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Henry George on Property Rights:

Reply to John Pullen

By KRIS FEDER*

ABSTRACT. John Pullen argues that Henry George's proposal to "make land common property" is inconsistent with his proposal to tax rent. This reply argues that George's two formulations are consistent, and that Pullen has confused common property with state property. On the other hand, Pullen's conception of property as composed of a "basket of rights" focuses attention on the question of whether, as trustee of the common property, a Georgist regime should be understood to have certain rights (and obligations) to constrain private land use decisions.

I

Land Taxation or Nationalisation

JOHN PULLEN ARGUES THAT Henry George presented two inconsistent versions of his reform proposal. The "initial" version was "to make land common property,"¹ which Pullen interprets as "an unequivocal plea for land nationalisation and the abolition of private ownership of land."² The "modified" version was a tax on the rent of land (to replace taxes on labor, capital, and exchange). "Which did he really prefer?" Pullen wonders.³

Pullen himself favors the modified version, arguing that the phrase "single tax," by which the Georgist movement came to be known, correctly places the focus on its central policy prescription. Nationalisation, he says, is inconsistent with George's notion of a free and just society. Moreover, George's distinction between "ownership" and "possession" is misleading, because property rights are never absolute. Not only taxes, but also many other laws and regulations constrain the opportunities open to landholders. Like zoning rules and

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even criminal law, the single tax limits but does not “abolish” the rights of landownership. George’s call to abolish private property in land, Pullen suggests, may have inhibited wider public acceptance of George’s fiscal policy.

This reply argues that George’s proposal to “make land common property” is not equivalent to land nationalisation. Common property and state property are distinct notions. George used the term “common property” in much the same sense in which it is used today. As he understood it, individuals’ equal land rights are not surrendered to the government in a common property system, but are preserved and given effect through shared ownership.

Moreover, George’s insistence that the receipt of rent is the essential “kernel” of property rights in land can be defended. It reflects his basic distinction between the two primary factors of production—labor, the human factor, and land, the natural factor. If George’s theory is correct, the single tax system leaves to the individual the full value of his or her productive contribution, while taking for public purposes the social surplus that lodges in rent. There is no inconsistency between George’s two formulations of his proposal.

On the other hand, Pullen’s notion of property as composed of a complex “basket of rights” has considerable analytic value and suggests a question that George little explored—not whether private landholders should deem themselves owners, but which rights in the property bundle should be understood to belong to the rent-sharing community and which to individual titleholders. The close interdependence between economic systems and the physical and biological systems of nature underlies a persuasive argument for coordinated land management that George did not address. It could plausibly be argued that, as trustee of the common property, a Georgist rent-sharing community has certain rights (or obligations) to regulate land use for the purpose of safeguarding environmental quality and ecosystem services.

II

Private Property, State Property, and Common Property

AS PULLEN OBSERVES, George implicitly defines “ownership” of “property” to include the right to receive the income of the property owned.

A tax that collects the full market rent of land would therefore “abolish private property in land.” Pullen argues that George improperly identifies the single tax with nationalisation of land, making his fiscal proposal appear more radical than it actually is. However, George had clearly rejected that interpretation.⁴ Nationalisation, in which the state claims ownership of the land and sets the conditions of access, would violate the natural rights of individuals to work, build, invent, improve, and enjoy the reward of their productive efforts.

In ascribing this view to George, Pullen has missed George’s distinction between common property and state property. It may seem a distinction without a difference, as George expected formal governments to be assigned the responsibility of collecting and distributing the rent surplus. However, the common property regime he envisioned necessarily acknowledges and gives effect to individual rights, whereas a state property regime may compel individuals to surrender to the government some part of their natural rights. For George, the actions of a national government, even a democratic one, are legitimate only insofar as the rent surplus is distributed approximately equally among individuals and generations (and individual rights to the products of labor are respected).

George’s usage is broadly consistent with terms familiar today. Ecological economists (and others) define at least four general types of property. Private property is controlled by individuals, families, or associations of persons. State property is controlled by a formal government. Common property (*res communis*) is controlled by a community of associated persons, not necessarily managed through a national government. Open-access resources are *res nullius*, nobody’s property.⁵ Real-world property regimes typically mix several types of property.

It is of equal relevance to Pullen’s thesis that George was also careful to distinguish common property from an open-access regime. Ecological economists emphasize that confusion between *res communis* and *res nullius* has led to important analytical errors in recent years.⁶ For example, in his classic 1968 article, “The Tragedy of the Commons,” Garrett Hardin warned that in a crowded world, absence of private property rights would result in a tragic war of all against all as self-interested individuals scramble to possess and consume resources with no regard for the future.

An alternative to the commons need not be perfectly just to be preferable. With real estate and other material goods, the alternative we have chosen is the institution of private property coupled with legal inheritance. . . . We must admit that our legal system of private property plus inheritance is unjust—but we put up with it because we are not convinced, at the moment, that anyone has invented a better system. The alternative of the commons is too horrifying to contemplate. Injustice is preferable to total ruin.⁷

The “commons” Hardin described, however, was an open-access regime, as he admitted in his 1991 comment, “The Tragedy of the *Unmanaged Commons*.”⁸ George’s system avoids the problem of open access by specifying that only rent, a social surplus, is held in common, while the fruits of individual effort are privately owned. In exchange for the payment of rent, individuals may occupy land, build improvements, consume natural resources, and earn incomes from working and investing on land. Private property rights are in fact more secure than under a regime in which earned incomes are subject to tax.

George’s intention was not to abolish private property but to coordinate the share-out of land and natural resources that belong to all. The value of land is transferred from individual and corporate landholders to “the community.” Individual titleholders pay a market-determined annual rent in exchange for the privilege of excluding others from the use of parcels of land. Individuals who claim less than their equal share of the common property are compensated, through government services or transfers, by those who claim more. If George’s analysis is correct, then his common property system, which combines equal (not open) access with private possession, reinforces incentives to economize on scarce resources while removing the main cause of inequality in the distribution of wealth.

III

Is Rent the “Kernel” of Landownership?

AS PULLEN SUGGESTS, Henry George evidently understood the defining feature of property ownership to be the right to receive its income. To publicly collect the rent of land for public purposes would make land common property, said George, even if individual titles to the occupation and use of land remained undisturbed. The single tax system gives individual and corporate landholders the right to use land as

they wish and to exclude others, but gives to the community the right and obligation to collect land rents. Individual proprietors would keep “the shell,” but not “the kernel”⁹: they would have possession, but not ownership. The “kernel”—the rent—would be shared in common.

Pullen objects to George’s distinction between ownership and possession, writing, “His proposed reform could have been more logically described as a conditional, modified, or restricted private ownership of land, rather than as the abolition of private ownership of land.” Pullen argues that the right to receive income should be viewed as just one of many separable components of a “basket of rights.”¹⁰ Private landownership rights are attenuated by zoning laws, building codes, town planning, environmental regulations, property taxes, and even criminal law, but we normally understand these policies to be consistent with private property in land. According to Pullen, the single tax does not abolish private property in land, but merely transfers to the state one of the several items in the property rights bundle.

Should “ownership” and “property” be so defined as to refer to a single essential right (the kernel), or should these terms refer to a variable “basket” of rights that must be specified in each case? The taxonomic issue is whether one or some members of the property bundle have special status and should be deemed essential to the concept of property.

One of the first questions people ask when hearing the single tax proposal is, “Why would anyone want to own land if its entire income is turned over to the public treasury?” The answer is that under the single tax, individuals would receive the full earnings of their productive efforts. Their incomes from working and investing would not be taxed. They would keep the profits of superior enterprise if they are successful in business, or suffer losses if they are unsuccessful. However, because all production requires land as well as labor and intelligence—because people need access to land in order to live and work—individuals would pay competitive rents in exchange for title to land so that they may secure the use of it. This is in fact how many people behave under the present system, except that they pay rent to a landlord or mortgage lender, not to the public treasury (while they pay income, sales, and payroll taxes to finance public expenditures that give value to land).

As standard economic theory tells us, in competitive markets the to-

tal value of what is produced is paid out to the owners of the factors of production at rates equal to the value of the marginal product for each factor. Rent is the share of output that is imputed to the contribution of superior location and superior natural resources. To tax the incomes of labor and capital is to discourage their employment—but a tax on rent penalizes no productive effort. Further, George predicted that the single tax system would turn considerable human effort and ingenuity toward productive activities and away from unproductive pursuit of gain at others' expense (today appropriately termed “rent-seeking”).

Ultimately the distinction between ownership and possession is a matter of definition.¹¹ However, George had good reason to single out rent as the defining feature of landownership. The starting point of his economic theory is the distinction between the primary factors of production: labor (the human agent) and land (natural forces and materials). For George, the income from productive effort and ingenuity belongs rightfully to the individuals who earn it, while the rent of land, which arises from natural, social, and political conditions, belongs to everyone. If justice in property relations were achieved, then greater economy in the use of land, labor, and capital would follow.

IV

A Basket of Rights

REGARDLESS OF WHETHER LAND “ownership” (vs. “possession”) is understood necessarily to include a claim to the rent of land, Pullen’s “basket of rights” concept of property is familiar in economics today, and may help to further the Georgist analysis. “Property” is not an asset but a “proper” relation between the owner and other persons with respect to the disposition of that asset. As Pullen observes, acknowledged rights pertaining to land are numerous and are often separately assigned or traded to distinct parties. Society claims rights over private land use with zoning regulations, building codes, environmental controls, assorted taxes, the right of eminent domain (to confiscate property in the “public interest,” with fair compensation), and so on.

Pullen suggests that a land tax no more abolishes private property than do zoning rules or environmental regulations. If no single partic-

ular right is essential to the designation of property, then government powers to regulate land use or to tax land values amount to attenuated state ownership, simultaneous with and complementary to attenuated private ownership.

The argument may cut the other way. According to property-rights advocates in the anti-“takings” movement, regulations such as environmental controls that reduce the market value of privately held land amount to unconstitutional “takings” of private property. They argue that landowners should be compensated for their property losses. Courts have been reluctant to interpret liberally the “takings” provisions of the Fifth and Fourteenth Amendments,¹² which would seemingly obligate the government to compensate individual titleholders for any loss of market value that government actions may cause.

It is well to observe that the policies of a good government tend, on the average and in the long run, to increase rent, not reduce it. For example, environmental regulations that diminish the market value of particular lands by restricting timber cutting, wolf trapping, or pesticide application may increase the aggregate value of land by maintaining soil and water quality, recreational opportunities, or ecosystem balance. Anti-takings activists might consider whether, if justice demands that government compensate property “takings,” then symmetrically, government should charge landowners for property “givings.”

George’s single tax policy does exactly this: it offsets both property takings and property givings. It offsets them through the fiscal system rather than the courts, and it does so even when the effects on rent of numerous government activities cannot be separately measured. Where a new zoning rule, environmental regulation, or hydroelectric project raises market land values, the tax payable increases; where it lowers market values, the assessment declines. There can be no loss of private land value and no property “taking” when land is treated as common property in George’s sense: what the titleholder does not own cannot be taken from him or her.¹³

Moreover, the single tax offsets takings and givings that arise from private actions as well as government policies. That is, it compensates changes in land value that are caused by the actions of persons other than the titleholder. Suppose, for example, that A opens a theater that draws additional business to B’s restaurant and C’s apartment building

on the same block. Under the single tax, the increase in urban land value caused by A's investment is not monopolized by B and C, but is shared with the entire community.

V

Land and Environment

IN RECENT YEARS there has been a growing interest in common property systems in economic research, particularly within the field of ecological economics, which is concerned with the integrity of natural and biological systems. Human use and misuse of natural resources pose a growing threat to the sustainability and resilience of the basic life-sustaining functions of nature, on which all economic activity and indeed, the welfare of all species depend. Ecological economics emphasizes the mobility of air, water, and wildlife and the complex interactions and energy flows within and among ecosystems. Many ecosystem resources provide regional or global benefits that are nonexcludable and could not feasibly be treated as private property. Because much of the value of ecosystem services is not captured in market prices, the efficiency theorems associated with unregulated competitive markets do not apply.¹⁴

The nonexcludability and interdependence of ecosystem services underlie modern arguments for coordinated management of natural resources through common property or state property regimes. An excellent analysis of the legal, ethical, economic, and social dimensions of an "ecological land policy" has been offered by Lynton Keith Caldwell and Kristin Shrader-Frechette. They write:

An ecosystems approach to policy for land assumes a scope that embraces all land regardless of its ownership or custody under law.¹⁵

Our concepts of public law and private property dichotomize our thought and action so that we tend to conceive of public land policy as legitimate primarily for resolving economic differences. The idea of a policy for all lands regardless of formal title of ownership would be consistent with ecological realities.¹⁶

George offered a principle for distinguishing individual rights from common rights. Can his understanding that land is rightfully common

property serve as the basis for a comprehensive, consistent, fair, and efficient land use policy? George himself was not primarily concerned with “ecological realities.” His policy recommendations emerged from his analysis of production and distribution in a competitive, dynamic market economy. The first purpose of his reform agenda was to remove the dominant cause of inequality in the distribution of wealth. He also believed that his system of public finance would achieve unprecedented productivity gains, improve the administration of government, and elevate the quality of civic life.

He emphasized the abundance of natural opportunities, not their scarcity. He focused on urban land values, which, he said, had overtaken agricultural and natural resource values in economic importance. He assembled numerous arguments against Malthus’s population principle, which argued that poverty, famine, and warfare were nature’s way of constraining what would otherwise be exponential rates of human population growth. He believed that the apparent scarcity of land was the result of land speculation and maldistribution that would be remedied by the single tax. Obviously, George was not much concerned with now-familiar environmental problems such as chemical pollution, global warming, habitat fragmentation, or atomic waste. Nor did he intend for the single tax to regulate the *production* of external spillover effects of private actions.¹⁷ It equalizes the *distribution* of the net value of external effects insofar as they are captured in land values, but permits individuals to make autonomous choices, guided by the market, as to how to use and improve the parcels of land to which they hold title.

Notably, however, the efficiency gains George claimed for the single tax system include improvement in the spatial distribution of population and greater economy in the use of scarce natural resources. He took occasional note of environmental problems, including soil erosion,¹⁸ desertification,¹⁹ and sprawl.²⁰ George attributed the population problem, environmental degradation, and resource waste to maladapted social and political institutions, chief among them the institution of private property in land. For example, land speculation generates a sprawling, inefficient pattern of land development. While George focused on the adverse social consequences of sprawl, writers

today emphasize the environmental consequences such as habitat loss, automobile emissions, runoff, deforestation, and the filling of wetlands.²¹

The “single tax” concept can readily be extended to encompass environmental taxes and fees. Emission of pollutants into the air or water constitutes a use of land services (for waste disposal) beyond the borders of one’s titled holdings and diminishes the value of affected lands downwind or downstream. Taxes designed to “internalize” pollution externalities can be interpreted as charges for the rent of mobile environmental resources.²² They serve not only to limit the amount of pollution emitted, but also to compensate society for the resulting loss of value.

In addition, however, direct environmental and land use controls may also be warranted in a Georgist regime. Superficially at least, recognition of common rights would seem to justify environmental regulations, land use controls, and similar interventions designed to protect the value of the common property. The Georgist theory of property leads easily to the suggestion that, on a planet where human uses of land increasingly interfere with each other and with nature’s life-sustaining functions, a community may legitimately choose to manage the common property by collective authority. This approach is consistent with the common understanding that communities may and should impose limits on how individuals use natural resources in order to maintain a sustainable balance between human and natural systems. One may speculate that had George studied ecology and foreseen such technological phenomena as the internal combustion engine and atomic power, he might well have advocated land use and environmental regulations that maintain or enhance, not only market rents, but also the public value of ecosystem services.

On the other hand, George vigorously opposed policies that interfere with individual freedom of action or that confiscate legitimate individual property. Environmental and land use controls in a Georgist regime must constitute, not a violation or restriction of individual rights, but an assertion of the common right. It is worthwhile to ask whether an insistence on individual liberty would promote or impede rational ecosystem management when land is treated as common property.

VI

Government and Community

PULLEN'S OBSERVATIONS REGARDING the complexity of property rights systems suggest further questions: In a Georgist commonwealth, how should the rent-sharing community be delineated? How is the individual's share of the common property to be measured, and what are the rights of future generations, whose population and economic circumstances are yet unknown? Precisely what common rights should a rent-sharing community be understood to have, and how are those rights to be exercised? Should private titleholders possess absolute control over the manner in which land is used and improved—or does the community, as steward of the common property, retain certain management rights? If so, what general principles identify the extent to which a community has the right (or obligation) to regulate land use? The manager of an investment fund competes to maximize the value of his or her clients' assets; what institutions can ensure that the rent surplus is maximized on behalf of the community? In a federal system, how should the responsibilities of government be shared among national, state, and local jurisdictions? Under what circumstances is it appropriate for the state to retain title to, and full management rights over, certain lands?

If land is understood as common property, it would seem that the community, however defined, must have some power to coordinate the interdependent uses of the common property so as to maintain the life-support processes of nature from generation to generation.

George's philosophy is incomplete with regard to the relation of the rent-sharing community to the nation-state and the manner in which the rent surplus is to be invested or distributed. Focused on revenue, he did not develop in detail a complementary theory of government expenditure to explain how the equal sharing of rent was to be accomplished. Neither did he outline a theory of governance with institutional procedures for reaching collective decisions while preventing powerful interest groups from exploiting the political structure for private gain at public expense. Finally, as Pullen's exploration of the theory of property has revealed, George did not offer an organized body of theory specifying the rights of the state or community to regu-

late the actions of individuals, either as users of land or in other capacities.

A Georgist theory of governance must be consistent with George's theory of property: a person has property in himself or herself and in what the person produces, and has the right, equal to others', to avail himself or herself of the gifts of nature. The person has the right to associate and exchange with other persons. These elements of justice permit a clear separation (in theory at least) between the proper spheres of individual and community action. A Georgist theory of governance should suggest constitutional rules whereby a rent-sharing community might reach efficient and just collective decisions pertaining to the disposition of the common property—and block decisions that violate individual rights of property. George's model deserves further development along these lines.

VII

Conclusion

PULLEN ASKS WHETHER George's preferred reform was to make land common property or to publicly collect the rent of privately owned land. The present reply has argued that there is no inconsistency between the two formulations, but that the notion of common property in land lies at the heart of the social system George envisioned. By the abolition of private property in land he meant, not nationalisation, in which private rights are extinguished, but common ownership, in which private rights are guaranteed—particularly individuals' equal rights of access to land.

Alone, a tax on the full rent of land is not sufficient to make land common property. It is also necessary that the proceeds of the tax be used for the (roughly) equal benefit of everyone, not monopolized by the ruling party or a privileged minority. To the extent that this ideal is achieved in practice, the single tax system would equalize access to land by compensating those who claim less of what nature provides out of the gains of those who claim more. George's tax proposal also prohibited government from taxing the assets or incomes that are rightfully private property by virtue of individuals' productive efforts.²³

George's economic analysis and his normative principles of social

justice offer a promising foundation for a unified theory of governance. George developed a rule for establishing where private rights end and common rights begin. His central contribution was to identify rent as the measure of what the individual owes to the community when individuals are considered to have equal rights to land. The present comment has asked whether his approach can be reconciled with direct environmental regulations and land use controls for the purpose of ecosystem management.

Pullen characterizes George's proposal as a "middle way" between socialism and capitalism. George would have replied that his system is not a middle way (that way is called welfare capitalism or a mixed economy), but a third way that strengthens the personal liberties associated with capitalism while approaching the social equality and cooperation that is the "dream of socialism."²⁴ It offers not a trade-off or compromise between economic equality and market efficiency, but the promise of both together. "In justice," proclaimed George, "is the highest and truest expediency."²⁵ While he never offered a complete political theory, George provided an important clue by identifying rent as the basis for distinguishing the public sphere from the private. If a general theory of environmental policy can be developed within the Georgist conceptual framework, then perhaps the single tax will turn out to be the "better system" that, in 1968, Hardin believed no one had invented.

Notes

1. George, p. 328.
2. Pullen, p. 548.
3. Pullen, p. 553.
4. George, p. 405.
5. Hanna et al., p. 5.
6. *Ibid.*
7. Hardin (1968), p. 17.
8. Hardin (1991).
9. George, p. 405, cited in Pullen, p. 190.
10. Pullen, p. 550.
11. George's usage may not be as unusual as Pullen suggests. For instance, stockholders are understood to "own" corporations though they are passive recipients of corporate net income and take no part in management.
12. Amendment V of the Constitution of the United States provides that "No

person shall . . . be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation." Amendment XIV, Section 1, prohibits States from depriving "any person of life, liberty, or property, without the due process of law. . . ."

13. Government actions may, however, also diminish the value of particular capital or labor.

14. Daily, p. 367.

15. Caldwell and Shrader-Frechette, p. 190.

16. Caldwell and Shrader-Frechette, p. 207.

17. George understood the importance of externalities. "No one can keep to himself the good he may do, any more than he can keep the bad" (George, p. 435).

18. George, note pp. 451–52.

19. George, p. 116.

20. George, pp. 255–60; 449–51.

21. For a Georgist critique of conventional environmental economics with special reference to the problem of sprawl, see Gaffney.

22. Durning.

23. Land titles are not the only source of government-sanctioned privileges that might be subjected to a Georgist tax. Henry George allowed for the possibility of taxing monopoly rents, though he preferred simply to abolish the tariff, license, or patent that yields unearned monopoly power. Natural monopolies might be operated by the state. See George, p. 410–13.

24. George, p. 456.

25. George, p. 367.

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