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Louis Wolowski and Émile Levasseur, “Property II” (1864)
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Louis Wolowski (1810-76)

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[September, 2013]

Editor's Introduction

Louis Wolowski (1810-76) was a lawyer, politician, and economist of Polish origin. His interests lay in industrial and labor economics, free trade, and bimetallism. He was a professor of industrial law at the Conservatoire national des arts et métiers, a member of the Académie des sciences morales et politiques from 1855, serving as its president in 1866-67, and member and president of the Société d'économie politique. His political career started in 1848, when he represented La Seine in the Constituent and Legislative Assemblies. During the 1848 revolution he was an ardent opponent of the socialist Louis Blanc and his plans for labor organization. Wolowski continued his career as a politician in the Third Republic, where he served as a member of the Assembly and took an interest in budgetary matters. He edited the *Revue de droit français et étranger* and wrote articles for the *Journal des économistes*. Among his books are *Cours de législation industrielle. De l'organisation du travail* (1844) and *Études d'économie politique et de statistique* (1848), *La question des banques* (1864), *La Banque d'Angleterre et les banques d'Ecosse* (1867), *La liberté commerciale et les résultats du traité de commerce de 1860* (1869), and *L'or et l'argent* (1870).

Pierre Émile Levasseur (1828-1911) began his career as a specialist in the history of economic thought before turning to the study and promotion of the discipline of economic geography, of which he was a pioneer. Levasseur was a member of the Société d'économie politique and wrote many articles and book reviews for the *Journal des Économistes*.

This essay was written some 10 years after that of Léon Faucher when some of the heat felt in 1852 towards the failed socialist experiments of 1848 had dissipated. Wolowski and Levasseur continue to reply uncompromisingly to the socialist critique of property rights but begin their essay quite differently. Whereas Faucher had rebuked the economists for not providing an adequate theoretical defence of private property and had just accepted it as a given, Wolowski and Levasseur are almost poetical in their defence of private property as an extension of the very person of the owner and their depiction of the social benefits of property as the best means of aiding others in the pursuit of their own hopes and aspirations for a better life for themselves and their families.

“Far from injuring each other, men sustain each other by their individual development. For property is not a common fund fixed in advance, which is diminished by the amount which each appropriates; it is, as we have said, a creation of the intelligent force which dwells in man; each creation is added to the previous creations, and, putting new vigor into commerce, facilitates ulterior creations. The property of one, far from limiting for others the possibility of becoming owners, on the contrary increases this possibility; it is the strongest stimulus to production, the pivot of economical progress; and if the nature of things had not made a law with regard to it, anterior to all agreement, human law would have established it as the institution pre-eminently useful to the welfare and morality of nations.”

“Property II” (1864)¹

[INTRODUCTION]

Property and the family are two ideas, for the attack and defense of which legions of writers have taken up arms during the last half century. Recent systems, founded upon old errors, but revived by the popular emotions which they aroused, have in vain disturbed, misrepresented, sometimes, even denied, them. These ideas express necessary facts, which, under diverse forms, have been and will always be coming forth; they may thus be justly regarded as the fundamental principles of all political society, because from them originate, to a great extent, the two principal objects which concern social laws, namely, the rights of man over things, and his duties toward his fellow-men.

THE RIGHT OF PROPERTY.

If man acquires rights over things, it is because he is at once active, intelligent and free; by his activity he spreads over external nature; by his intelligence he governs it, and bends it to his use; by his liberty, he establishes between himself and it the relation of cause and effect and makes it his own.

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Nature has not for man the provident tenderness imagined by the philosophers of the eighteenth century and dreamed of before them by the poets of antiquity when they described the golden age. She does not lavish her treasures in order to make life flow smoothly along in abundance and idleness for mortals; on the contrary, she is severe, and yields her treasures only at the price of constant labor; she maltreats those who have not sufficient strength or intelligence to subdue her, and when we consider the primitive races whom the arts of civilization had not yet raised above her, we may ask ourselves, with Pliny, if she did not show herself a step-mother rather than a mother. Left to itself, the earth presents here deserts, there marshes or inextricable forests; the most fertile portions are ordinarily the most inaccessible, because, situated in the valley; they are encroached upon by stagnant waters, and infected by the miasms which exhale from them, or haunted by noxious animals which seek their food there; poisonous plants grow among the nutritious ones, without any outward sign by which to distinguish them, while yet we have not the warming of instinct which the animals have. The best fruits themselves have as yet, for the most part, only a coarse savor before cultivation has corrected their bitterness. Doubtless man can live, as he has, amidst this indifferent or hostile nature; but he would live there, timid and fearful as the roe of the forests, isolated, or collected in small groups, and lost in the immense spaces in which his frail existence would be but an accident in the luxuriant life of organized beings; he would not feel himself at home, and would in very fact be like a stranger on an earth which he would not have fashioned according to his will, and where he would be neither the swiftest in the chase, the best protected against cold, nor the best armed for strife.

What even now distinguished him from other creatures, in this state of profound barbarism, were the divine powers of soul with which he was gifted. However torpid they might as yet have been, they would have taught him, without any doubt, to emerge

¹ This article first appeared as "Propriété" in the *Dictionnaire générale de la politique par Maurice Block avec la collaboration d'hommes d'état, de publicistes et d'écrivains de tous les pays*. (Paris: O. Lorenz. 1st ed. 1863-64), vol. 2, pp. 682-93. It was translated into English and included in Lalor's *Cyclopedia of Political Science, Political Economy, and of the Political History of the United States by the best American and European Authors*, ed. John J. Lalor (Chicago: M.B. Carey, 1899) in 3 vols. Vol 3 Oath - Zollverein. Chapter: PROPERTY <<http://oll.libertyfund.org/title/971/63517>>. It appeared as a footnote to their translation of Léon Faucher's article on "Property." The translation includes the first 5 pages of the article on theoretical and historical matters but leaves out the last 5 pages on specific types of property such as inheritance, landed property, intellectual property, etc.

from his nakedness and his feebleness: from the earliest times, they would have suggested the means of arming his hand with an axe of stone, like those which, buried in the calcareous deposits of another age, tell us to-day of the miserable beginning of our race upon the globe; they would have taught him to protect his body against the cold with the skin of the bear, and to shield his home and family from the attacks of ferocious beasts by arranging a cave for his use or building a hut in the midst of water, not far from the shore of a lake. But already man would have left upon matter some impress of his personality, and the reign of property would have begun.

When centuries have elapsed, and generations have accumulated their labors, where is there, in a civilized country, a cold of earth, a leaf, which does not bear this impress? In the town, we are surrounded by the works of man; we walk upon a level pavement or a beaten road; it is man who made healthy the formerly muddy soil, who took from the side of a far-away hill the flint or stone which covers it. We live in houses; it is man who has dug the stone from the quarry, who has hewn it, who has planed the wood; it is the thought of man which has arranged the materials properly and made a building of what was before rock and wood. And in the country, the action of man is still everywhere present; men have cultivated the soil, and generations of laborers have mellowed and enriched it; the works of man have deemed the rivers and created fertility where the waters had brought only desolation; to-day man goes as far as to people the rivers, to direct the growth of fish, and takes possession of the empire of the waters. We reap the wheat, our principal food. Where is it found in a wild state? Wheat is a domestic plant, a species transformed by man for the wants of man. Thus products, natives of countries most diverse have been brought together, grafted, modified by man for the adornment of the garden, the pleasures of the table, or the labors of the workshop. The very animals, from the dog, man's companion; to the cattle raised for the shambles have been fashioned into new types which deviate sensibly from the primitive type given by nature. Everywhere a powerful hand is divined which has moulded matter, and an intelligent will which has adapted it, following a uniform plan, to the satisfaction of the wants of one same being. Nature has recognized her master, and man feels that he is at home in nature. Nature has been *appropriated* by him for his use; she has become his *own*; she is his *property*.

“This property is legitimate; it constitutes a right as sacred for man as is the free exercise of his faculties. It is his because it has come entirely from himself and in no way anything but an emanation from his being. Before him, there was scarcely anything but matter; since him, and by him, there is interchangeable wealth, that is to say, articles having acquired a value by some industry, by manufacture, by handling, by extraction, or simply by transportation.”

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Some authors have tried to establish the principle of property on the right of the first occupant. This is a

narrow view: occupation is a fact and not a principle. It is one of the signs by which the taking of possession manifests itself, but it is not sufficient to make it valid before the philosopher or the lawyer. Let a man land upon a desert, and say: "As far as my eye can reach, from this shore to the hills which bound the horizon yonder, this land is mine"; no one would accept such occupation for a *bona fide* title. But let the man settle upon the most the most fertile hill-side, build a hut there, cultivate the surrounding fields, and the possession of the portion actually occupied will become a right, because he has performed a proprietary act, that is to say, has by his labor thereon impressed on it the seal of his personality. International law makes a distinction, in regard to this, between individuals and states; what it refuses to the former, it grants to the latter; and it recognizes the validity of a summary taking of possession, which does not injure any anterior right. It is because the occupation is of an entirely different nature: the one having as its object useful possession, the other sovereignty, which implies only a general protection; the proof of this is, that in modern society the sovereignty frequently passes from one state to another without property changing hands.[1]

Montesquieu wrote: "As men have renounced their natural independence in order to live under political laws, they have renounced their natural community of possession to live under civil laws. The political laws gave them liberty; the civil laws, property". Bentham enlarged upon the same thought: "Property and law were born together, and will die together. Before law, there was no property; take away the law, and all property ceases." This was a narrow view. Montesquieu and Bentham, in order to consider but one side of the question, approached very near an exceedingly dangerous error, for it led to this consequence, that if the law had made property, the law could unmake it, and undid the very foundation which the authors intended to lay. It is evident that property originated before law, as before the formation of any regular society, since there has been appropriation of a certain part of matter ever since man had lived, and began, in order to extend his hand and his intelligence about him. Property and the family have been the cause, and not the effect, of society; and the laws, to follow the beautiful definition placed by Montesquieu himself at the beginning of his work, "are the necessary relations which flow from the nature of things"; the laws have consecrated this necessary

relation which was established between man and matter, but they have not erected a relation which would have been factitious and accidental. It is true that, without law, property has no guarantee against violence, and that it lacks security and solidity. But what right is there the exercise of which would be secure outside of the social condition?

It is also true that there are certain kinds of property which could not be produced without the protection of social law, because an advanced civilization and good government have the effect of widening the circle in which human activity can with safety move, and consequently extend the field of property. It is true, in short, that, in a certain number of particular cases in which natural right does not furnish sufficient light, the law decides and determines thus a positive right of property which it might perhaps determine otherwise, because it is important, in well organized society, that nothing, in such a matter, should remain in uncertainty, abandoned to the caprice of arbitrary power. But care must be taken not to confound a particular form or case with the principle of right itself.

"It is, then, to the human being, the creator of all wealth, that we must come back; it is upon liberty that it is expedient to base the principle of property, and if any one would know by what sign it is to be recognized, we will answer that it is by labor that man impresses his personality on matter. It is labor which cultivates the earth and makes on an unoccupied waste an appropriated field; ... it is labor which is the distinctive sign of property; it is the condition (or the means) of it, not the principle, which traces its origin to the liberty of the human soul."

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Property, made manifest by labor, participates in the rights of the person whose emanation it is; like him, it is inviolable so long as it does not extend so far as to come into collision with another right; like him, it is individual, because it has its origin in the independence of the individual, and because, when several persons have co-operated in its formation, the latest possessor has purchased with a value, the fruit of his personal labor, the work of all the fellow-laborers who have preceded him; this is what is usually the case with manufactured articles. When property has passed, by sale or by inheritance, from one hand to another, its conditions have not changed; it is still the fruit of human liberty manifested by labor, and the holder has the same rights as the producer who took possession of it by right.

Violence, confiscation, fraud, conquest, have more than once disturbed the natural order of property, and mixed their impure springs with the pure sources of labor. But they have not changed the principle. Does the theft by which a lucky rascal is enriched interfere with the fact that labor is necessary for the production of wealth? Moreover, we must not exaggerate at pleasure the extent of these deviations from the general rule. It has been said that if we could go back to the origin of all landed property, possibly none would be found untainted with some one of these vices, on the soil of old Europe, overrun and successively occupied by so many hordes of invaders in ancient times and the middle ages. But how far would we have to go back

across the centuries? so far that it could not be told in the case of ninety-nine hundredths of landed estates, except by mere conjecture, based on the probabilities of history. French laws, for instance, have established the thirty-years limitation, firstly, because it is necessary, in order to give some fixity to property, that it should not be left exposed to endless claims, and then, because long possession is itself a title, and because a man who has himself or by his tenantry, or farmers, put continuous labor on the same soil for a generation, has made, so to speak, the property his own. Now what is this short legal limitation beside the long limitation of ages, and how would any one dare contest the lawfulness of the owner's right over lands now richly cultivated, covered with farms and manufactories under the pretext that a Frank of the fourth century expelled from them a Gaul who was herding his flocks there? On the land has accumulated immovable wealth, which has sometimes increased the value of it a hundred-fold, and the origin and transmission of which are equally lawful. Out of the soil has grown the personal wealth which now forms a large part of the patrimony of society, and this wealth, the fruit of modern labor, is for the greater part free from the stain of brute force. War is no longer in our day a means of existence; it is rather a cause of ruin; conquerors aspire to usurp sovereignty, but they respect property. The political societies which have settled in new worlds, in America and Australia, have been established for the greater part by the clearings of the pioneers who made the land what it is, and bequeathed it to their children. There has been little or no violence there, in the many places where they have not had to strive against savage tribes, even in the occupation of the land. In the main, if we consider property as a whole, how small a place is occupied by the exception as compared with the rule, by violence as compared with labor!

SOCIAL UTILITY OF PROPERTY.

What is just is always useful: Property has such a character of social utility that society could not exist without property, and there is no thriving society without individual property. Therefore, when persons have desired to base property upon utility, arguments were certainly not lacking; but utility, which must be taken great account of in political subjects is, as we have remarked, a result, and not a principle, and we

must content ourselves with saying that the excellent effects of property corroborate the lawfulness of the right. "Man", says M. Thiers, "has a first property in his person and his faculties; he has a second, less adherent in his being, but not less sacred, in the product of these faculties, which embraces all that is called the goods of this world, and which society is deeply interested in guaranteeing to him; for without this guarantee there would be no labor, without labor no civilization, not even the most necessary, but only misery, robbery and barbarism." We can not imagine a society entirely devoid of the idea of property; but we can conceive of one, and even find such in history, where property is in a rudimentary condition, and it would not be difficult to prove that such a condition is indeed, as M. Thiers says, misery and barbarism. Man is not a god; labor, which is a healthful exercise for both soul and body, is at the same time painful; it is only at the cost of an effort that man realizes his thought in matter, and oftentimes he would not make this effort, so painful to him, if he were not encouraged by the thought of producing a useful effect, and of himself enjoying the result of it. Who would take the trouble to fell a tree, to divide it into boards, if he knew that the next day a savage would seize upon it to make a fire with it, or even build a hut! Activity would have no object, because it would have no certain compensation; it would retire within itself, like the snail when threatened by danger, and would not venture out save for the satisfaction of the most immediate wants or the creation of property the easiest to defend—the hunting of game, or the manufacture of a bow or of an axe. In societies which have already risen to a certain degree of civilization, but which have not sufficient respect for property, this social imperfection alone is enough to impede progress and to keep men for centuries at a low level, to rise above which requires unheard-of efforts, and, above all, the knowledge of right. "All travelers," says M. Thiers elsewhere, "have been struck by the state of languor, of misery, and of greedy usury, in countries where property is not sufficiently protected. Go to the east, where despotism claims to be the sole owner, or what amounts to the same thing, go back to the middle ages, and you will see everywhere the same features; the land neglected, because it is the prey most exposed to the greediness of tyranny, and reserved for the slaves, who have no choice of employment; commerce preferred, as being able to escape more easily from exaction". A melancholy picture, but which

has long been and still is, on a large portion of our globe, the true picture of humanity. When property, on the contrary, is fully recognized, respected and protected in its various forms, man does not fear to let his activity radiate in every direction. The picture of society is then entirely different: in place of a few thin, boughless shrubs, there will be seen a forest of immense oaks, spreading their branches far and wide, and exhibiting trunks more vigorous in proportion to the greater number of pores through which they breathe air and life. Far from injuring each other, men sustain each other by their individual development. For property is not a common fund fixed in advance, which is diminished by the amount which each appropriates; it is, as we have said, a creation of the intelligent force which dwells in man; each creation is added to the previous creations, and, putting new vigor into commerce, facilitates ulterior creations. The property of one, far from limiting for others the possibility of becoming owners, on the contrary increases this possibility; it is the strongest stimulus to production, the pivot of economical progress; and if the nature of things had not made a law with regard to it, anterior to all agreement, human law would have established it as the institution pre-eminently useful to the welfare and morality of nations.

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HISTORY OF PROPERTY.

It will be understood, that, although the principle of property is always the same, it has not been comprehended and applied in the same manner at all times and in all countries. It is with the right of property as with most natural rights, which remain long buried in barbarism, and emerge from it gradually with the progress of civilization. We tend at present toward the plenitude of the right of property, and the most advanced nations of Europe and the new world appear to be very far from the ideal of our conception. But how many centuries has it taken to free it from the exigencies or the ignorance of the past? The savages of America, who did not cultivate the soil, had no idea of landed property; custom made sacred the right of possession only for personal property; the land was common to all; it was a vast territory for fishing and hunting, open to all belonging to the tribe, but defended with jealous care against the encroachments of the neighboring tribes. When they improved and formed societies wisely organized, as in Mexico and Peru, they were necessarily obliged to take into account the appropriation of land, but their ideas even then did not rise to individual property. "No one," says Robertson, speaking of Peru, "had an exclusive right over the portion allotted to him. He possessed it only for a year. At the expiration of that time, a new division was made according to the rank, the number and the necessities of the family. All these lands were cultivated by the common labor of all the members of the community." In Mexico the grandees had individual property, but, he adds, "the bulk of the nation possessed the lands in a widely different manner. A certain quantity of land was allotted to each district proportionate to the number of families which formed it. This land was cultivated by the labor of the whole community. The product was taken to a common warehouse, and divided among the families according to their respective needs."

The primitive nations do not appear to have risen much higher in the conception of the idea of property. Among the pastoral peoples of the east, property, composed principally of personal property and cattle, was almost wholly in the hands of the father of the family, of the patriarch, of the chief of the tribe; such are the customs of the Arabs, and we find them to-day in Algeria, where the land belonging to the members of the same *douar* or village in common, is distributed

among them by the *caid*. The same system, ascending from the head of a family to the prince, has concentrated all property in the hands of eastern despots, and enfeebled the progress of those beautiful countries by cutting into the roots of individual activity. The Jewish law had conceived the idea of the cancellation of personal debts every seven years and the restoration of alienated lands every fourteen years, at the great jubilee, with the view of retaining property in the same tribes and families: a law, which appears, however, not to have been very well observed. In Greece, Sparta and Athens there were indicated two opposite tendencies: one mutilating and suppressing almost the right of property, in order to fashion the citizen according to the will of the state; the other insuring, notwithstanding certain restrictions, civil liberty; but it is easy to see to which side the preferences of the philosophers inclined. Even in the laws, in which he tries to create a practical policy, Plato expresses himself thus: "I declare to you, as a legislator, that I regard you and your property as belonging, not to yourselves, but to your family, and your entire family, with its property, as belonging still more to the state." Rome, while sanctioning territorial property more solemnly than most other ancient governments, guaranteed it to her own citizens only, and centred it in the hands of the father of the family; conquest, moreover, was still among the principal modes of acquisition, and had given rise to immense possessions of the state (*ager publicus*) and to the agrarian laws. During the empire the jurisconsults, under the influence of the new ideas propagated by the stoic philosophy and the Christian religion, set themselves to extricate persons too closely confined by family bonds, and property was the gainer by this advance in liberty. But in the middle ages the feudal system weighed heavily upon the land; confounding the ideas of property and sovereignty, it made the possessor of the land master of chattels and persons, bound both the one and the other by a multiplicity of bonds, the serfs to the glebe, the lords to the fief and interwove society in a vast net-work of reciprocal servitudes. Personal property, long smothered by these various systems, showed itself only with timidity, under the shelter of the franchise, in the guilds of the arts and trades; the laws of the princes protected it only by keeping it under strict tutelage; it gradually increased, however, and was even beginning to develop quite rapidly, when the discoveries of Christopher Columbus and Vasco da

Gama had opened the great course of the ocean to maritime commerce. But, at this period, the absolute power of kings was being raised upon the ruins of feudalism in the principal states of western Europe, and if property freed itself somewhat *de facto* from bonds put on it, it *de jure* only changes masters without acquiring any further independence. Louis XIV., who may be regarded as the most illustrious and most fully convinced representative of absolute power, wrote, for the instruction of the dauphin: "Everything within the extent of our states, of whatever nature, belongs to us by the same title. You should be fully convinced that kings are absolute lords, and have naturally the full and free disposition of all property possessed as well by the clergy as the laity, to use as wise stewards". About a century later, in 1809, another sovereign, not less absolute, said during a session of the council of state: "Property is inviolable. Napoleon himself, with the numerous armies at his command, could not take possession of a single field, for to violate the right of property in one, is to violate it in all." His actions did not always exactly conform to this theory; nevertheless, this declaration shows what progress the idea of property had made in France, from the eighteenth to the nineteenth century. This was because the eighteenth century had passed between the two periods, and although it had not itself a clear idea of the sacred character of property, since it based it upon utility and the law, and declared it to have originated in a so-called primitive community, it had, nevertheless, shaken off the yoke of feudal servitude and the divine right of kings; it had pleaded the cause of liberty, and the revolution had made this cause triumph, by emancipating man, labor and the land; property could now be produced under its principal forms.

OF THE OBJECTIONS TO PROPERTY.

“Property triumphed with liberty, one of the forms of which it is. It was just the time when it was about to be obliged to defend itself against the most malevolent adversaries, who attacked it in the name of a pretended equality”

Property triumphed with liberty, one of the forms of which it is. It was just the time when it was about to be obliged to defend itself against the most malevolent adversaries, who attacked it in the name of a pretended equality; jealous of seeing large fortunes displaying themselves side by side with extreme poverty, they foolishly believed that to deprive of the fruits of their labor those who had lawfully acquired them, was to encourage labor and to relieve poverty. The convention, guided by principles entirely different from those of the constituent assembly, slid more than once down this declivity, and following the convention, Gracchus Babœuf collected and exaggerated the doctrines of the mountain out of which he created modern communism. "When", says he, "the minority in a state have succeeded in engrossing landed and industrial wealth, and by this means hold the majority under their rod, and use their power to cause them to languish in want, the fact should be recognized that this encroachment could take place only under the protection of the government, and then what the old administration failed to do in its time to prevent the abuse or to repress it at its birth, the present administration should do, in order to re-establish the equilibrium which should never have been lost, and the authority of the law should effect an immediate change in the direction of the ultimate principle of the perfected government, of the social contract: that all should have enough, and no one too much." There have been at all times those who have dreamed of a community of property, and who could do so the better as individual property was in their time less extended and less firmly established. Plato wrote his "Republic"; Campanella, his "City of the Sun"; Thomas More, his

"Utopia"; Fenelon, his "Bætica" and his "Government of Salentum"; but they created a speculative philosophy rather than a policy, and intended, above all, to trace for mankind an ideal of virtue: a mistaken, erroneous conception, but more disinterested, nevertheless, than that of modern communists. The principal object of the latter is enjoyment; their theories have been suggested by the sight of the wealth which was increasing rapidly in modern society, but distributing its favours in an unequal manner, as it proportioned them to the labor, to the intelligence, to the capital of each one and to the circumstances of production: they have wished that those less favored should have a larger share without having a burden of labor and they have conceived of no better way to do this than to limit or confiscate capital, that is to say, property, which is the lever of labor.

The Saint-Simonians, to attain this end, proposed to organize a powerful priesthood, composed of the ablest men in science, the arts and manufactures. This priesthood would have given an impetus to all society; the priest would have been "the living law"; there would have been no longer emperor nor pope; there would have been a father "disposing of all the capital and products, and distributing them to each according to his merits." "They arrived at this conclusion, that "all property is property of the church," and that "every kind of business is a religious function." They did not see that property is the very reward of the labor which they were extolling, and the fruit of the economy without which labor deprived of capital, is reduced to impotence; they did not see that hereditary transmission is the consequence and the extension of property, and under pretense of increasing social wealth, wealth which for lack of being managed and renewed by the force of individual interests, would have insensibly melted away in the hands of their high priest, they ended in an immense despotism; in order to pursue the shadow of comfort, they would have forfeited, without knowing it, their real welfare, and they did not hesitate knowingly to sacrifice liberty, the most important of all possessions in a society of civilized men. This is where the first of the systems hostile to property would have led to.

That of Fourier dates from about the same period, that is to say, the consulate. But it found no echo until after the great eclat which Saint-Simonism caused at the beginning of the reign of Louis Phillipe. Fourier was not, properly speaking, a communist; he

proclaimed liberty, and admitted capital. But, in fact, he incloses both the one and the other in a system of exploitation in common which maims them; there is no longer but one kind of liberty, that of abandoning one's self without restraint to one's various appetites; there is no longer but one kind of property, that of the phalanstery. Is that truly liberty which, with a firm will for a guide and responsibility for a guarantee, directs the spirit of man toward a definitive end? Is this truly property, that is to say, the full and entire possession of the various things which man had appropriated to himself by labor?

The latest adversary of property is M. Proudhon, who in a famous pamphlet has taken up again a paradox of Brissot's, viz., that property is theft; M. Proudhon, does not recognize, either in possession or labor, sufficient reasons to justify property. "Since every man" he says "has the right to possess simply because he exists and can not do without material for exploitation and labor in order to live; and since, on the other hand, the number of occupants varies continually by birth and death, it follows that the quantity of material to which each laborer may lay claim is changeable, like the number of occupants; consequently, that possession is always subordinate to the population; finally, that as possession in law can never remain fixed, it is, in fact, impossible that it should become property." Elsewhere, in answering the argument of Ch. Comte, who sees a title to property in the superior value obtained by the possessor when the latter, thanks to his labors, has drawn subsistence for two persons from soil which had formerly fed but one, M. Proudhon adds: "I maintain that the possessor is doubly paid for his trouble and his industry, but that he acquires no right to the land. Let the laborer claim the fruits as his own; I grant that he should have them, but I do not understand that the ownership of the produce involves that of the material." This concession places all personal property outside of litigation, as it consists entirely of the produce which the laborer has made his own and has not consumed. There remains landed property, or, to express it more clearly, the very small portion of the value of real estate which is not the result of labor, a personal capital buried in the soil and confounded with it. Now, no economist maintains that every man, on coming into this world, has a right to a portion of it, and especially to a portion equal to that of others in the very country in which he is born. Possession is a fact, and not a right; it may give rise to a

right when, having taken place upon land still unpossessed it is sanctioned by labor; that is all. Society guarantees the rights of individuals, it is her first duty; in the system, of M. Proudhon she would commit the double fault of wishing to do them too much good by seeking to make a fortune for them, and of doing them too much harm by spoiling some of a right logically anterior to herself, for the purpose of endowing others with a gratuitous benefit.

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Endnotes

[1] The word "cultivate" (to work and sow) must not be taken too literally: possession of land may also be taken by placing flocks on it, by opening a mine on it or otherwise. And if the government has taken possession in the manner indicated in the text, and an individual buys a piece of ground from it, this ground becomes individual property even if left unoccupied.

Further Information

SOURCE

The edition used for this extract: This article first appeared as "Propriété" in the *Dictionnaire générale de la politique par Maurice Block avec la collaboration d'hommes d'état, de publicistes et d'écrivains de tous les pays*. (Paris: O. Lorenz. 1st ed. 1863-64), vol. 2, pp. 682-93. It was translated into English and included in *Lalor's Cyclopaedia of Political Science, Political Economy, and of the Political History of the United States by the best American and European Authors*, ed. John J. Lalor (Chicago: M.B. Carey, 1899) in 3 vols. Vol 3 Oath - Zollverein. Chapter: PROPERTY <<http://oll.libertyfund.org/title/971/63517>>. It appeared as a footnote to Léon Faucher's article on "Property." The translation includes the first 5 pages of the article on theoretical and historical matters but leaves out the last 5 pages on specific types of property such as inheritance, landed property, intellectual property, etc.

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“The distinctive principle of Western social philosophy is individualism. It aims at the creation of a sphere in which the individual is free to think, to choose, and to act without being restrained by the interference of the social apparatus of coercion and oppression, the State.”
[Ludwig von Mises, “Liberty and Property” (1958)]



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