

Locke's Theory of Property

Philosophy 322: Modern Philosophy
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The idea of property is essential to Locke's *Second Treatise*. In Chapter I, political power itself is defined in terms of the regulation and protection of property. Near the end of his life in 1703, Locke recommended his own book to a young relative by saying, "Property I have nowhere found more clearly explained, than in a book entitled, Two Treatises of Government" (recall that Locke had published the *Treatises* anonymously; though his authorship appears to have been an open secret among English intellectuals, he never acknowledged it).¹ Locke's discussion of property in Chapter V has been immensely influential; it is also complex, and puzzling in several fundamental respects.

One preliminary note: throughout the *Second Treatise*, Locke uses the term 'property' in two senses. In the narrow sense, he is using it to refer to your material possessions, money, and land holdings. This is how we ordinarily use the term: to refer to those things someone owns and can use however they see fit. When Locke is talking about property in Chapter V of the *Second Treatise*, he is talking about property in this narrow sense. But elsewhere throughout the book, he uses the term in a broader sense, to refer to people's "lives, liberties and estates" (Sec. 123). In this more expansive (and somewhat more obscure) sense, your property includes not only your material and land possessions, but also your rights and liberties as determined by the law of nature. When Locke defines political power in Sec. 3 in terms of the regulating and preserving of property, he seems to have this broader sense in mind. Locke clearly sees an intimate connection between these two senses of 'property'. Laslett suggests that property (in the narrow sense) "seems to symbolize rights in their concrete form, or perhaps rather to provide the tangible subject of an individual's power and attitudes" (Laslett, *ibid.*, 103). However, in the rest of this handout, whenever I use 'property,' I mean it in the narrow sense.

ORIGINAL ACQUISITION

I. *The question about the origin of property.*

- (a) Reason and revelation (i.e., the Bible) both teach us that God has "given [the earth] to mankind in common" (Sec. 25). How, then, can an individual come to possess some portion of the earth as his own private property?

¹See Peter Laslett's edition of the *Two Treatises*, Cambridge University Press, 1988.

- (b) One answer in the background was given by the German philosopher Samuel von Pufendorf (1632 - 1694), whose 1672 book *De Jure Naturae et Gentium* (The Law of Nature and Nations) was an important influence on Locke. Pufendorf argued that since the world was given in common, it was only through the consent of everyone else to whom it was given (the “commoners;” i.e., those who hold the earth in common) that any one person could acquire something as his private property.
- (c) Another answer in the background was that of Robert Filmer, Locke’s nemesis from the *First Treatise*. Filmer held that since God had granted Adam dominion over the world as part of his patriarchal authority, and that this authority was passed down through successive monarchs, everything within a monarch’s domain was his property. The monarch gave his subjects rights to use his property, but strictly speaking it was his, not theirs.
- (d) Locke rejects both alternatives. His stated aim in Chapter V is to show “how men might come to have a *property* in several parts of that which God gave to mankind in common, and that without any express compact of all the commoners.” The first part of the quote states his opposition to Filmer; the second part his opposition to Pufendorf.
- (e) For both Pufendorf and Filmer, your property rights are contingent on someone else’s agreement: for Pufendorf, the consent of the other commoners; in Filmer’s, the permission of the monarch. For Locke, by contrast, property rights can be established independently of anyone else’s agreement. Property does not come to exist as a result of social or political arrangements; rather, it exists in the state of nature and is prior to politics and society.

2. *From “self-ownership” to appropriation.*

- (a) The earth was given to mankind “for the support and comfort of their being;” i.e., it is intended to be *used* by us. But we cannot rightfully use anything until we take it out of the commons and make it our own; as Locke puts it, in order to use some portion of the earth, we need some “means to appropriate” what we intend to use (Sec. 26). To appropriate X is to make X your property. Hence the key to answering the question in Sec. 25 will be specifying the means of appropriation; once we have that, we will be able to say what makes something your private property.
- (b) Locke’s account of appropriation has two parts:
 - i. *Ownership of your own labor.* First, Locke says, each of us has “a *property* in his own person,” in particular, “the *labour* of his body, and the *work* of his hands.” Many people call this Locke’s claim of “self-ownership,” but this may be a misleading way of talking about it. Recall from Chapter II that Locke thinks that we are *God’s* property, which (unless we can be joint proprietors of ourselves alongside God) would seem to imply that we do *not* own ourselves. In any event, the important part of Locke’s claim here is that a person’s *physical labor* is his own property. This follows from our normative equality in the state of nature: so long as we are abiding by the law of nature, none of us has authority to compel anyone else to do anything. Hence a man’s labor is something “no body has any right to but himself.”

- ii. *Labor-mixing*. Then, Locke says that we appropriate something by *mixing our labor with it*. By mixing his labor with some part of the commonly held earth, a man has “joined to it something that is his own,” which makes it his property.
- (c) Locke’s initial examples: when you pick up acorns or apples, “that labour put a distinction between them and common.” Some more curious examples: “the grass my horse has bit; the turfs my servant has cut; and the ore I have digged in any place, where I have a right to them in common with others, become my *property*” (Sec. 28). And “this law of reason makes the deer that *Indian’s* who hath killed it” (Sec. 30); by Locke’s lights, killing an animal is a way of mixing your labor with it.
- (d) Such appropriation does not, Locke claims, depend upon “an explicit consent of every commoner” (Sec. 29). Why? Locke doesn’t really say; rather, he stomps his feet. “Though the water running in the fountain be every one’s, yet who can doubt, but that in the pitcher is his only who drew it out?” This is not a good example, since presumably all of us would consent to allow someone to take a modest amount of water from the fountain for his own personal use. Presumably we would *not* consent to his taking all of the water from the fountain, leaving none left over for the rest of us. Intuitively, our non-consent seems sufficient to block your acquiring property rights to the water.

3. *Limits on appropriation.*

- (a) First limitation: *leave enough and as good*. Locke implies (though doesn’t quite say) that you can only appropriate as much of the commons as is consistent with leaving “enough, and as good” for the others (Sec. 27). This limitation seems plausible, but it is hard to pin down. What is meant by “enough”? Does leaving “enough” for the others mean that you must only take a share consistent with leaving an *equal* share for the others? Or does Locke have some other sort of criterion of sufficiency in mind? And what is meant by “as good”? Does this mean you can’t appropriate the best example of some class of goods? If not, what *does* it mean?
- (b) Second limitation: *no spoilage*. Locke says that we are permitted to appropriate things in order to *use* them. That means that if we appropriate more than we can use, we have appropriated improperly: “As much as any one can make use of to any advantage of life before it spoils, so much he may by his labour fix a property in: whatever is beyond this, is more than his share, and belongs to others” (Sec. 31). So you can’t appropriate something but then leave it to rot and become impossible to use.

4. *Land.*

- (a) So much for acorns and apples. The more pressing question is when you get to claim some piece of *land* as your own. Locke thinks that just as you can mix your labor with an apple by picking it up off the ground, you can mix your labor with the ground itself by “till[ing], plant[ing], improv[ing], [and] cultivat[ing]” it. When you work the land, you make it your property; you “as it were, inclose it from the common”. By doing this, you “annex to it something that was [your] *property*”; i.e., your labor (Sec. 32). And so the land becomes your property, too. By mixing your labor with it, you become entitled to enclose it; i.e., to fence it off and mark it as your own.

- (b) There is something bizarre about this idea. Here is a question from the 20th century philosopher Robert Nozick to bring out some of the strangeness. Suppose you own a can of tomato juice, and pour it into the commonly held ocean. You've now mixed some of your property (the juice) with something previously held in common. Do you own the ocean now? Obviously not. But it's not clear how this example differs from Locke's account of land acquisition. (Consider other questions like: do you own the earth six feet under the land you've worked, if you've never plowed that deep? How about the spaces between the furrows in your field?)²
- (c) Note that the only way Locke sees for you to mix your labor with the land is via agriculture. In particular, using land for hunting and foraging is not a way of mixing your land with it. Since this is how the native inhabitants of America (mostly) used land, this implies that they have not acquired the land they use as their property.
- (d) The spoilage rule still applies: "But if either the grass of his inclosure rotted on the ground, or the fruit of his planting perished without gathering, and laying up, this part of the earth, notwithstanding his inclosure, was still to be looked on as waste, and might be the possession of any other" (Sec. 38). You shouldn't attempt to inclose more land than you can successfully farm; otherwise you forfeit your title to the land you've inclosed.
- (e) There is also the question of leaving enough for others. Locke asserts that appropriating land was originally no "prejudice to any other man, since there was still enough, and as good left; and more than the yet unprovided could use" (Sec. 33). In England, this was no longer the case; very little land was left over to appropriate. But for Locke, America was a different story: he conceived of it as a vast open space of unused, unappropriated land, ready for the taking. "In the beginning," he says, "all the world was America" (Sec. 49).

THE LABOR THEORY OF VALUE

- 1. The more labor you put into something, the more it is worth. That means that the value produced by a piece of land is evidence of the amount of labor someone put into a piece of land by considering the value of what it produces.
- 2. Sec. 41: the low value of American lands is evidence that their inhabitants have not mixed much labor with them. Therefore...

MONEY AND INEQUALITY

- 1. Do you know what doesn't spoil? Gold! So you can acquire as much gold as you like without violating the spoilage rule. People have "tacitly agreed" to value gold and other metals, and hence a money system has arisen with their "consent".
- 2. Hence "it is plain, that men have agreed to a disproportionate and unequal *possession of the earth*, they having, by a tacit and voluntary consent, found out a way how a man may fairly

²See Paul Kelly, *Locke's Second Treatise of Government*, p. 70 for discussion of these examples.

possess more land than the himself can use the product of, by receiving in exchange for the overplus gold and silver, which may be hoarded up without injury to any one; these metals not spoiling or decaying in the hands of the possessor” (Sec. 50).