we wish to share it with others so we may win their admiration in respect to what we have acquired. This is the drive that moves us toward becoming businessmen or hosts. If we produce a product that we believe to be beneficial or useful, we cannot wait to get it into the hands of others as rapidly as possible. We want them to share in what we have acquired.

As businessmen, we exchange the products we have created with money others have earned. As professionals, we exchange certain learned skills for money in the market. All of this desire on our parts to let others benefit by what we have learned or what we have produced is a part of our urge to share what we have with others. Of course, sharing becomes meaningless unless we are first the exclusive owners. If we own nothing, then we can share nothing. This is nowhere more clearly shown than when we consider man's enormous drive to act as a host.

A man acquires a home, be it modest or lavish, and he can hardly wait to invite his friends so they may see what he owns. He wants to feed them and to share with them the results of his efforts. He wants to display objects of art he has acquired, share with them ideas he has thought through, and in many ways obtain the satisfactions that can come only through this process.

One of the basic reasons property is so important to us lies in the fact that we do not really intend to make that property entirely exclusive. It must be exclusive at the outset or we can share nothing. But having secured the property so that we can claim ownership

rightfully, we at once wish others to experience something of our own joy of attainment.

This is one of the deep and underlying motivations toward charity and voluntary giving. The fact that a man may be able to give away some of his substance is a remarkable satisfaction that he can receive from his own action. If a man is in a position to give away something that he owns (whether in hospitality or in charity), he can only accomplish this giving when he has sufficient surplus so that he does not reduce himself to penury by such open-handed procedures. All actions as a host or other benefactor are based upon the deeply rooted desire for self-satisfaction. It is claimed, in certain quarters, that when a man gives something, either a property, an idea, or something of himself to another, it is because he values the other more than he values himself. This is an absurdity. To be able to share, as a host or benefactor, is one of the deepest and most meaningful experiences he can have insofar as his own value of himself is concerned. All gifts are expressions of self-realization. The man in a position to give is in a position to satisfy himself. That another may experience joy in receiving a gift does not in any way reduce the joy of the donor. On the contrary, the more the recipient experiences honest satisfaction from the gift, the more the donor experiences honest satisfaction from the act of giving.

No man can give away something he does not first own. It is only when his authority and responsibility in ownership are fully seen that he can truly give.

It is probable that this urge to share is one of the dominating emotions which grip virtually all holders of political office. Politicians are so eager to share that they are willing to take property not belonging to them so they can bask in the glow of having given it away. This Robin Hood emotion of sharing stolen goods with others is obviously a problem. If we can begin in childhood to teach the pre-adult the necessity of honestly acquiring property first before sharing, we will go a long way toward eradicating this tendency.

One of the reasons there is such a strong feeling against taxation in general, or any other kind of theft however legalized, relates to the fact that all individuals wish to be in a position to exercise their own judgment in respect to giving. The person who is robbed to the point of poverty may not be able to be as generous a host or benefactor as he would like to be. A man who might be able to be generous in many cases, were he left in undisputed possession of what he has rightfully acquired, but who is reduced to a mere sub-

sistence level by repeated forays against him, will one day rebel at this usage. It is not that he "needs" more than a rather minimal requirement for his own survival and personal well-being. It is that the self-satisfaction he might otherwise obtain is kept from him by the intrusion of others who take from him so they can be generous with what he himself has produced.

Thus, taxation and theft generally are intrusions against this area of self-satisfaction. No productive people will endure such practices forever. Unless they are halted, those who are productive will either stop producing, flee to a territory where they can enjoy private ownership, or rise up to overthrow those who impose such usages upon them. Curiously, it is not the drive to acquire subsistence that will motivate them. Rather, it is the drive to obtain that ultimate satisfaction as a host or benefactor that will bring about drastic remedies. The non-producing dividers of the property of the productive are always their own worst enemies.

Much joy can accumulate to the professional who learns difficult and demanding skills and, as a result, may acquire wealth and fame. But however large the production or the demonstration of skill, and the joys attendant thereon, a failure to bring others into one's area of surplus on a voluntary basis stunts the personal development and eliminates an area of intense personal realization.

Thus, actually, as government largesse grows, satisfactions arising out of personal sharing diminish as opportunity for individual voluntary acts of personal sharing diminishes. One of the greatest enemies to charity is enforced charity. This stimulates resentment, causes men to isolate themselves in fear, and encourages the very type of narrow and provincial behavior which government often claims to be seeking to discourage. In time, it breeds distrust and societal disintegration. It encourages theft, both public and private. Crime increases in every category. And as government programs intensify to bring about integration, social union, and harmony, the opposite results manifest.

While government poses as the inescapable essential to a lawful and orderly social system, the fact is that government itself sets into motion those very factors which are the root of societal malaise and destruction. A society built upon the solid foundations of private property and respect for the property boundaries and values of others, becomes an orderly and peaceful society of necessity. Here, the market dominates and voluntary exchanges leading to human satisfaction become the rule. Cancel this by the imposition

of government exactions and regulations, and involuntary exchanges take the place of voluntary exchanges, while dissatisfaction, discord, demonstration, riot, and ultimate chaos ensue.

Societal order is only possible in a territory where private ownership of property is the recognized and supported stabilizer. A society built upon retributive justice invariably tips the scales of voluntary cooperation and benefits the unworthy, the careless, the non-productive, and the dependent.

There are, to be sure, such persons as kleptomaniacs. These are no real problem, since they have a compulsion to steal which is such a dominating influence in their lives that they are almost universally detected.

With this exception most thieves do not practice theft regularly. They steal at a given point so they may exercise their ability to share with others at almost every other point in their lives. Thieves are notoriously open-handed. Since they have not produced what they now lavish upon others, they tend to value the money or the products of their theft far less than those who have honestly created or produced the money or goods.

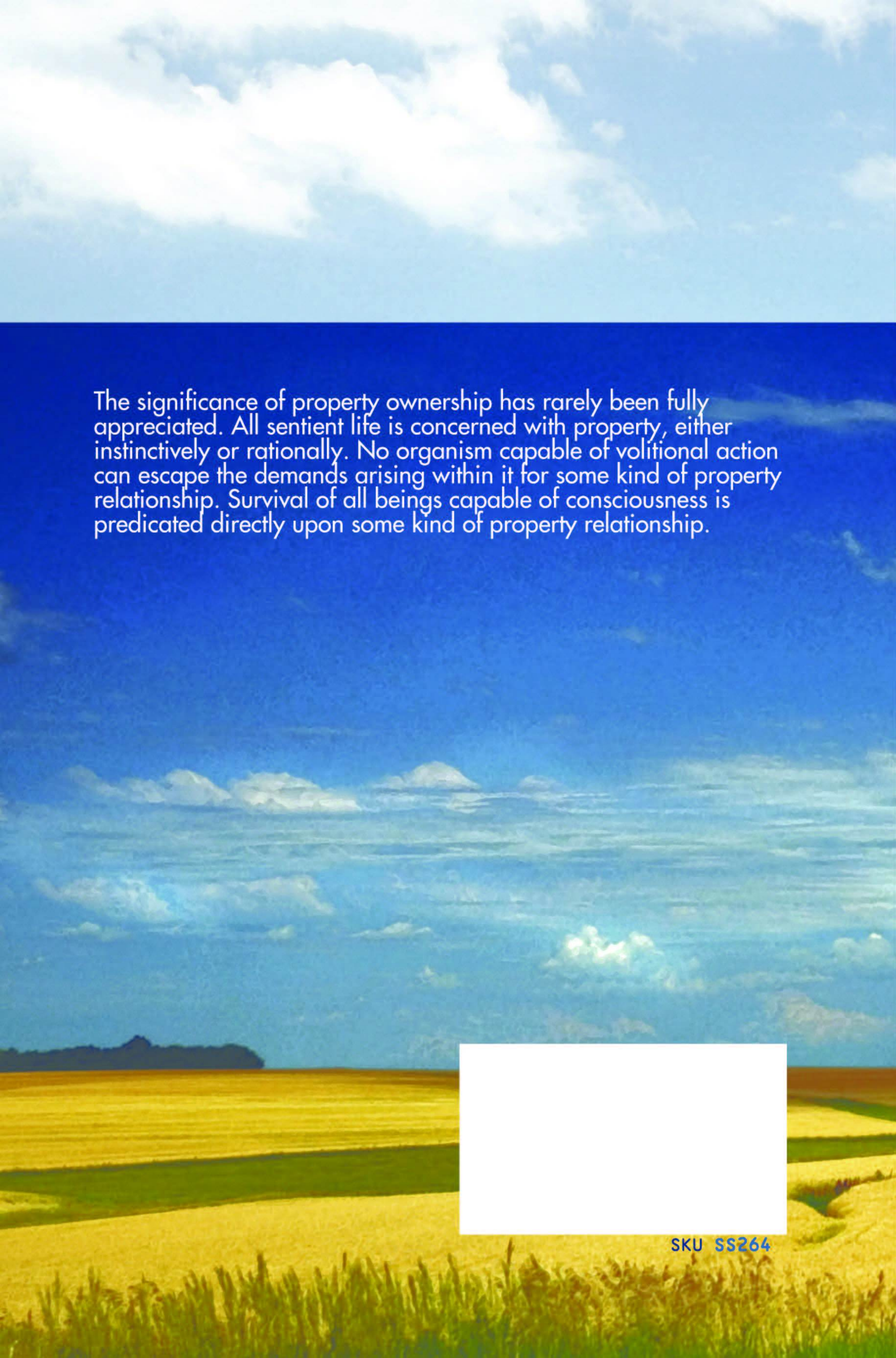
This is one of the factors which make politicians attractive to many people. Politicians are prone to be open-handed and generous. They appear to be desirable companions because of this fact. By associating with them, one may fancy an immediate improvement in one's standard of living since politicians and thieves tend to discount or completely disregard costs. Further, there is a great romantic attachment to arch-criminals in the minds of young and immature. A swashbuckling pirate is the object of much youthful enthusiasm and veneration. A life of crime seems attractive and exciting. And the affection of others seems so readily obtainable in this fashion that many young people are lured into a life of politics or other crime for these reasons.

The same kind of romance surrounds a Robin Hood, a Jesse James, a Murietta, or a member of the Mafia, as surrounds a government official. These are all men who live beyond the normal moral rules against theft. They are untouched by property considerations. They do not have to live by personal self-discipline, or so it appears. Rather, they can parade about, winning the admiring glances of young and old by their careless disregard of the property rights of others, and their ready sympathy for those in distress. Yet nothing distresses a thief quite so much as being reminded of the fact that his open-handedness is only made possible by the diligence, sweat,

and toil of others whom he has despoiled. He attempts constantly to focus attention on the generous acts which he performs, and hopes you will not see the misery and degradation and the thwarting of individual satisfactions he leaves in his wake.

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In the foregoing pages I have attempted to set forth a philosophy of private ownership of property. Many of the ideas expressed will be familiar to most but there are some that will be revolutionary. My concern has been to develop a philosophy of private ownership, fully consistent with reality, containing the highest moral concepts, which requires neither violence nor major social disturbance to implement. No claim is made that the task undertaken has been accomplished. But perhaps some ideas offered will prove to have merit and, in any case, I hope some of them will stimulate additional examination of the area.



The significance of property ownership has rarely been fully appreciated. All sentient life is concerned with property, either instinctively or rationally. No organism capable of volitional action can escape the demands arising within it for some kind of property relationship. Survival of all beings capable of consciousness is predicated directly upon some kind of property relationship.