

Natural Rights and Necessity

... there are four kinds of “community of goods,” corresponding to four different sources of right. The first kind of community is derived from the right of *natural necessity*: anything capable of sustaining natural existence, though it be somebody’s private property, may belong to someone who is in the most urgent need of it. This kind of community of goods *cannot be renounced*. It derives from the right that naturally belongs to man as God’s image and noblest creature, on whose behalf all other things on earth were made.¹

If ... there is so urgent and blatant a necessity that the immediate needs must be met out of whatever is available, as when a person is in imminent danger and he cannot be helped in any other way, then a person may legitimately supply his own needs out of another’s property, whether he does so secretly or flagrantly. And in such a case there is strictly speaking no theft or robbery.²

The Law of necessity is pleadable in any Court, and hath not only its pardon but justification; as when, not only a Magistrate, but a private man pulls down a house or more, which are next to that house which is on fire, to prevent the farther mischief, the Law justifies him, because the necessity and benefit is as visible as the fire; yet it would not be justice in the Sovereign himself, to cause a mans house to be pulled down that is seven miles distant, upon a fore-sight that the fire may come thither. I am not averse from Mr. Hobbes’s opinion, that a man who is upon the point of starving, and is not able to buy meat, may take as much of the meat he first sees, as will serve for that meal; and this not only by the Law of Nature, but for ought I know, without punishment by any Municipal Law, which seldom cancels the unquestionable Law of Nature: but this necessity will not justifie him in the stealing or taking by force an Ox from any man to prevent starving for a month

¹ St. Bonaventure, “A Defense of the Mendicants” (ca. 1269) in *From Irenaeus to Grotius: A Sourcebook in Christian Political Thought, 100-1625*, edited by Oliver O’Donovan and Joan O’Donovan, (Grand Rapids, MI: William Eerdmans, 1999), 317.

² St. Thomas Aquinas, “On Justice” (1265-74) *Summa Theologiae* 2a2ae.57-122, in *From Irenaeus to Grotius*, 359.

together, how poor soever the man is, or to rob a Poulterers shop, that he may have a second course.³

But we know God hath not left one man so to the mercy of another, that he may starve him if he please: God the Lord and Father of all, has given no one of his children such a property in his peculiar portion of the things of this world, but that he has given his needy brother a right to the surplusage of his goods; so that it cannot justly be denied him, when his pressing wants call for it. And therefore no man could ever have a just power over the life of another by right of property in land or possessions; since it would always be a sin in any man of estate, to let his brother perish for want of affording him relief out of his plenty. As justice gives every man a title to the product of his honest industry, and the fair acquisitions of his ancestors descended to him; so charity gives every man a title to so much out of another's plenty, as will keep him from extreme want, where he has no means to subsist otherwise: and a man can no more justly make use of another's necessity to force him to become his vassal, by with-holding that relief God requires him to afford to the wants of his brother, than he that has more strength can seize upon a weaker, master him to his obedience, and with a dagger at his throat, offer his death or slavery.⁴

³ Edward Hyde, First Earl of Clarendon, *A briefview and survey of the dangerous and pernicious errors to church and state, in Mr. Hobbes's book, entitled Leviathan* (1676), 176.

⁴ John Locke, *First Treatise of Government*, (written around 1681, published 1689), §42.