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**PRIVATE PROPERTY: THE CHURCH FATHERS AND
BEYOND**

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Private Property: the Church Fathers and beyond

‘How hardly shall they that have riches enter into the kingdom of God!’

At its origins, Christianity was a small breakaway sect of Judaism, largely confined to the poor and the uninfluential. At first ignored and then intermittently persecuted by the Romans, it was eventually to become the official religion of the Empire (in 380CE). By the end of the medieval period, it had become the western world’s only transnational superpower. As such, official Christian thinking on the status of (private) property was to be hugely influential. In the first centuries after Jesus’s death what was to count as the authoritative teaching of the church was quite unclear; indeed, as Christianity moved up the social ladder a key task of the leaders of an increasingly organised church was to determine just what was to count as canonical. The Church Fathers of the first five centuries after Christ thus had a key role in determining both what the canon of divine scripture was and, just as importantly, what it meant. Although property and the relations of rich and poor were never their central concern, as the church and at least some of its adherents became wealthier, there was a growing demand to establish the proper attitude of Christians to ownership and wealth.

Property in the New Testament

Amongst those texts which were seen as more or less unproblematically of divine inspiration (those works which were to become a part of the New Testament), the message on property was troublingly ambiguous. Particularly important (and especially troubling) was the story of Jesus’s encounter with a wealthy young man (told in varying forms in the Gospels of Mark, Matthew and Luke). The young man asks of Jesus how he may inherit eternal life. Having been assured by the young man that he has followed the laws laid down in the Old Testament (the Ten Commandments), Jesus replies (in Mark’s account): ‘one thing thou lackest: go thy way, sell whatsoever thou hast, and give to the poor, and thou shalt have treasure in heaven: and come, take up the cross, and follow me’. The gospel story continues:

- 22 And he was sad at that saying, and went away and grieved: for he had great possessions.
- 23 And Jesus looked round about, and saith unto his disciples, How hardly shall they that have riches enter into the kingdom of God!
- 24 And the disciples were astonished at his words. But Jesus answereth again, and saith unto them, Children, how hard is it for them that trust in riches to enter into the kingdom of God!
- 25 It is easier for a camel to go through the eye of a needle, than for a rich man to enter into the kingdom of God.

(The Gospel of St. Mark, 10, vv. 17-25)

Also widely discussed was the suggestion that the earliest church at Jerusalem (as reported in the *Acts of the Apostles*) had held its property in common:

- 32 And the multitude of them that believed were of one heart and of one soul: neither said any of them that ought of the things which he possessed was his own; but they had all things common ...
- 33 Neither was there any among them that lacked: for as many as were possessors of lands or houses sold them, and brought the prices of the things that were sold,
- 34 And laid them down at the apostles' feet: and distribution was made unto every man according as he had need.

(Acts of the Apostles, 4, vv 32-4)

This account is followed immediately by the story of Ananias and Sapphira, husband and wife, members of the church who sold a piece of land but secretly held back a part of the proceeds from the common pool. Confronted and reproached by St. Peter, they both drop down dead! Peter insists that their mortal sin was not in owning ('Whiles it remained, was it not thine own? And after it was sold, was it not in thine own power') but in their attempt to defraud God (*Acts of the Apostles, 5, vv.1-11*).

Other very early sources also seemed to point towards the superiority of common ownership. *The Didache* or *Teaching of the Twelve Apostles*, (a source from between 70-120CE) insists that 'thou shalt not turn away from him that is in need, but shalt make thy

brother partaker in all things, and shalt not say that anything is thine own. For if ye are fellow-partakers in that which is imperishable, how much rather in the things which are perishable?’ (Lightfoot, 1926, p231). Similarly, Justin Martyr (in Schaff, 1994, Vol 1, 167) writes of the community of converts, that ‘we who valued above all things the acquisition of wealth and possessions, now bring what we have into a common stock, and communicate to every one in need’. *The Preaching of Peter*, a fragmentary source from early in the second century, premises the duties of the rich in God’s equal endowment of all mankind:

God hath given all things unto all, of his own creatures. Understand then, ye rich, that ye ought to minister, for ye have received more than ye yourselves need. Learn that others lack the things ye have in superfluity. Be ashamed to keep things that belong to others. Imitate the fairness (equality) of God, and no man will be poor.

(Rhodes James, 1924, 18-19)

Who is the Rich Man that shall be Saved?

Perhaps the first sustained attempt to outline an alternative reading of the scriptural authorities on property came in Clement of Alexandria’s extended discussion from around the mid-second century CE, *Quis dives salvatur? (Who is the Rich Man that shall be Saved?)*; Clement of Alexandria in Schaff, 1994, Vol. 2, 591-604). After a customary declaration against the disingenuous flatterers of the rich, Clement turns to the story of Jesus’s encounter in the gospels with the rich young man. Clement insists that ‘the Saviour teaches nothing in a merely human way ... with due investigation and intelligence [we] must search out and learn the meaning hidden in them’ (Schaff, 1994, 2, 592).¹ Thus, in addressing the rich young man, Jesus is said not to be concerned with material possessions but with the passion for wealth, the lust for acquisition. The claim that ‘rich men shall with difficulty enter into the kingdom’ is to be understood ‘in a

¹ Indeed, Clement mis-recalls the story from the gospel of St. Mark. In Clement’s gloss, Jesus precedes his recommendation to the young man to sell all his possessions with the words ‘if though wouldest be perfect ..’. In fact, this qualifier is only found in St. Matthew’s (probably later) version of the story. It does not appear in Mark or Luke – but it is ubiquitous in later re-tellings of the story in the work of the Church Fathers (see, for example, Jerome, Letter 130 to Demetrias; Schaff, 1890, 6, 268). It is also a source for the later distinction between a more perfect observance of God’s laws (the poverty and chastity of monastic orders) and the more ‘ordinary’ demands (almsgiving and marital continence) required of the lay community.

scholarly way, not awkwardly, or rustically, or carnally'. It is the man who is rich in the lust and desire for money, 'rich, according to the flesh', rather than in actual possessions who will find it hard to gain access to the kingdom of heaven (Schaff, 1994, 2, 596). Similarly, there is nothing especially righteous about being poor, for those who are impoverished but who nonetheless crave wealth are themselves guilty of being rich in desires. 'For it is no great thing or desirable to be destitute of wealth'; if that were the case, 'the poor dispersed on the streets, who know not God and God's righteousness' would be the 'sole possessors of everlasting life' (Schaff, 1994, 2, 594).

So, Clement advises, 'let not the man who has been invested with worldly wealth proclaim himself excluded at the outset from the Saviour's lists, provided he is a believer and one who contemplates the greatness of God's philanthropy ... The Saviour by no means has excluded the rich on account of wealth itself' (Schaff, 1994, 2, 592, 598). This is especially true of those who are born to wealth: for, 'if in consequence of his involuntary birth in wealth, a man is banished from life, he is rather wronged by God, who created him, in having vouchsafed to him temporary enjoyment, and in being deprived of eternal life. And why should wealth have ever sprung from the earth at all, if it is the author and patron of death?' (Schaff, 1994, 2, 598). More than this, 'if no man had anything, what room would be left among men for giving? .. how could one give food to the hungry, and drink to the thirsty, clothe the naked, and shelter the houseless, for not doing which He threatens with fire and the outer darkness, if each man first divested himself of all things?' (Schaff, 1994, 2, 594).

The real test for the soul of the wealthy man is how he uses the goods that have been bestowed upon him: for 'what is managed with wisdom, and sobriety, and pity is profitable':

For he who holds possessions, and gold, and silver, and houses, as the gifts of God; and ministers for them to the God who gives them for the salvation of men; and knows that he possesses them more for the sake of the brethren than his own; and is superior to the possession of them, not the slave of the things he possesses; and does not carry them about in his soul, nor bind and circumscribe his life with them, but is ever labouring at some good and divine work, even should he be necessarily some time or other deprived of them, is able with

cheerful mind to bear their removal equally with their abundance. This is he who is blessed by the Lord and called poor in spirit, a meet heir of the kingdom of heaven, not one who could not live rich.

(Schaff, 1994, 2, 595).

In this way, Clement can be seen to be the founding father in a rich and two-millennia long tradition of explaining (away) Jesus's story of the wealthy young man as an instructive allegory.

'For whatever is of God is common in our use'

Although this was eventually to become something like the orthodox view within Catholic social theory, and we find echoes of it in Augustine among others, the alternative 'communal' view of property still found significant support - albeit the early eschatological enthusiasm of the first Christians (which also persuaded them to practice self-castration) had, by this time, somewhat dimmed. Thus Tertullian ('The Father of the Latin Church'), writing early in the second century and commending the brotherhood of the Christian church, insists that 'one in mind and soul, we do not hesitate to share our earthly goods with one another .. all things are common among us but our wives' (Tertullian in Schaff, 1994, Vol. 3, 46). And Cyprian, in *On Work and Alms* (from the early third century CE) commends the sharing practised among the early church and recorded in the *Acts of the Apostles*:

For whatever is of God is common in our use: nor is any one excluded from His benefits and His gifts, so as to prevent the whole human race from enjoying equally the divine goodness and liberality. Thus the day equally enlightens, the sun gives radiance, the rain moistens, the wind blows, and the sleep is one to those that sleep, and the splendour of the stars and of the moon is common. In which example of equality, he who, as a possessor in the earth, shares his returns and his fruits with the fraternity, while he is common and just in his gratuitous bounties, is an imitator of God the Father.

(Cyprian in Schaff, 1994, Vol 5)

Writing in the second half of the third century CE, Lactantius evokes the idea of a Golden Age – a time of contentment and abundance (and monotheism). Echoing Cicero (and Seneca), he evokes Vergil’s claim that, in that age, “it was not even allowed to mark out or divide the plain with a boundary: men sought all things in common” (Lactantius in Schaff, 1994, Vol. 7, 140). Constructing his own gloss upon the poet, Lactantius continues, ‘God had given the earth in common to all, that they might pass their life in common, not that mad and raging avarice might claim all things for itself, and that that which was produced for all might not be wanting to any’ (Schaff, 1994, 7, 141). But he regards Vergil’s treatment here as a ‘poetical figure’: not supposing ‘that individuals at that time had no private property [but rather] that men were so liberal, that they did not shut up the fruits of the earth produced for them .. but admitted the poor to share the fruits of their labour ... all alike had abundance, since they who had possessions gave liberally and bountifully to those who had not’ (Schaff, 1994, 7, 141).

But once ‘men had begun to esteem the king in the place of God’, the Golden Age was over. Now not only did men fail to share their property with others but they sought violently to seize that which was not their own. More than this, ‘they also, under the name of justice, passed most unequal and unjust laws, by which they might defend the plunder and avarice against the force of the multitude. They prevailed therefore as much by authority as by strength, or resources, or malice’ (Schaff, 1994, 7, 141). Still the dictate of the one true ‘divine religion’ was this: ‘that man should esteem man dear, and should know that he is bound to him by the tie of brotherhood, since God is alike a Father to all, so as to share the bounties of the common God and Father with those who do not possess them’ (Schaff, 1994, 7, 142).

This is a rather extraordinary position. In the Golden Age, private property existed (though upon Lactantius’s account it is hard to see why and how) but all lived in a condition of abundance because people’s needs were simple and all was shared. Lust and avarice bring a decline in which the state is the instrument of oppression, giving the sanctity of law and armed authority to the property seizures of the wealthy. Jesus is the harbinger of a new age of justice but his empire is not of this world. It is for Christians to share their property in the new Golden Age as all had before the intervention of lust and avarice. Ideally one should share to the point at which one may oneself become destitute, but Lactantius has some reassurance for the nervous rich: ‘do not think that

you are advised to lessen or exhaust your property; but that which you would have expended on *superfluities*, turn to better uses' (Schaff, 1994, 7, 178; emphasis added).

If we move on to the writings of the fourth century CE, we can still find a celebration of communal ownership. In his commentary on the *Acts of the Apostles*, John of Chrysostom (Bishop of Constantinople) admires the community of the early church at Jerusalem not only as historically peculiarly virtuous but, indeed, as a model for his own congregation. In a striking passage, he offers a mathematical calculation of the wealth that could be realised by pooling the community's resources – 'perhaps ten hundred thousand pounds weight of gold would be the amount; nay, twice or thrice as much'. His view was that, 'if the food were received in common, all taking meals together', the money would never run out! Although this reflects the way of life practised in the monasteries, 'it seems, people are more afraid of this than falling into a boundless and bottomless deep' (John Chrysostom in Schaff, 1886, Vol. 11, p. 74).

In his commentary on Paul's *First Epistle to Timothy* – in which Paul rails against the pursuit of 'filthy lucre' and insists that 'the love of money is the root of all evil' - he mounts a sustained attack on the roots of wealth: 'so destructive a passion is avarice, that to grow rich without injustice is impossible' (*Timothy 1, 3, v.3, v. 8; 6, v.10*; John Chrysostom in Schaff, 1886, Vol. 13, p.447). Inheritance, in particular, must always arise from an historical injustice. Here, Chrysostom echoes the Seneca of *Letter 88* (pp. 000 above):

Tell me, then, whence art thou rich? From whom didst thou receive it, and from whom he who transmitted it to thee? From his father and his grandfather. But canst thou, ascending through many generations, show the acquisition just? It cannot be. The root and origin of its must have been injustice. Why? Because God in the beginning made not one man rich, and another poor. Nor did He afterwards take and show to one treasures of gold, and deny to the other the right of searching for it: but He left the earth free to all alike. Why then, if it is common, have you so many acres of land, while your neighbour has not a portion of it? It was transmitted to me by my father. And by whom to him? By

his forefathers. But you must go back to the original owner. Jacob had wealth, but it was earned as the hire of his labors.² (Schaff, 1886, 13, p.447).

Remarkably, then, Chrysostom concludes that the only possible legitimate source of property lies in the exercise of our labour power. But, in the end, Chrysostom is not really concerned about the legitimacy of sources of riches. For all private possession (however it arises) is wrong: ‘Is this not an evil, that you alone should have the Lord’s property, that you alone should enjoy what is common?’

Mark the wise dispensation of God. That He might put mankind to shame, He hath made certain things common, as the sun, air, earth, and water, the heaven, the sea, the light, the stars; whose benefits are dispensed equally to all as brethren. We are all formed with the same eyes, the same body, the same soul, the same structure in all respects, all things from the earth, all men from one man, and all in the same habitation. Other things ... He hath made common, as baths, cities, market-places, walks.

(Schaff, 1886, 13, p.448).

And here Chrysostom reverses Aristotle’s claim about the attention paid to public and private goods: ‘concerning things that are common there is no contention, but all is peaceable. But when one attempts to possess himself of anything, to make it his own, then contention is introduced, as if nature herself were indignant’ (Schaff, 1886, 13, p.448).

Ambrose: De Nabuthae

Perhaps the most remarkable of all these ancient condemnations of wealth is to be found in the polemic *De Nabuthae (On Naboth)* written by Ambrose, Bishop of Milan, in the second half of the fourth century (Ambrose, 1937). The story of Naboth is found in Chapter 21 of *The First Book of Kings*. It proves to be an important source in much later

² The idea that labour may be a source of title to (differential) wealth re-appears in the work of Salvian writing in the first half of the 5th Century CE: ‘Though all we have received from God is His own property, He calls it ours so that it is we who may give. Thus, He calls the proprietorship of possessions ours so that there may be a greater reward for work, because, *wherever effort spent seems to be on what is one’s own, the worker necessarily has a greater return*’ (Salvian, 1962, 279; emphasis added).

discussions of the (property) rights of the citizen over against kingly authority, not least because Naboth is not himself propertyless but rather a small landowner. In the story told in *Kings*, Naboth is the owner of a vineyard in Jezreel which is coveted by Ahab, the King of Israel. Ahab offers Naboth alternative land or money in exchange for his vineyard but Naboth declines to give up the parcel of land he has inherited from his fathers. Seeing Ahab's distress, his wife, Jezebel, plots to have Naboth murdered (on a trumped-up charge of blasphemy). When Naboth is duly killed, Ahab goes to Jezreel to take possession of the vineyard. But here he is met by Elijah, the prophet, who reports God's judgement upon the royal pair: 'To Ahab he declaims that 'in the place where dogs licked the blood of Naboth shall dogs lick they blood, even thine'. While of his wife, he reports that 'the dogs shall eat Jezebel by the wall of Jezreel' (*The First Book of Kings*, 21, vv. 19, 23).

It is clear that for Ambrose, Ahab and Naboth stand for the universal rich and poor, reproduced in every generation: 'daily is Naboth struck down, daily is a poor man put to death' (Ambrose, 1927, 47). No less ubiquitous is Ahab:

For who of the rich does not daily covet the goods of others? Who of the wealthy does not strive to drive off the poor man from his little acre and turn out the needy from the boundaries of his ancestral fields? Who is content with his own? What rich man's heart is not set on fire by a neighbour's possession?
(Ambrose, 1927, 47).

For Ambrose, it is the rich who are the truly needy. For their covetousness knows no bounds and the more they have the more they crave: 'for everyone in abundance judges himself all the poorer, because he thinks he lacks whatever is possessed by others' (Ambrose, 1927, 81). The characteristic rich man is the miser, unable even to enjoy his riches for fear that he may lose what he has or that some opportunity to increase his wealth may escape him: 'Avarice is enkindled by gain, not quenched' (Ambrose, 1927, 49). It is the rich man (Ahab) who craves the wealth of the poor man (Naboth) and not the other way around. Indeed, Ambrose argues that the rich man craves insufficiency for everyone else as it is this which most reliably pushes up the value of his own possessions.

The miser is always deeply worried by abundant crops because he thereby foresees a cheapness in food-stuffs. For abundance belongs to all, scarcity is lucrative to the miser alone. He is pleased rather by enormous prices than by the abundance of commodities, and he prefers to have what he alone may sell than what he may sell together with all. See him in fear lest his heap of grain overflow, lest, streaming out over the barns, it may pour upon the poor, and an occasion for some good be obtained by those in want.

(Ambrose, 1927, 69).

Nor is Ambrose's appeal to the rich to give up their wealth based upon a duty of charity to the poor. Ambrose is clear that the wealth of the rich is based upon theft and the exploitation of the poor.

Not from your own do you bestow upon the poor man, but you make return from what is his. For what has been given as common for the use of all, you appropriate to yourself alone. The earth belongs to all, not to the rich; but fewer are they who do not use what belongs to all than those who do. Therefore you are paying a debt, you are not bestowing what is not due ...

How far, O ye rich, do you push your mad desires? *Shall ye alone dwell upon the earth?* Why do you cast out your consort in nature and claim for yourselves the possession of nature? The earth was made in common for all, both rich and poor.

(Ambrose, 1927, 83, 47).

We can find echoes of this view two centuries later in the words of Gregory the Great: 'For when we administer necessities of any kind to the indigent, we do not bestow our own, but render them what is theirs; we rather pay a debt of justice than accomplish works of mercy .. for it is surely just that whosoever receive what is given by a common lord should use it in common' (Gregory the Great, in Schaff, 1890, Vol. 12, 47b). Six centuries later, Aquinas was to quote Ambrose to the very same effect (see below, pp. 000).

Augustine

I have devoted much time to patristic condemnations of private property and wealth because they are so remarkable – but they should not be seen as reflecting the mainstream view of the Christian church even at this early date. And it would be wrong to identify every condemnation of the misbehaviour of the rich as a call for the community of goods. After all, to take just one example, Naboth was a dispossessed smallholder, not a man who owned nothing. Indeed, some scholars have resisted the idea that any of the Church Fathers ever argued in favour of common ownership rather than, say, greater equality or the duty of the rich to relieve the needs of the poor, confining the case for common ownership to heretics and impostors such as ‘Pseudo-Clementine’ in the first decades of the third century and Pelagus in the fifth. In a robust and well-informed statement of this view, Paul Christophe (1963, 210-11), concludes that the early Church Fathers generally supported the case for private property:

Riches are good; they come definitively from God, are acquired through work or inheritance, and it is permitted to accumulate them (Clement of Alexandria, Peter of Alexandria, Basil, Theodoret, Hilary of Poitiers, Ambrose, Augustine, Cassien). For these reasons theft is absolutely forbidden.

(Christophe, 1963, 211; my translation)

Perhaps the most authoritative view of this relationship in the long run is that which we can reconstruct from the letters and sermonizing of Augustine.³ Writing early in the fifth century, Augustine accepted the by now conventional view that in the beginning (and before the Fall) the earth was given by God to all mankind in common. But fallen men, in the grip of the vices of lust and avarice, need civil laws that distinguish ‘mine’ from ‘thine’, just as they need the other laws of the earthly state, to save them from falling into the anarchy of mutual self-destruction. According to the unchanging divine law, all things belong to God or maybe, by his dispensation, to those whom he deems righteous; according to the (changeable) civil law, possessions belong to those whom the king (for now) decrees to be their owners. The passage from which Gratian’s twelfth-century canonical text, the *Decretum*, quotes, expands upon this:

³ One evidence of this authority is that Augustine is cited in Gratian’s *Decretum*, (Gratian, 1993), the definitive fount of twelfth century Canon law, as the source for a distinction between common and private ownership under natural and civil laws; see Gratian (1993), Distinction 8, clause 1.

By what right does every man possess what he possesses? Is it not by human right? For by divine right 'The earth is the Lord's and the fullness thereof. God has made poor and rich of one clay: the same earth supports poor and rich alike. By human right, however, someone says, 'This estate is mine, this house is mine, this slave is mine. By human right, therefore: that is, by right of the emperors. Why? Because God has distributed to mankind these very human rights through the emperors and kings of this world ... But you say, what is the emperor to me? It is by a right derived from him that you possess the land. Otherwise, if you take away rights created by emperors, who will dare say, 'That estate is mine, or that slave is mine, or this house is mine .. If, therefore, you have said, 'What is the king to me? Do not say that your possessions are yours; because, in so doing, you are referring precisely to those human rights by which men enjoy their possessions...

(Augustine in Schaff, 1886, Vol. 7, pp. 47/8; translation from Dyson, 2001, p. 116)

Elsewhere, Augustine (2001,87) evokes the shadow world of divinely lawful ownership, quoting the *Book of Proverbs* to the effect that 'the whole world is the wealth of the faithful man, but the unfaithful one has not a penny'.⁴ Since to possess 'lawfully' is to possess 'justly' and to possess 'justly' is to possess 'rightly', the many men who do not use their wealth well (i.e. in the service of God) are in the wrongful possession of what is properly the property of another: 'money can be wrongly possessed by bad people, and as for the good, the less they love it, the more rightly they possess it' (Augustine, 2001, 87). But, in Augustine's view, it is best to tolerate the actual and 'unjust' disposition of property in the real world because this is part of the price that we pay to secure some sort of civil peace in our sojourn through this the earthly city (whose sin is incurable). Thus, the rule of the tyrant and the wealth of the wicked are also a part of God's plan, sent to test and punish the righteous. Those select few who are called to the Divine City will find that 'those who are there possess what is truly their own'.

⁴ Augustine's source is the *Septuagint (LXX)* translation of *Proverbs*, 7, v. 6. Schaff judges that this phrase is a 'spurious addition' to the text of *Proverbs*; the same passage is cited by Cyril of Jerusalem (in his Fifth Catechetical Lecture; Schaff, 1890, 7, 29); but Cyril's purpose seems to be to insist that it is the 'rich in heart' who are really wealthy while those with many possessions are 'poor in soul': 'the faithful man, most strange paradox, in poverty is rich: for knowing that we need only to have food and raiment, and being content therewith, he has trodden riches under foot'.

Augustine is at great pains to insist that the division between rich and poor does not coincide with the divide between the happy and the miserable. In fact, although (wicked) men crave wealth and believe that it will make them happy, this is an illusion. The lust for worldly goods is insatiable and eventually unsatisfying:

Thou didst at first desire a farm; then thou wouldest possess an estate; thou wouldest shut out thy neighbours; having shut them out, thou didst set thy heart on the possessions of other neighbours; and didst extend thy covetous desires till thou hadst reached the shore; arriving at the shore, thou covetest the islands: having made the earth thine own, thou wouldest haply seize upon heaven.

(Augustine in Schaff, 1886, Vol. 8, p. 122)

By the same token, ‘if you wish to understand that poverty is not the same as misery, there are some poor people who are happy’ (Augustine, *Sermon 50*, cited in Dyson, 2001, p. 120).

This suggests to Augustine that what really matters, both for one’s happiness and for one’s soul, is not whether you are rich or poor but whether you recognise that wealth is external and indifferent to your true well-being. What really matters is not how much you have but how willing you are to let it go (just as Seneca had argued). It is not the size of one’s estate but the state of one’s mind that determines who is to be counted amongst the righteous. ‘Avarice is the desire to be rich, not the being rich already’ (*Sermon 83*, cited in Dyson, 2001, p. 121). In commenting upon the story of Dives and Lazarus (which follows immediately upon the story of the rich young man in Luke’s gospel and in which the rich man, Dives, suffers the torments of hell while the poor man, Lazarus, whom he neglected at his gate, rests in the bosom of Abraham), Augustine insists that Dives is punished for his pride (not his wealth) and Lazarus rewarded for his humility (not his poverty). The proof of his testimony lies in the fact that both Abraham (a rich man) and Lazarus (a poor man) share space in heaven: ‘But were not these men who were rich of God and poor in greed?’ (Augustine, *Exposition on Psalm 51*, Schaff, 1886, Vol. 8, p. 201; translation from Dyson, 2001, 119)

In his own account of Jesus's advice to the rich young man to 'sell all thou hast and give to the poor', Augustine is quite clear that this is a 'counsel of perfection'. To enter the kingdom of Heaven, it seems it is enough to keep the commandments: 'why, then, do we refuse to admit that the rich, although far from that perfection, nevertheless enter into life if they keep the commandments[?]' (Augustine, 1953, 342). He commends the Apostle Paul for advising the wealthy that they should not 'trust the uncertainty of riches' but Paul was also right *not* to 'charge the rich of this world to sell all they have, give to the poor and follow the Lord'. In the end, Augustine's view is quite pragmatic: 'encourage men to higher things without condemning lower ones' (Augustine, 1953, 350). And how did he explain (away) Jesus's shocking claim that it was easier for a camel to pass through the eye of a needle than for a rich man to enter the kingdom of heaven? This turns upon Jesus's response to his disciples' astonishment, that 'what is impossible for men is easy for God'. Augustine does not elaborate but his overall intention seems clear:

'What is impossible for men is easy for God', and whether they retain riches and do their good works by means of them, or enter into the kingdom of heaven by selling them and distributing them to provide for the needs of the poor, let them attribute their good works to the grace of God, not to their own strength.

(Augustine, 1953, 344).

As with obedience to the law, good Christians may hold onto their possessions (provided 'that they do good, that they be rich in good works, ready to distribute, willing to communicate'; *First Epistle to Timothy*, 6, v.18) unless they are required to deny Christ in order to do so. At this point, the good Christian must give up his or her worldly wealth for the greater reward that lies beyond.

Isidore of Seville

Sometimes reckoned to be the last of the Church Fathers in the Latin West, Isidore of Seville is principally remembered as the compiler of the *Etymologies*, judged by its English translators to be 'arguably the most influential book, after the Bible, in the learned world of the Latin West for nearly a thousand years', (Barney. et al, 2006, 3). Completed around 630CE, the *Etymologies* was an encyclopaedic work which sought to bring together

in one place the combined wisdom of seventh-century Christendom. As well as theology, it covered mathematics, grammar, rhetoric, linguistics, history, human and animal science, medicine, architecture (domestic, public and naval), clothing, wars and games, agriculture and horticulture. It drew freely upon Christian and pagan sources, with Vergil cited almost as often as the Bible! Book Five was what became a famously influential treatment of ‘laws and times’, drawing extensively upon Roman law sources (notably Gaius’s second-century *Institutes* which we have already seen to have been an important source for Justinian’s *Corpus Iuris Civilis*, put together in Constantinople in the first half of the sixth century). Isidore’s views on law and property were to be a key source for Gratian and Aquinas among others in the later medieval period.

Echoing the concerns of the Roman jurists, Isidore sets out to classify the different types of law and what properly belongs to each. Paragraph ii of Book Five opens with the following statement:

ii **Divine laws and human laws** 1. All laws are either human or divine. Divine laws are based on nature, human law on customs. For this reason human laws may disagree, because different laws suit different peoples. 2. *Fas* is divine law; jurisprudence (*ius*) is human law. To cross through a stranger’s property is allowed by divine law; it is not allowed by human law.

(Isidore in Barney, 2006, p. 117)

But paragraph iv of Book Five almost immediately confounds this apparently straightforward picture:

iv. **What natural law is** 1. Law is either natural, or civil, or of nations. Natural law (*ius naturale*) is common to all nations, and, because it exists everywhere by the instinct of nature, it is not kept by any regulation. Such is the union of a man and a woman, the children’s inheritance and education, *the common possession of everything*, a single freedom for all, and *the right to acquire whatever is taken from the sky, the earth, and the sea*. 2. Also the return of something which was entrusted and of money which was deposited, and the repulsion of violence by force. Now this, or whatever is similar to it, is never unjust, but is held to be natural and fair.

(Barney, 2006, p. 117; emphasis added)

Here Isidore seems to endorse the view that, by natural law, everything is to be held in common. Yet, at the same time, he identifies, *as a part of the same natural law*, a natural right of acquisition. Part two also stipulates that the return of goods or money deposited (which implies private possession) is a requirement of the natural law. In his further elaboration of civil law and the law of nations, Isidore makes no further mention of property. But in section xxv (on property) he enters into some detail in describing the standard incidences of property title under the Roman Law: ‘Property is that which exists under our legal title. And “legal titles” (*ius*) are things that are possessed by us lawfully (*iuste*), and do not belong to someone else’ (Isidore in Barney, 2006, p. 121). Yet, even here, Isidore evokes a commonplace of the earlier Church Fathers that only that which is possessed ‘rightly’ is really the property of its owner: ‘He possesses lawfully who is not ensnared by greed. But whoever is held by greed is the possessed, not the possessor’ (Isidore in Barney, 2006, p. 121). Isidore never gives any clear guidance on which law (human or divine) is to prevail in the case of contested passage over our neighbour’s land. The Church Fathers had generally held that divine law must always prevail over human law, but does Isidore believe that this means we have an unlimited right to trespass on our neighbour’s land whatever the civil code requires? Probably not. Isidore also identifies Moses as ‘the first of all to explain the divine laws, in the Sacred Scriptures’ but the Mosaic law of the Ten Commandments includes the instruction ‘Thou shalt not steal’ (Isidore in Barney, 2006, p. 117). But how could this be if the whole world is to be possessed in common (under the natural or divine law)?

Gratian’s *Decretum*

These unresolved ambiguities re-appear several centuries later – and in much the same terms – in the revival of Roman law and the birth of systematic canon law that emerges in Bologna from around the late eleventh century onwards. (Indeed, from some time in the twelfth century it becomes possible to talk about the emergence of a *ius commune* which combines elements of Roman, canon and customary law and which exerts a key influence throughout the later medieval period; see Winroth, 2001, p. 196). In the canon law, the issue is given its classic and enduringly influential statement in Gratian’s *Decretum* (normally dated around 1140 CE). Up to this time, canon law had largely taken the form of an uncollated assemblage of papal edicts and decretals (several of the most influential

of which were forgeries), decisions of synods, authoritative texts of the Church Fathers, authorised readings of scriptural sources and commentaries upon each and all of these. Gratian's ambition was to put together a 'harmony of discordant canons' (*concordia discordantium canonum*), seeking to resolve the body of more or less unsystematic writings on church law into a single unified and coherent statement of canon law.⁵ He may not have succeeded in this ambition but his heroic failure (if such it was) became the most basic text of canon law for nearly a millennium and subsequent medieval interpreters (glossators or 'decretists') often built their own readings of the law around commentary (predominantly, though not exclusively) on Gratian.⁶

The first twenty sections (or 'distinctions') of the *Decretum* constitute *The Treatise on Laws* (*Tractatus de Legibus*); (published in translation as Gratian, 1993). In the most familiar form in which it has come down to us, the *Decretum* consists of Gratian's text augmented by his own comments and an explanatory gloss, (in the most recent English translation of the *Treatise*, the so-called 'Ordinary Gloss' provided by Johannes Teutonicus, dating from 1215 and, according to Anders Winroth (2001), 'the definitive commentary'). Gratian begins by asserting that humanity is ruled by two things: natural law and customary law:

Natural law is what is contained in the Law [of the Old Testament] and the Gospel. By it, each person is commanded to do to others what he wants done to himself and prohibited from inflicting on others what he does not want done to himself. So Christ said in the Gospel: "Whatever you want men to do to you, do so to them. This indeed is the Law and the Prophets."

(Gratian, 1993, p. 3; the gospel source is *Matthew* 7, v. 12)

At this point, it appears that natural law is more or less coincident with divine law. From here on, through the first three distinctions (and into the beginning of the fourth), Gratian largely reproduces the (rather confused) arguments of Isidore from Book Five of the *Etymologies*. This includes a rehearsal of Isidore's characterisation of the natural law as

⁵ There were earlier attempts to co-ordinate the church's teaching and Gratian drew freely upon these; see Winroth, 2001.

⁶ Scholarly work on Gratian has reached a new level of sophistication (and complexity) with the work of Anders Winroth establishing that there are two quite distinct iterations of the *Decretum* and that the *Decretum* is really two works not one. See Winroth, 2001.

including both ‘the common possession of all things’ *and* ‘the acquisition of things that are taken from the heavens, earth or sea’ (Gratian, 1993, p. 6). The Ordinary Gloss provides its own commentary on what may be comprehended by the term ‘natural’ in the natural law. This includes the idea that ‘all things are called common, *that is, to be shared in time of necessity*’ and that ‘all divine law is said to be natural law, and according to this law, too, all things are called common, that is, shared. Rather confusingly, it adds that *things may also belong to a particular person by divine law*’. For it was said to Adam himself [Genesis 3:19], “In the sweat of your brow shall you eat your bread” and elsewhere [Exodus 20:17], “Do not covet what is your neighbour’s” (Gratian, 1993, 6, emphases added). Of ‘common possession’, the Gloss observes that this may mean either that ‘nothing belongs to a person by divine law. Or you may say that “common” means to be shared in time of necessity’. Of the provision that unoccupied things may be taken, it cites Justinian’s *Institutes* to the effect that ‘these and other goods belonging to no one go to the one who first possesses them’ (Gratian, 1993, p. 6).⁷

Gratian returns to the question of property and the differing forms of law in Distinction 8 of the *Tractatus*. Here he begins by repeating that ‘by natural law all things are common to all people’ (citing, in support, Plato and the *Acts of the Apostles*) and that the differentiation between ‘mine’ and ‘yours’ is a product of ‘customary and enacted law’ (Gratian, 1993, p. 24). He then quotes Augustine’s condemnation of the Donatists’ claim to church property (the passage cited at p. 000 above) in which he insists that ‘it is by the laws of kings that possessions are possessed’. But in part two of the eighth distinction, he cites a number of canonical sources (again including Augustine) to substantiate his claim that ‘whatever has been either received in usages or set down in writing is to be held null and void if it is contrary to natural law’ (Gratian, 1993, p. 25). It seems as if Gratian is insisting that under the natural law all is to be held in common and that where natural law and civil or customary law clash, the former must prevail; and yet, he has given great prominence to Augustine’s very clear insistence that the determination of ‘mine’ and ‘thine’ are the (seemingly legitimate) products of civil law.

The Decretists

⁷ The statement in the *Institutes* is derived from Gaius, *Digest* 41.3, Gaius, 1946; see pp. 000 above

One of the ironies of Gratian's ambition to forge a 'harmony of discordant canons' was that it (re-)created so many ambiguities – not least in the delineation of the natural law and, consequently, in the relation of the latter to the existence and character of (especially private) property. Glosses and *summa*⁸ of Gratian's work had begun to appear within a few years of the first appearance of the *Decretum*. Although these works had diverse concerns, many of them to do with the mundane governance of the church, a recurring issue was the attempt to resolve these uncertainties over the character of natural law and its determinations about the status of property. In general, the decretists chose to interpret this relationship in a way that was consistent with (albeit quite clearly limited) claims of private ownership. We have already seen one interpretive move in this direction in Teutonicus's Ordinary Gloss (deploying an argument previously adduced by the most celebrated of the late twelfth-century decretists, Huguccio): that is the claim that everything is common, that is 'to be shared in time of necessity', (the qualification that was to be most famously associated with Aquinas; see below, pp. 000; Teutonicus in Gratian, 1993, p.6, emphasis added; see also Tierney, 1959, 31-7; Tierney, 2001, 383-8). As we saw, Teutonicus also made the important suggestion that property may be the subject of particular dispensation, as when God gifted resources personally to Adam, (an argument that was to play a central role in Filmer's *Patriarcha*).

A second move was to argue that divine law/natural law should be taken as a description of the state of law as it applied in man's natural condition, that is either before the Fall or at some time in the remote and now very much superseded past. Thus the *Summa Parisiensis* (dating from about 1159): 'divine law is here to be interpreted strictly, namely as the natural law that existed in the beginning, that is to say, the primeval institution of things' (cited in Tierney, 1959, p. 31). In Rufinus's introduction to his own *Summa* on the *Decretum* (dating from around 1164) he argues that man's natural capacity for justice was almost (but not quite) destroyed by the Fall. Subsequently,

when man decided to gather with his neighbours and to take thought for things of mutual benefit, immediately, as if from within the dead ashes, the sparks of justice produced honest and, to be sure, venerable precepts, which taught reduction of the savage and wild customs of men to graceful and honest ways,

⁸ *Summa* was the generic name given to works which sought to summarise (and interpret) authoritative texts in the canonical tradition. Probably the most famous, and certainly one of the largest, was Thomas Aquinas's *Summa Theologiae* (Aquinas, 1964-80)

submission to covenants of concord, and establishment of secure pacts. These are called the laws of nations, because nearly all nations practice them inasmuch as there are sales, contracts, exchanges, and similar things.

(Rufinus, 'Preface to the *Summa*', in Somerville and Brassington,(eds.) 1998, pp. 191-2)

Upon this account, *ius gentium* is a post-lapsarian 'recovery' of the dictates of reason which includes laws for the peaceful and just conduct of economic exchange amongst 'fallen' men.

Rufinus is also a key source for a third reading of the relationship between property and natural law: 'Natural law consists of three parts: namely commands, prohibitions, and indications [or what are often called 'demonstrations']'. There can be no derogation from commands or prohibitions, but 'there has been subtraction from the natural law ... in regard to the indications (those things, that is, which nature neither forbids nor commands, but shows to be good), and especially in regard to the one liberty of all men and common possession: for now, by civil law, that is my slave, that is your field' (Rufinus, *Summa*, cited in Lewis, 1954, p. 38). . In this way, common ownership is a 'recommendation' of the natural law but it may be overridden by some greater social good, for example, the prevention of civil disorder or perhaps even growth in the overall social product (provided some of this is shared with the poor). It is an argument of this kind that underpins the position taken by William of Auxerre whose own *Summa Aurea* was compiled in the early years of the thirteenth century. Nature prefers the community of goods but some division of property is dictated by natural reason because, given man's sinful condition, the alternative would lead to something worse. We are forced to live with (the imperfection of) private property because man in his current lapsed condition is unequal to the task of living with common property; (see summary in Langholm, 1992, pp. 72-4). An older tradition of community is overtaken by the very clear prescription of the Mosaic Law: 'Thou Shalt not Steal' (*Deuteronomy* 5, v. 19).

A further ingenious twist on this theme is given by Alexander of Hales writing in the mid-thirteenth century. According to Alexander, the natural law is indeed unchanging but its *application* varies significantly according to circumstances. Thus natural law

prescribed communal property before the Fall but the same law determines private ownership among fallen men:

For just as the art of medicine teaches that wine is healthy and the same art denies a sick man wine, thus the same natural law will state that in a healthy (state of) nature everything is common and that it ought to be so, and yet (the same law) *will grant property to a sick nature*; nor is it therefore altered as regards the theory underlying the decree; on the contrary, the very same theory which teaches community of all property in the innocent state of nature, teaches private ownership of some property in nature fallen into sin. And thus there is alteration only as regards observance of decrees and effects and not as regards the theory on which they rest.

(Alexander of Hales, *Summa theologica*;; cited in Langholm, 1992, p. 124)

Rediscovering Aristotle: Albert and Aquinas

Scholasticism is often identified with the recovery of Aristotle (through the agency of Islamic scholarship) and, above all, with the extended commentaries on his work written by Thomas Aquinas. But at least *some* Aristotelian sources were available to rather earlier writers and it is perhaps in the works of Aquinas's teacher, Albert the Great, that we can find the first sustained attempt to recover Aristotle as a source for understanding property. The work of translating the *Ethics* and the *Politics* into Latin was completed in 1247 and 1260 respectively and these translations became almost immediately the object of extended commentaries by Albert. It now became possible to rehearse and to incorporate into Christian teaching the core of the Aristotelian understanding of property. As we saw above (pp. 000), Aristotle preferred a regime in which ownership was private but usage was common and it was open to the scholastics to read this commonality in the now quite widespread sense of 'to be shared in time of acute need'. In his *Commentary*, Albert reproduces the key arguments of the *Politics* in favour of private ownership. He begins from what was becoming a commonplace of scholastic commentary – that private property is a mechanism for avoiding disputes about the distribution of the social product, perhaps extending to a sense of just recompense for

labour: ‘Albert argues in favour of private property with reference to the *likely reaction* of those who reap less than their labour share under communism, since men are selfish and think it just that they should reap where they sow’ (Langholm, 1992, p. 173). He also reproduces Aristotle’s argument about the neglect of communal property:

Everybody is by nature inclined to pay more attention to what is his own than to what is common; so that if this will be better cultivated it will also grow to good fruition where all are concerned; and this advantage is obtained from the fact that possessions are private

(Albert, *Commentary on the Politics*, cited in Langholm, 1992, p. 174).

Aristotle’s third claim – that owning privately is a source of pleasure - fits rather uncomfortably with the Christian world view. (None of the Church Fathers ever argued that private property was good because we enjoyed it!) Albert neatly elides it with Aristotle’s fourth defence of private property – that it makes liberality possible. We take pleasure, upon Albert’s account, from the fact that our wealth can be used to meet the needs of the poor and the dispossessed.

This brings us to Thomas Aquinas whose work, as *the* philosopher of the universal church, was to be the most influential statement of scholastic opinion on the nature and limits of property. His account is built around a reading of Aristotle and the attempt to reconcile this with what he had inherited from the Church Fathers, earlier scholastic authors and a reading of the Roman Law. The most crucial discussion occurs in *Questio 66* of the so-called *Secunda Secundae* (second part of the second part or II-II) of the *Summa Theologiae* where, in an extended discussion of the nature of justice, Aquinas explores the question of theft and robbery. The necessary prelude to such a discussion is to establish ‘whether it is natural for man to possess external things’. He has already established (in the *Prima Secunda* or I-II) that ‘for imperfect happiness, such as can be had in this life, external things are necessary, not as belonging to the essence of happiness, but by serving as instruments to happiness; [but they are] nowise necessary for perfect Happiness, which consists in seeing God’. Even in this life, ‘the felicity of contemplation, as being more Godlike, stands in less need of these goods of the body ..’ (ST I-II q4 a7 *responsio*). This leads Aquinas to describe external things in two different ways. ‘With regard to their nature’, they belong to God and the divine will; ‘with regard

to the use of them’, God has ceded to man ‘a natural dominion over external things’ (ST II-II q66 a1 *responsio*). The question that follows immediately is ‘whether it is lawful for anyone to possess something as his own’. Here again, Aquinas offers a two-fold distinction:

Two things pertain to man with regard to external things. One is the power to procure and dispose of them; and, in this regard, it is lawful for man to possess property ... The other thing which pertains to man with regard to external things is their use. In this respect, man ought to hold external things not as his own, but as common: that is, in such a way that he is ready to share them with others in the event of need.

(ST II-II q66 a2 *responsio*).

Aquinas’s reasons for favouring private ownership (of ‘the power to procure and dispose’) come straight from Aristotle. Everyone attends more diligently to that which is his own; common things are the object of common neglect; collective responsibility leads to confusion and the mis-allocation of effort; and ‘a more peaceful state of things is preserved for mankind if each is contented with his own’ (ST II-II q66 a2 *responsio*). In his commentary on the stipulations of the law of the Old Testament, Aquinas finds support for his view (and that of Aristotle) that the best property regime is one that provides for private possession combined with common usage. Thus he writes: ‘with regard to possessions, it is a very good thing, says the Philosopher (*Politics* ii, 2) that the things possessed should be distinct, and the use thereof should be partly common, and partly granted to others by the will of the possessors. These three points were provided for by the Law [of the Old Testament]’ (ST I-II q105 a2 *responsio*).

On the question of legitimate acquisition, Aquinas tends to follow the determinations of the Roman Law as laid out in Justinian’s *Institutes* and *Digest* – in respect, for example, of gems and stones found on the seashore, treasure trove and war booty. He also endorses division of land by lot, as was recommended by God to Moses for the settlement of the wandering tribes of Israel (though he omits to mention God’s accompanying instruction: ‘ye shall dispossess the inhabitants of the land, and dwell therein: for I have given you the land to possess it’; *The Book of Numbers*, 33, v. 53; ST II-I q105 a2 *responsio*). More generally, particular claims of private proprietorship are, in a sense, provisional and

pragmatic. They derive much more from the overall social good that they generate than from the authenticity of any individual's claim:

For there is no reason why a piece of land considered simply as such should belong to one man rather than another; but considered with respect to how best to cultivate the land and make peaceable use of it, it has a certain commensuration to be the property of one man rather than another, as the Philosopher shows at *Politics II*.

(ST II-II Q57 a3 *responsio*)

Aquinas also defends the legitimacy of taxation (provided it is directed towards proper public purposes and not simply the aggrandisement of the rulers).

What of the traditional insistence that the natural law requires community of goods? In Aquinas's view, private ownership is not a part of the natural law but it is not *against* natural law; it is rather 'an addition to natural right devised by human reason'.⁹ When the Church Fathers insisted upon common ownership (and here Aquinas cites Basil and Ambrose) they were referring to the requirement for community of use and this remains. Thus, 'a rich man does not act unlawfully if he anticipates someone in taking possession of something which was originally common property but then shares it with others; but he sins if he excludes others indiscriminately from use of it'. In response to Ambrose's injunction 'let no man call his own that which is common', Aquinas insists that the Bishop of Milan is referring (only) to 'ownership with regard to use'. That is why Ambrose can add an insistence that 'he who spends too much is a robber' (ST II-II q66 a2 ad.2 and ad.3).

Private property is then lawful and good (in so far as it contributes to the common good and human flourishing). It is avarice not the possession of riches which is a sin. Nonetheless this yields to the owner a title which is strictly limited. In the end, real *dominium* lies with God and possessions must be used in ways that are consistent with his

⁹ 'The human will can make anything just by common agreement provided that the thing in question has nothing about it which is repugnant in itself to natural justice; and it is in matters of this kind that positive right has its place' Aquinas, ST II-II q57 a2 ad2.

will.¹⁰ Use remains common (however obscure and constrained this claim may be). The (unlimited) accumulation of riches is not, in itself, a legitimate end. There may be differences of wealth (given that Aquinas believes that different stations in life require different resources for their proper and normal support) but the function of wealth is principally to serve the common good (after all, this is why God placed the rest of his creation at the service of men in general). Liberality – generosity with one’s goods – is a requirement. It does not (normally) place a justiciable right in the hands of the poor but it is nonetheless a requirement rather than a recommendation that those who have superfluous goods should share them with the less fortunate. *In extremis*, as Aquinas most famously argued, all is common and taking the property of another under these circumstances is not theft. More than this, ‘whatever anyone has in superabundance is due under the natural law to the poor for succour’. In cases of dire necessity, ‘someone can also take another’s property secretly in order to succour his neighbour in need’, and this without committing the sin of theft (ST II-II q66 a7 ad.3).

For some commentators, these qualifications are enough to make of Aquinas something of a proto-social democrat (in some ways paralleling Nussbaum’s recognition of an Aristotelian social democracy; Nussbaum, 1990). Eleonore Stump (2003), for example, sees Aquinas’s political theory as ‘egalitarian, representative, and profoundly anti-capitalistic’. She sees it pointing towards the ways in which we may overcome that division between a politics of individual justice and an ethics of social care which came to trouble ‘progressive’ opinion in the late twentieth century. Certainly, Aquinas was a crucial source for that later Catholic social theory which sought to reconcile a market economy with the maintenance of social welfare and, indeed, more generally for continental Christian democracy; (see, for example, Maritain, 1951). Even for those who – perhaps thinking of his views on women and the burning of heretics – see in Aquinas a rather less radical and egalitarian figure, it is clear that his is an account of property which while grounded in (an extension of) the natural law sees this as providing

¹⁰ *Dominium* is a crucial and yet difficult expression. As we have already seen (pp. 000 above), it is a term of art in the Roman Law where it is generally identified with the strongest possible sort of claim to ownership (‘absolute ownership’). In Christian sources, it is often identified with a more generic sort of lordship deriving from God’s gift to Adam in *Genesis* 1, v. 28 of ‘dominion’ over the rest of the created order). At times, especially in high feudal reasoning, ‘ruling’ and ‘owning’ seem to coincide in a broader sense of ‘lordship’. It is one of the tasks of later theorists of property to disengage ‘owning’ and ‘ruling’, making it the proper function of rulers to maintain the property of citizens who have constituted government precisely to protect their own prior property rights. In this and subsequent chapters, I try to be as clear as is possible about what *dominium* in any particular context may be taken to imply.

highly qualified claims to the personal accumulation and use of worldly riches. Although there is no *right* to charity, there certainly is a *duty* to provide alms. One's *superfluities* are a resource that should be put at the disposal of the poor. Private property is a human contrivance, a product of human reasoning, that makes good social governance possible and enhances the general social welfare. But it is a regime that is strictly limited by its capacity to serve the general good and, more fundamentally, to secure the will of the one true *dominus*, that is God.

In this sense it stands in a long line of Christian opinion dating back at least to Clement of Alexandria and, in the accounts of its supporters, to the authoritative guidance of holy scripture. Perhaps the only contemporary context in which we can find a more unqualified recommendation of private property is in the argument of those opposed to the growth in monastic mendicancy that was a feature of twelfth-century religious life. Asceticism had been a core component of the life of cenobitic monasticism (itself often seen as an imitation of apostolic poverty) from its earliest origins in the fourth century. There was a longstanding tradition (as we have seen) which recommended poverty and the renunciation of worldly goods (among other worldly pleasures) as a counsel of perfection – not necessary to win salvation but offering a higher form of spiritual life for those capable of achieving it. The debate over mendicancy was given a renewed vigour by the rapid growth in the later twelfth century of the numbers in Dominican and more especially Franciscan orders. Gerald of Abbeville (cited in Langholm, 1992, 278) was representative of those who argued that the mendicant position was heretical. They repeated the old patristic adage that it was not money but rather the love of money that was the root of all evil. Even Christ and his Apostles did not renounce *all* property and to insist that such a renunciation is necessary to achieve moral perfection is an act of gross impiety (*infamat Christum*). The church and its representatives need property in order to be able to do their work, it is just to pay those who work for the church, resources are needed to relieve the needs of the poor and the possession of necessities in no way detracts from one's capacity for perfection. In fact, the dispute over the property of mendicant orders was adventitiously to generate one of the most important debates over the nature and limits of (private) property in the following century – and we return to this debate in the next chapter.

Conclusion

The writings which we have reviewed in this chapter cover more than a thousand years of European history. Clearly the context - social, economic and political - of a university city like Paris at the end of twelfth century was about as different as it is possible to imagine from rural Palestine in the first century CE. Yet writers at the end of this period were still forming their arguments around a shared (if repeatedly re-imagined) tradition built, above all else, upon holy scripture and a set of 'authorised' readings of it. Aquinas and Augustine offer very different accounts of the political world and of the character of private property, many centuries apart – but traces of the teachings of the latter can still be found in the writings of the latter. Indeed, we can trace a number of key sources - Cicero's (2001) *De Officiis*, Gaius's (1946) *Digest/Institutes*, Justinian's *Corpus Iuris Civilis* (Watson, 1985; Birks and McLeod, 1987), Isidore's *Etymologies* (Barney, 2006) and Gratian's *Decretum* (1993) for example - which are common to many of the discussions we have surveyed. Across the period, and in a range of very different contexts, we find an attempt both to explain and to justify a regime of unequal property. As we have seen, the early Church Fathers can be seen to have been peculiarly severe in their condemnations of the abuses that arose from private property. At times, they seemed to suggest that to retain more property than is necessary to meet the needs of ourselves and our families is an act of theft (and theft is a mortal sin). In later times (and to some degree within the mendicant orders), scripture was read precisely in this sense. But this was never the dominant view. Much more was this view that riches were, properly, a matter of some indifference. It was one's *attitude* to one's wealth (or one's poverty) that counted. It was avarice not wealth that was the vice and it was just as possible for a poor man as for a rich one to be avaricious. Those who deployed (some of) their riches to good works were commended. Nonetheless there was a requirement, amounting to a duty, to share one's wealth, particularly with the poor and needy. One's *superfluities* were properly to be at the disposal of the less fortunate – indeed, in some sense, these goods were *owed* to the less fortunate, albeit that the latter had no right to claim them as their own. More than anything else, the claims of private property were *limited*. At first it had seemed that natural or divine law (certainly after the coming of Christ) required common ownership. This gradually changed into the view that natural law allowed for private holdings, indeed it might under some circumstances give preference to them, but always subject to commonality *in the last instance*. But at the end

of this period, the claims of private property were still very much circumscribed. Neither natural nor divine law gave anyone an unlimited *dominium* in the goods of this world – for that right belonged to God. It was the work of later centuries to turn the natural law into the fount of much more unbridled individual rights to private property. Before that, however, there was to be a vigorous debate about what was the proper attitude to the wealth of a now well-endowed earthly church and its own – a debate that generated new claims about the sources and nature of private property.

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