

Appendix: The Theory of Property

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1865

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“If I ever find myself a proprietor, may God and men, the poor especially, forgive me for it!”

Proudhon's *Théorie de la propriété* was posthumously published from an unfinished manuscript in the year of his death by his friends. It was started in 1860/1 but, significantly, Proudhon never completed it, preferring to write and publish other works (such as *The Federative Principle*). Given that he completed *The Political Capacity of the Working Classes* on his death-bed, the question remains as how important this work is in terms of the overall evolution of his ideas. This is why this extract is in an appendix.

What becomes clear from this work is that there is no significant change in Proudhon's perspective on property and possession. The usual themes of his work are there, such as the land as common property, workers associations and the absolutist nature of property. His apparent new found support for “property” is not for capitalist private property. Rather, it is for property which combines ownership and use. As such, rather than a conversion away from his previous ideas this work represented more a slight shift in his position. The vision expounded is the familiar Proudhonian one of an artisan, peasant and workers co-operative based economy.

The Theory of Property

Chapter IX: Summary

The developments that I have given to my theory of property can be summed up in a few pages.

A first thing to observe is that, under the generic name of *property*, the apologists for that institution have confused, either through ignorance or through artifice, all manners of possession: communal system, emphyteusis, usufruct, feudal and allodial systems;^[1] they have reasoned about capital as if it were income, of fungible property as if it were immovable property. We have done justice to that confusion.

Possession, indivisible, untransferable, inalienable, pertains to the sovereign, prince, government, or collectivity, of which the tenant is more or less the dependent, bondman or vassal. The Germans, before the invasion, the barbarians of the Middle Ages, knew only it; it is the principle of all the Slavic race, applied at this moment by the Emperor Alexander to sixty millions peasants. That possession implies in it the various rights of use, habitation, cultivation, pasture, hunting, and fishing — all the natural rights that Brissot^[2] called *PROPERTY according to nature*; it is to a possession of that sort, but which I had not defined, that I referred in my first *Memoir* and in my *Contradictions*. That form of possession is a great step in civilisation; it is better in practice than the absolute domain of the Romans, reproduced in our anarchic property, which is killing itself with fiscal crises and its own excesses. It is certain that the economist can require nothing more: there the worker is rewarded, his fruits guaranteed; all that belongs

legitimately to him is protected. The theory of possession, principle of civilisation of the Slavic societies, is the most honourable of that race: it redeems the tardiness of its development and makes the crime of the Polish nobility inexpiable.

But is that the last word of civilisation, and of right as well? I do not think so; one can conceive something more; the sovereignty of man is not entirely satisfied; [its] liberty and vitality are not great enough.

Simple or allodial property — divisible and alienable — is the absolute domain of the holder over something, “the right of use and of abuse,” known initially as the *quiritary* law; “within the limits of the law,” the collective consciousness adds later. Property is Roman; I find it clearly articulated only in Italy; and yet its formation is slow.

The justification of the domain of property has always been the despair of jurists, economists, and philosophers. The principle of appropriation is that *every product of labour*, — such as a bow, some arrows, a plough, a rake, a house, — *belongs by right to whoever has created it*. Man does not create matter; he only shapes it. Nevertheless, although he did not create the wood from which he fashions a bow, a bed, a table, some chairs, or a bucket, it is the practice that the material follows the form, and that property in labour implies property in materials. It is presupposed that this material is offered to all, that no one is excluded, and that each may appropriate it.

Does the theory that the form carries the content apply to cultivated land? It is well-proven that the producer has a right to his product, the settler to the fruits that he has created. It is proven as well that one has a right to limit one's consumption, accumulate a capital, and do with it whatever one likes. But the land question cannot be answered in this manner; it is a new fact which exceeds the limit of the right of the producer. That producer did not create the soil, [which is] common to all. It is proven that he who has readied, furnished, cleaned up and cleared the soil has a right to remuneration, to compensation; it will be demonstrated that this compensation must consist, not in a monetary sum, but in the privilege of planting the cleared soil during a given time. Let us go all the way: it will be proven that each year of culture, involving improvement, entails for the cultivator the right to a fresh compensation. Very well! The property is not perpetual. Farm leases of nine, twelve, or thirty years can take all of that into account with regard to the farmer, with respect to whom the proprietor represents the public domain. The land tenure of the Slavic commune also takes into account the sharecropper; the law is satisfied, labour compensated: there is no property. The Roman law and the Civil Code have perfectly distinguished all of these things: rights of use, usufruct, habitation, exploitation, possession. How do the economists pretend to confuse these with the right of property? What are we to make of M. Thiers' paeans to of the bucolic and all the stupid declamations of the coterie?

Social economy, like right, knows no domain, and exists entirely outside of property: concept of value, wages, labour, product, exchange, circulation, rent, sale and purchase, currency, tax, credit, theory of population, monopoly, patents, rights of authors, insurance, public service, association, etc. The relations of family and city have no more need of property; domain may be reserved to the commune, or to the State; rent then becomes tax; the cultivator becomes possessor; it is better than tenant farming, better than sharecropping; liberty and individuality enjoy the same guarantees.

It must be well understood: humanity itself is not even proprietor of the earth: how could a nation, how could a private individual, say that it is sovereign over the portion that is its due? Humanity has not created the soil: man and the earth have been created for one another and

come under a higher authority. We have received the earth in tenancy and usufruct; it has been given to us to be possessed, exploited by us jointly and individually, under our collective and personal responsibility. We become the cultivator, the possessor, by enjoying, not arbitrarily, but according to *rules* that consciousness and reason discover, and for an end which goes beyond our pleasure: these *rules* and this *end* exclude all absolutism on our part, and refer terrestrial domain to a higher authority than ours. Man, said one of our bishops one day, is the *foreman of the globe*. These words have been highly praised. Well, it does not express anything but what I have just said, that property is superior to humanity, superhuman, and that every attribution of that sort, to us poor creatures, is usurpation.

All of our arguments in favour of property, that is, of an eminent sovereignty over things, only succeed in demonstrating possession, usufruct, usage, the right to live and to work, nothing more.

We must always come to the conclusion that property is a *true legal fiction*; only it could be that the fiction is grounded in such a way that we must regard it as legitimate. Otherwise, we do not depart from the realm of the possessory, and all of our argumentation is sophistic and in bad faith. It may be possible that this fiction, which appals us because we do not see the sense in it, is so sublime, so splendid, so lofty in its justice, that none of our most real, most positive, most immanent rights approach it, and they themselves only subsist by means of that keystone, a true fiction.

The principle of property — ultra-legal, extra-juridical, anti-economic, superhuman — is nonetheless a spontaneous product of the collective Being and of society, and it falls to us to search in it for, if not a complete justification, at least an explanation.

The right of property is absolute, *jus utendi et abutendi*, the right of use and abuse. It opposes itself to another absolute, government, which begins by imposing on its antagonist the restriction, *quatenus juris ratio patitur*, “within the limits of the law.” From the reason of the law to *raison d’État* is only a step: we are in constant danger of usurpation and despotism. The justification of property, which we have vainly sought in its origins — first occupancy, usucapion,[3] conquest, appropriation by labour, — we find in its *ends*: it is essentially political. Where domain belongs to the collectivity, senate, aristocracy, prince or emperor, there is only feudalism, vassalage, hierarchy and subordination; no liberty, consequently, nor autonomy. It is to break the bonds of COLLECTIVE SOVEREIGNTY, so exorbitant, so formidable, that the domain of property has been raised against it, true sign of the sovereignty of the citizen; it is to break those bonds that this domain has been assigned to the individual, the State retaining only the parts deemed indivisible and common: waterways, lakes, ponds, roads, public places, waste lands, uncultivated mountains, forests, deserts, and all that which cannot be appropriated. It is in order to increase the ease of transport and circulation that the earth has been rendered liquid, alienable, divisible, after having been rendered hereditary. Allodial property is a division of sovereignty: on that account it is particularly odious to power and democracy. It is odious first because of its omnipotence; it is the adversary of autocracy, as liberty is the enemy of authority; it does not please the democrats, who are all on fire for unity, centralisation, and absolutism. The people are cheerful when they look to make war against the proprietors. And yet *allodium* is the basis of the republic.

[...]

Every institution of property supposes either: 1) an equal distribution of land amongst the holders; or 2) an equivalent in favour of those who possess none of the soil. But this is a pure

assumption: the equality of property is not at all an initial fact; it is in the ends of the institution, not in its origins. We have remarked first of all that property, because it is abusive, absolutist, and based in egoism, must inevitably tend to restrict itself, to compete with itself, and, as a consequence, to balance [itself]. Its tendency is to equality of conditions and fortunes. Exactly because it is absolute, it dismisses any idea of absorption. Let us weigh this well.

Property is not measured by merit, as it is neither wages, nor reward, nor decoration, nor honorific title; it is not measured by the power of the individual, since labour, production, credit and exchange do not require it at all. It is a free gift, accorded to man, with a view to protecting him against the attacks of poverty and the incursions of his fellows. It is the breastplate of his personality and equality, independent of differences in talent, genius, strength, industry, etc.

[...]

Under the communist or governmentalist regime, it is necessary for the police and authority to guarantee the weak against the strong; sadly, the police and authority, as long as they have existed, have only ever functioned for the profit of the strong, for whom they have magnified the means of usurpation. Property — absolute, uncontrollable — protects itself. It is the defensive weapon of the citizen, his shield; labour is his sword.

Here is why it is suitable for all: the young ward as much as the mature adult, the black as the white, the straggler as the precocious, the ignorant as the learned, the artisan as the functionary, the worker as the entrepreneur, the farmer as the bourgeois and the noble. Here is why the Church prefers it to wages; and, for the same reason, why the papacy requires, in its turn, sovereignty. All the bishops, in the Middle Ages, were sovereign; all, until 1789, were proprietors; the pope alone remained as a relic.

The equilibrium of property still requires some political and economic guarantees. *Property*, — *State*, such are the two poles of society. The theory of property is the companion piece to the theory of the justification, by the sacraments, of fallen man.

The guarantees of property against itself are:

1. Mutual and free credit.
2. Taxes
3. Warehouses, docks, markets. [...]
4. Mutual insurance and balance of commerce.
5. Public, universal and equal instruction.
6. Industrial and agricultural association.
7. Organisation of public services: canals, railroads, roads, ports, mail, telegraphs, draining, irrigation.

The guarantees of property against the State are:

1. Separation and distribution of powers.
2. Equality before the law.
3. Jury, judge of fact and judge of law.

4. Liberty of the press.
5. Public monitoring.
6. Federal organisation.
7. Communal and provincial organisation

The State is composed: 1) of the federation of proprietors, grouped by districts, departments, and provinces; 2) of the industrial associations, small worker republics; 3) of public services (at cost-price); 4) of artisans and free merchants. Normally, the number of industrial workers, artisans, and merchants is determined by those of the proprietors of land. Every country must live by its own production; as a consequence, industrial production must be equal to the excess of subsistences not consumed by the proprietors.

There are exceptions to that rule: in England, for example, industrial production exceeded that proportion, thanks to foreign exchange. It is a temporary anomaly; otherwise certain races should be doomed to an eternal subordination [*subalternisation*]. Moreover, there exist exceptional products in demand everywhere: those from fishing, for example, and those from mineral exploitation. Measured over the entire globe, however, the proportion is as I say: the amount of subsistences is the regulator; consequently, agriculture is the essential and predominant industry.

In constituting property in land, the legislator wanted one thing: that the earth would not be in the hands of the State, dangerous communism or governmentalism, but in the hands of all. The tendency is, as a consequence, we are constantly told, toward the balance of property, and subsequently to that of conditions and fortunes.

It is thus that, by the rules of industrial association, which sooner or later, with the aid of better legislation, will include large industrial bodies, each worker has his hand on a portion of *capital*.

It is thus that, due to the law of the diffusion of labour, and the impact of taxes, everyone must pay his more or less equal part of the public expenses.

It is thus that, by the true organisation of universal suffrage, every citizen has a hand in government; and thus also that, by the organisation of credit, every citizen has a hand in circulation, and finds himself at once general partner and silent partner, banker and discounteer before the public.

It is thus that, by enlistment, each citizen takes part in defence; by education, takes part in philosophy and science.

It is thus, finally, that, by the right of free examination and of free publicity each citizen has a hand in all the ideas and all the ideals which can be produced.

Humanity proceeds by approximations:

1st The approximation of the equality of faculties through education, the division of labour, and the development of aptitudes;

2nd The approximation of the equality of fortunes through industrial and commercial freedom.

3rd The approximation of the equality of taxes;

4th The approximation of the equality of property;

5th The approximation of *an-archy*;

6th The approximation of *non-religion*, or non-mysticism;

7th Indefinite progress in the science, law, liberty, honour, justice.

It is proof that FATE does not govern society; that geometry and arithmetic proportions do not regulate its movements, as in mineralogy or chemistry; that there is a life, a soul, a liberty which escapes from the precise, fixed measures governing matter. *Materialism*, in that which touches society, is absurd.

Thus, on this great question, our critique remains at base the same, and our conclusions are always the same: we want equality, more and more fully approximated, of conditions and fortunes, as we want, more and more, the equalisation of responsibilities. We reject, along with governmentalism, communism in all its forms; we want the definition of official functions and individual functions; of public services and of free services. There is only one thing new for us in our thesis: it is that that same property, the contradictory and abusive principle of which has raised our disapproval, we today accept entirely, along with its equally contradictory qualification: *Dominium est jus utendi et abutendi re suâ, quatenus juris ratio patitur*.^[4] We have understood finally that the opposition of two absolutes — one of which, alone, would be unpardonably reprehensible, and both of which, together, would be rejected, if they worked separately — is the very cornerstone of social economy and public right: but it falls to us to govern it and to make it act according to the laws of logic.

What would the apologists for property do? The economists of the school of Say and Malthus?

For them, property was a sacrament which remained alone and by itself, prior and superior to the reason of the State, independent of the State, which they would humble beyond all measure.

They would desire then property independent of law, as they want competition independent of law; freedom of import and export independent of law; industrial sponsorship, the Stock Exchange, the Bank, wage-labour, tenant farming, independent of law. — That is, in their theories of property, of competition, of concurrence, and of credit, not content to declare an unlimited liberty, a limitless initiative, *which we also desire*, they disregard the interests of the collectivity, which are the law; not understanding that political economy is composed of two fundamental parts: the description of economic forces and phenomena apart from law, and their regularisation by law.

Who would dare to say that the equilibration of property, as I understand it, is its very destruction? What! Will it no longer be property, since the farmer will share in the rent and the surplus value; because the rights of the third who have built or planted will be established and recognised; because property in the soil will no longer necessarily mean property in that which is above or beneath it; because the lesser, in case of bankruptcy, will come with the other creditors to a division of the assets, without privilege; because between legitimate holders there will be equality, not hierarchy; because instead of seeing in property only enjoyment and rent, the holder will find in it the guarantee of his independence and dignity; because instead of being a ridiculous character, a M. Prudhomme or M. Jourdain^[5], the proprietor will be a dignified citizen, conscious of his duties as well as his rights, the sentry of liberty against despotism and usurpation?

I have developed the considerations which make property intelligible, rational, legitimate, and without which it remains usurping and odious.

And yet, even in these conditions, it presents something egoistic which is always unpleasant to me. My reason — being egalitarian, anti-governmental, and the enemy of ferocity and the abuse of force — can accept, the dependence on property as a shield, a place of safety for the weak: my heart will never be in it. For myself, I do not need that concession, either to earn my bread, or to fulfil my civic duties, or for my happiness. I do not need to encounter it in others to aid them in their weakness and respect their rights. I feel enough energy of conscience, enough intellectual force, to sustain all of my relations in a dignified manner; and if the majority of my fellow citizens resembled me, what would we have to do with that institution? Where would be the risk of tyranny, or the risk of ruin from competition and free exchange? Where would be the peril to the child, the orphan and the worker? Where would be the need for pride, ambition, and avarice, which can satisfy itself only by immense appropriation?

A small, rented house, a garden to use, largely suffices for me: my profession not being the cultivation of the soil, the vine, or the meadow, I have no need to make a park, or a vast inheritance. And when I would be a ploughman or winemaker, Slavic possession will suffice for me: the share falling due to each head of household in each commune. I cannot abide the insolence of the man who, his feet on ground he holds only by a free cession, forbids you passage, prevents you from picking a blueberry in his field or from passing along the path.

When I see all these fences around Paris, which block the view of the country and the enjoyment of the soil by the poor pedestrian, I feel a violent irritation. I ask myself whether the property which surrounds in this way each house is not instead expropriation, expulsion from the land. *Private Property!* I sometimes meet that phrase written in large letters at the entrance of an open passage, like a sentinel forbidding me to pass. I swear that my dignity as a man bristles with disgust. Oh! In this I remain of the religion of Christ, which recommends detachment, preaches modesty, simplicity of spirit and poverty of heart. Away with the old patrician, merciless and greedy; away with the insolent baron, the avaricious bourgeois, and the hardened peasant, *durus arator*. That world is odious to me. I cannot love it nor look at it. If I ever find myself a proprietor, may God and men, the poor especially, forgive me for it!

End Notes

[1] In Roman law, an *emphyteusis* was a long-term or perpetual lease that carried the obligation to improve the property, while *usufruct*, from the Latin phrase *usus et fructus* (“use and enjoyment”), refers to a right to use the non-consumable property of another (e.g., to farm another’s land, keeping the harvest but retaining no title to the land); an *allodium*, in medieval law, was land owned as a freehold, independently of any obligation to serve a lord – i.e., an exception to the *feudal* system of land tenure. (Editor)

[2] Jacques-Pierre Brissot (1754-1893), also known as de Warville, a leader of the Girondist faction during the French Revolution. (Editor)

[3] In Roman law, *usucapion* is a mode of ownership established by continuous occupation or possession. (Editor)

[4] “Ownership is the right to use and abuse of one’s own thing, as far as compatible with the logic of the law.” (Editor)

[5] Monsieur Prudhomme, created by Henry Monnier, was a caricature of the 19th century bourgeois. Plump, foolish, conformist and sententious, he was called by Honoré de Balzac “l’illustre type des bourgeois de Paris” (the very image of the Parisian bourgeoisie). Monsieur Jourdain is the main character of Molière’s comedy *Le Bourgeois Gentilhomme* (*The Bourgeois Gentleman*), which satirises attempts at social climbing and the bourgeois personality. The idiotic Jourdain is a rich merchant who wants to buy his way into the aristocracy. (Editor)