

Jaurès' Problem

Jaurès' attack upon the notion of individual property as a chimera given the Civil Code's enforcement of equality of descendants' claims, which in effect makes it family property as much as ever it was, stands on weak ground theoretically for the following reason: as easily as enforceable intestate descent, the "bourgeois" could have endorsed strong testatory power, which would have meant individual control of property during the lifetime and afterwards. Jaurès would then no doubt have argued that family control would be exercised through the class interest of heads of families, if they/and not the law/decided its succession; but he could not have ridiculed the idea of individual property as expressed in the law. If one wanted to take the completely conspiratorial approach, the "bourgeois" rules of the code were put in the guise of "egalitarian" principles which actually protected the family (i.e., class) control, rather than the more authoritarian "paternal power" form of free testament, in order to make the bourgeois rule more palatable in the public eye. Seen from this point of view, Le Play represents a convenient extreme right-wing which the average bourgeois can resist in the name of equality, without losing any significant family control over inheritance.

On the question of the gulf between ownership and function which corporations introduce, Jaurès is very perceptive about the non-functional character of the ~~unpaid~~ stock owning capitalists in the operation of the business, but his argument about "individual property" thereby being degraded (he finds himself glorifying the one-man industrialist enterprise) is juridically unsound. For there is no reason why corporation stocks cannot be considered immovable property, and if saleable and testable, then completely individualistic.