

The Idea of Property

by Joseph Milne

IN CHAPTER VI of The Science of Political Economy, entitled ‘Cause of Confusion as to Property’, Henry George asks why John Stuart Mill was so confused about the basis of property. He replies that:

It is evidently the same thing that has prevented all the scholastic economists, both those who preceded and those who have succeeded him, from giving any clear and consistent statement of the laws of distribution or the origin of property. This is a pre-assumption they cannot bring themselves to abandon – the pre-assumption that land must be included in the category of property and a place found in the laws of distribution for the income of landowners. Since natural law can take no cognizance of the ownership of land, they are driven in order to support this pre-assumption to treat distribution and property as matters of human institution only. (p. 460)



...natural law can take no cognizance of the ownership of land... H. George

of wealth. The reason it causes this confusion is because no ground in natural law can be found for the claim of land ownership, and so ownership as such is forced out of the realm of natural law and into the realm of human law. That is to say, property is only a matter of human convention, and this is the case with all ownership, all distribution and all labour. Yet, as George points out, Mill sees that distribution or exchange of wealth must come under natural law if it is to be just, but since land is included in his notion of property he cannot support this truth without contradicting himself.

So that we are absolutely clear on this, George goes on to say:



The real basis of property, the real fundamental law of distribution, is so clear that no one who attempts to reason can utterly and consistently ignore it. It is the natural law which gives the product to the producer. But this cannot be made to cover property in land. Hence the persistent effort to find the origin of property in human law and its base in expediency. (p. 461)

Here George makes explicit what he regards as the real basis of property, “It is the natural law which gives the product to the producer”. This means that property can only be in things produced by human work, and so cannot include anything not produced by human work. Neither land nor any resource already present in Nature can be property, unless it be regarded as the property of God who created it. We may observe also that the same natural law that renders property to the producer operates in the distribution of wealth. Only produced wealth may be exchanged, and the only legitimate exchangers can be the producers of what is exchanged. This cannot include land.

Taking of the product of labour from the labourer

If it were merely a matter of excluding land from property and exchange and all would be well, the problem would be solved. But it is not as simple as that. Since the accepted basis of property is expedience, or human law by convention, this removes the legitimate ownership of property from the producer. Labour can make no claim to its fruits if there is no basis in natural law for property, and so nothing in principle can deny the taking of the product of labour from the labourer. In other words, if no distinction can be made

in principle between what can be property and what cannot be property, then no principle can demonstrate that the wages of labour belong to the labourer.

I recall many years ago when I worked for a large company asking those I worked with, why the boss lives in a large country house and drives around in a luxury car while we struggle just to get by. The unanimous answer was “He owns the company”. Not only that, but because he owns the company he is entitled to pay us the least we will accept. The logic was, that since he owned the company he owned our labour and had the right to dispose of it as he wished.

This anecdote shows that the question of the true basis of property has become wholly obscured because the economists have included land as property. Once it is granted that land may be property, it follows that the real basis of property is overthrown and that what others produce on land may be taken by the landowner. Land ownership obliterates the right of labour to its product. Once expediency becomes the only basis of property, and although this produces obvious injustices and poverty, there is no recourse to natural law to remedy it. Property rights become arbitrary, contingent, accidental, and therefore open to every kind of ingenious manipulation and abuse.

For us, following the thought of Henry George, the economic consequences of this are obvious, as obvious as that water is wet. There are, however, consequences



John Stuart Mill - was seen to be confused about the basis of property

beyond the economic which we should consider, and which are equally as important as the economic consequences.

What are the consequences when a fundamental natural law is misunderstood?

A question that needs to be asked is: What happens to the natural sense of justice in a society where a fundamental natural law is not understood? If reason does not discern that land cannot be property, what happens to our ethical sense in general? It seems, at the very least, that it must become confused, and at worst, so atrophied that almost no limit can be put on the injustices that might be inflicted on humanity. Or that injustices caused by human lack of discernment become attributed to the natural state of things, and therefore beyond remedy.

It is evident that we ought not to separate our ethical understanding from our economic understanding, and that if we are confused in one we shall be confused in the other also. This is precisely what George is pointing out in John Stuart Mill: he cannot bring about a concord between his notion of property and his notion of natural law and justice. This disjunction between reason and ethics is a defining characteristic of Western thought since the seventeenth century, with the rise of modern empiricism, the secular society, reductive materialism and the industrial revolution. It might be argued that with the rise of human rights the ethical has made progress alongside material progress. But the modern rise of human rights has been the ethical side of the conflict between ethics and reason.

Is a 'Free' person someone who decides their own moral code?

There are certain fundamental assumptions shared in common between modern materialism and the emergence of human rights, even though they are in conflict with one another. Materialism, in the name of scientific objectivity and utility, conceives of Nature as a mere resource wholly at human

disposal to exploit. Human will has mastery and jurisdiction over Nature. There is no bound to the way human will may exercise itself over Nature. Ethics, on the other hand, in the name of individual autonomy, asserts the absolute right of the individual to determine their own destiny, and that in the pursuit of this all other persons are under an obligation to grant this absolute autonomy. Thus, the notion of the free person is that of the solitary individual deciding their own ethics, their own moral code subject to no other.

The common ground between the materialistic view of Nature and the ethical view of human rights lies in the assertion of the self-determining will, the will that is answerable only to itself. Thus Kant defines the ethical man as the one who is his own legislator. This parallels the view of Francis Bacon who sees man as stripping the veil off nature and forcing her secrets into human subjection. Neither the materialist nor the ethical position sees itself as answerable to any law outside its own determination, or responsible to anything in itself or for itself.

This rather ruthless common ground between materialism and modern ethics might surprise us. And it is fair to say that a great deal of good has been done in the name of human rights to

mitigate the consequences of economic injustice. But this is only to concede that materialism and ethics must necessarily be in conflict, even when they both act from the same common ground of false assumptions. It seems that this peculiar contradiction between reason and ethics generally in modern thought is precisely the same as the contradiction Mill cannot resolve between the right to property in land and the right of the producer to the product of labour that George observes. Where



Francis Bacon... sees man as stripping the veil off nature... forcing her secrets into human subjection...

reason and ethics are in conflict with one another, it is likely that both are somehow distorted or confused.

The underlying idea shared in common between modern materialism and ethical relativism is that all things are subject to human will, and that will is its own ground. Thus our modern age looks upon society and the world and the universe in terms of subjecting it to human mastery. Even individual persons regard themselves as property at their

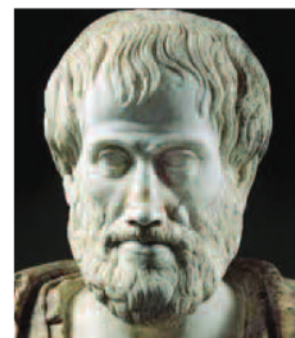
own disposal, as we see in the debates over euthanasia. Locke claimed that all property arises as the extension of self-ownership. Through owning oneself one may "sell" one's labour, or come to own land by mixing one's labour with it. In this single idea – that I own myself – reason and ethics are both equally confounded. Some theorists in the sixteenth century argued that, since a person was their own property, they could sell themselves into slavery. As with land, once something given by Nature is claimed as property, it becomes exchangeable. On that basis there is no difference in principle between selling land or a human being.

The loss of a higher order leads to land being regarded as 'Private Property'.

We should make some allowance for the historical turmoil in which these ideas arose. Western society was seeking a new way of conceiving the relation between the State and the Church, and also between the State and the individual citizen. And in the midst of these struggles arose the scientific and industrial revolutions. The old authoritarian certainties were not equal to the new circumstances. But what disappeared in the search for new understanding was the sense that there was



Kant defines ethical man as the one who is his own legislator...



In Aristotle's time... the individual good was understood to spring from the common good...

a higher order to the universe to which reason should conform itself, and a higher, universal goodness towards which all Nature tends, and with which the human will should align itself. It was with the loss of this higher order to which reason properly

belongs, and the universal goodness to which ethics properly belongs, that land and the human person both became regarded as 'private property'. Thus we see that if the natural desire for truth and the natural love of goodness become separated, both become distorted. Truth and virtue belong together. In economics this means that the creation of wealth and justice belong together.

How did the status of the individual in society change?

It is worth asking what preceded this change, and how the idea of property changed. What we find in the Middle Ages and going back to Aristotle is that the notion of the human person and society is profoundly different from that which emerged in the Age of Reason. Since the whole of Nature was seen as one harmonious order directed to the perfection of each part in relation to the perfection of the whole, so the defining idea of the human individual was that of membership in society, while society itself was part of the greater order of the universe. The relationship between the individual and the state was that of a member within a greater whole, and that whatever served the good of the greater whole was in conformity with natural law and assured the good of the individual. The individual good was understood to spring from the common good, even as the health of a limb of the body springs from the health of the whole body. What distinguishes the human species from the other creatures is that it more fully participates in the greater order of Nature.

Understood in this way, the first or primary idea of property according to natural law is that all property is held in common.



Thomas Aquinas... all things truly belong to God who made them

This is what Aquinas says, because although individuals may naturally own property which they possess legitimately, in circumstances of necessity all private property reverts back to the natural state of common property, where man takes from Nature according to his needs. But also, in the most essential sense, all things truly belong to God who made them.

The notion that in necessity all property reverts to common property is linked to another important idea which Aquinas adopts from Aristotle. The relation between the human person and wealth is conceived in terms of use rather than in terms of ownership. The question for Aristotle is not so much "What is mine?" as "What is the right use of things?". Once the question of right use is raised we see that wealth remains in contact with Nature as a whole, because right use of things must mean use that does no harm to any other thing, and which is in harmony with the common good. This means that right use and justice coincide – to use things justly is to use them for their proper ends.

Common good is replaced by individual human rights

These notions of membership, the common good and right use all finally collapse in the Enlightenment. The idea of human nature being defined by its membership in society is replaced by the assertion of the private, autonomous individual as distinct from the state. The idea of the common good is replaced by the idea of individual human rights. And the understanding of right use is replaced by the idea of ownership. In other words, the relationship of the human species to the natural order shifted from that of membership to that of ownership. The "proprietary self" was born. Thus, as observed earlier, for Locke the defining characteristic of human nature becomes "self-ownership". Remark- ing on John Locke the scholar Christopher Flanks writes in his book *He Became Poor*:



John Locke... simply working on the land grants ownership of it

Because one owns oneself and hence one's labour, to mix one's labour with external goods through appropriating them is to attach something to those goods "that excludes the common right of other men (p. 61).

Here we see Locke, like Mill, is confused about how property can arise, and he tries to trace the principle of property back to self-ownership. For him the labourer owns what he makes, not through the work he does, but by the extension of owning himself. He "mixes" his self-ownership with whatever he works on. This conception of the principle of property "solves" the problem that Mill has with the ownership

of land, since for Locke simply working on the land grants ownership of it. By planting seed in the field the field now becomes the property of the planter. The relationship with the land ceases to be "right use" and becomes the establishment of a property right. Work itself is no longer participation in the common good but becomes work for private gain despite the common good.

Separation between reason and ethics

In this situation two separate sets of laws need to be established: laws of property and laws of obligation to society or to the environment. Further, Locke's notion of property arising from self-ownership creates a separation between reason and ethics. The proprietary self is a rational claim, while any obligations to society or to the common good are ethical claims. This contrasts radically with the Aristotelian notion of right use which is at once practical and ethical. But also, and perhaps this is the most significant implication of Locke's notion of property, the legal and the ethical have also become separated, and this is perhaps the decisive separation that destroys the tradition of natural law extending from Plato to Aquinas.

Here we should also bear in mind that Henry George never suggested that property arises from self-ownership, but rather from the producer creating. The capacity of labour to produce does not arise from self-ownership but from knowledge and

effort. If indeed self-ownership were the real principle of all ownership, then it would be the seed planted in the field “mixing” its power of growth with the soil that would own the crop. But of course the seed does not need to own itself in order to grow. It grows because it is its nature to grow. Ownership does not enter into it.

This is why Locke must restrict the notion of property solely to man, and why he must, like Mill, restrict it to human law as distinct from natural law. For George there is no contradiction between human law and natural law. And although ownership belongs strictly to the producer, this does not mean that labour is for the sake of property, as though ownership were the object or purpose of labour. In the end it remains the “use” of things that ultimately determines the purpose of labour. In Aristotelian terms it is the final end of wealth produced that renders it as good or bad, and this must remain the case even if it is commonly believed that wealth is only produced for the sake of ownership. In other words, it is the final effects for society or mankind as a whole that shows whether the creation of wealth is beneficial or not.

Mill...fearful of offending the powerful

There is just a hint in Henry George’s discussion of Mill that one reason he gets so confused over the meaning of property is that he is fearful of offending the powerful, for whom the idea of property means essentially ‘landed-property’. George writes:

He did indeed, come so near questioning it as to excite the dismay of his contemporaries who deemed him a radical of radicals for utterances that squint towards the truth. But he always draws back from uttering it. (p. 461)

It is easy to understand why the powerful land-owners should resist the view that land cannot be property, not only because their unearned income would vanish through conceding the truth, but also because it brings to light the abuse of land and the power to exploit labour. Private ownership of land inevitably means it is put to unjust or unnatural use. But also, from the point of view of deprived labour, it seems that property is the only means of security, whether property be land or a

loaf of bread. For the land-less to draw subtle distinctions between proprietary rights and access rights is liable to appear as mere sophistry. But even intellectuals, such as Marx, cannot see the distinction, and so communists can only think of transferring ownership from one owner to another through the state taking possession of the land and the means of production. It still remains a system founded in property, in which the ‘state’ is now the landlord.

Nevertheless we find the distinction has always been understood down the ages. Writing of the Golden Age the poet Virgil says:

*No tenants mastered holdings,
Even to mark the land with
private bounds
Was wrong: men worked for the
common store, and earth
Herself, unbidden, yielded all
more fully.*¹

Here we observe not only that there were no ‘private bounds’ in the land, but also that by working for the “common store” the earth is naturally more fruitful, because it is then put to its natural use.

With the Iron Age this is lost, as Ovid writes:

*The earth itself, which before has
been, like air and sunshine,
A treasure for all to share, was now
crisscrossed with lines
Men measured and marked with
boundary posts and fences.*²

The Roman Stoic Seneca also conceived of social ‘virtue’ in which there was no poverty. He writes:

*The social virtues had remained pure
and inviolate before covetousness dis-
tressed society and introduced poverty,
for men ceased to possess all things
when they began to call anything their
own . . . How happy was the primitive
age when the bounties of nature lay in
common and were used freely; nor had
avarice and luxury disunited mortals
and made them prey upon one another.
They enjoyed all nature in common,
which thus gave them secure posses-
sion of public wealth. Why should I
not think them the richest of all peo-*

*ple, among whom there was not to be
found one poor man?*³

It is important to observe that it is Nature that Seneca is speaking of here, not common property in the produce of labour. Through enjoying Nature in common it follows that all other wealth is secured. There is, however, a deeper idea present here too: “for men ceased to possess all things when they began to call anything their own”. Seneca is suggesting that once “possession” becomes “my possession” to the exclusion of another, natural possession, as the gift of nature, is lost, and with that comes poverty. Seneca calls this “covetousness”, which means to desire unlawfully or contrary to nature. It is a mixture of wrong knowledge of things and wrong desire for things, and so at once irrational and unethical. Also, and perhaps most important of all, when Seneca says all men “enjoyed nature in common” he does not mean a joint ownership of nature, but rather what is called “use-right”. Thus he is cited by Grotius as saying:

*To all the way was open;
The use of all things was a common
right.*⁴

So we need to also bear that in mind when we read “for men ceased to possess all things when they began to call anything their own”. The word “possess” here means use-right, and it is this common use-right that is lost when men “began to call anything their own”.

The truly significant point is that the relationship with Nature and the abundance of the earth changed once men “began to call anything their own”. Once things are valued as property rather than for the good they have in themselves and as part of the universal scheme of things, the human relationship with them is deformed and human nature itself cannot act according to its proper place within the scheme of things. This is the great insight of the Stoics. The way the Stoics see how the whole universe is the embodiment of justice and providence, drawing all things to their natural perfection within the whole, makes most contemporary ecology or environmentalism look rather feeble by comparison. For the Stoics there cannot be a right relationship with the earth without right perception and inward justice.

**"England is not a free people, till the poor that have no land,
have a free allowance to dig and labour the commons..."**

Gerrard Winstanley, 1649



To the Diggers and the Levellers natural law was clear and benefited all

We cannot draw to a close without mentioning the Diggers and Levellers of the seventeenth century – contemporary, we should note, with Hobbes and his degenerate conception of Nature and natural law. Here are the words of Gerrard Winstanley:

"And thus you Powers of England, and of the whole World, we have declared our reasons why we have begun to dig upon George hill in Surrey. One thing I must tell you more...."

"Break in pieces quickly the Band of particular Propriety [property], disown this oppressing Murder, Oppression and Thievery of Buying and Selling of Land, owning of landlords and paying of Rents and give thy Free Consent to make the Earth a Common Treasury without grumbling.....that all may enjoy the benefit of their Creation."

And hereby thou wilt honour thy Father and thy Mother : Thy Father, which is the spirit of community, that made all and that dwells in all. Thy Mother, which is the Earth, that brought us all forth: That as a true Mother, loves all her children. There-

fore do not hinder the Mother Earth from giving all her children suck, by thy Inclosing into particular hands, and holding up that cursed Bondage of Inclosure by thy Power."

"Propriety and single interest divides the people of a land and the whole world into parties and is the cause of all wars and bloodshed and contention everywhere"

Gerrard Winstanley & 14 others *The True Levellers Standard Advanced* - April, 1649

And in *A Declaration by the Diggers of Wellingborough* – 1650, we read:

We find in the Word of God, that God made the Earth for the use and comfort of all Mankind, and set him in to till and dresse it, and said, That in the sweat of his brows he should eat his bread; and also we find, that God never gave it to any sort of people, that they should have it all to themselves, and shut out all the rest, but he saith, The Earth hath he given to the children of men, which is every man.

We find, that no creature that ever God made was ever deprived of the benefit of the Earth, but Mankind; and that it is nothing but covetousnesse, pride, and

hardnesse of heart, that hath caused man so far to degenerate.

These amazing Diggers and Levellers were not philosophers or scholars but ordinary men who saw in the teachings of the Scriptures the goodness of the creation and the wisdom of divine justice which, if lived by, would remove poverty and all strife from human society. To them it was clear that natural law and the Scriptures grant to everyone the use of the Earth, but not possession of it, and that all the hardships of mankind arise through claiming possession of what is given freely for proper use by all.

The Medieval theologian Meister Eckhart, in his *Talks of Instruction* which he gave to novices, says that in truth all things belong to God, and that so long as we desire to possess anything for ourselves, then we are removed from God. Therefore, he says:

"...we should hold all things as if they were lent to us and not given, without possessiveness, whether it be body or soul, senses, powers, outward goods or honours, friends, relations, hearth and home, or anything at all".⁵



1. Virgil, *Georgics*, I/126-29, quoted by Richard Pipes in *Property & Freedom*, London, 199. p.10.

2. Ovid, *Metamorphoses*, I/134-36, quoted by Richard Pipes in *Property & Freedom*, London, 199. p.10.

3. Quoted by Richard Pipes in *Property & Freedom*, London, 199. p.11.

4. Quoted in Stephen Buckle, *Natural Law and the Theory of Property: Grotius to Hume*, Oxford, 2002, p.36.

5. Meister Eckhart, *Sermons and Treatises*, Volume III, translated by M. O'C. Walshe, Longmead, 1987, p.54.