

# THOMAS JEFFERSON ON PRIVATE PROPERTY: MYTHS AND REALITY

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**ABSTRACT** • Thomas Jefferson is sometimes presented as a radical egalitarian—the same figure upon which early nineteenth-century American socialists built their theories. But he did not condemn private property. By the same token, he did not advocate redistribution. In the Declaration of Independence, Jefferson omitted to list property among inalienable rights because he had good reasons to do so. For him, property neither fostered a society of self-seekers, nor promoted a purely instrumental and adversarial relationship between individuals and the political community. Jefferson was no utopian, either in the sense that he wanted redistribution, or in the sense that he was nostalgic about the “simpler” societies of the past. Rather, Jefferson’s sole “utopianism” was enticed by the thought that in America, after the Revolution, there was no urgent need of further redistribution.

**KEYWORDS** • Thomas Jefferson; John Locke; Private Property; *Declaration of Independence*; Republicanism.

In chapter 2, section 6, of his *Second Treatise*, John Locke famously wrote that “The *State of Nature* has a Law of Nature to govern it, which obliges everyone: And reason, which is that law, teaches all Mankind, who will but consult it, that being all *equal and independent*, no one ought to harm another in his Life, Health, Liberty, or Possessions.” Albeit in the Declaration of Independence Thomas Jefferson (1743-1826) omitted Locke’s mention of property and replaced it with the phrase “pursuit of happiness,” property has never been for him an obstacle to republicanism, a hindrance to egalitarianism, and a moral embarrassment. On the contrary, property was an essential facet of Jeffersonian political thought.<sup>1</sup>

According to Jefferson, property neither fostered a society of self-seekers, nor promoted a purely instrumental and adversarial relationship between individuals and the political community. Those who think that in principle property must be incompatible with Jefferson’s egalitarianism and the very spirit of the Declaration are prey to a prejudice of precisely definable lineage.

Nineteenth-century European social thought, notably the so-called Hegelian Left (which included Karl Marx and Friedrich Engels), keenly insisted on the intrinsic injustice of “private property.” Furthermore, the Hegelian Left was so successful in its line of reasoning that a great deal of

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<sup>1</sup> Locke, *Two Treatises on Government*, 197. Word count does not allow a thorough analysis of the topic of the “pursuit of happiness.” But see Conklin, *Pursuit of Happiness in the Founding Era*. I thank the two anonymous reviewers for their constructive comments.

twentieth-century social theory considered it obvious that property must, one way or another, be treated as scandalous and a perversion of the natural order. Perhaps Hegelians were too successful in their argument inculcating in the historical profession itself the anti-historical dogma that all intelligent, responsible, and morally upright persons, no matter where and when they could have lived, must have acknowledged the plain fact of the undesirability of acquisitiveness.

That a worship of private property was dangerous was ingrained in the idea that Georg Wilhelm Friedrich Hegel had of the American society. The “fundamental character of the [American] community,” as he put it in his *Lectures on the Philosophy of History*, is “the endeavor of the individual after acquisition, commercial profit, and gain.” Scandalous, for Hegel, was “the preponderance of *private* interest, devoting itself to that of the community only for its own advantage.” Property has corrupted morality and undermined the ethical state. American society is a political community in which “the state [is] merely something external for the protection of property.” The property, that is, of its “atomic constituents.”<sup>2</sup>

Hegel’s vision inspired his disciples, especially Karl Marx and Friedrich Engels. For their part, they certainly have been correct in their denunciations of the shortcomings of a society built on private property and deliberately ignoring the moral imperative that property must always be under the regulation of the civil society. Hegel’s complaint has a noble pedigree. It resonates with Jefferson’s rebukes of luxury and Adam Ferguson’s famous jeremiad about the “refinements” of the civilized age: “The boasted refinements, then, of the polished age, are not divested of danger. They open a door, perhaps, to disaster, as wide and accessible as any of those they have shut. If they build walls and ramparts, they enervate the minds of those who are placed to defend them; if they form disciplined armies, they reduce the military spirit of entire nations; and by placing the sword where they have given a distaste to civil establishments, they prepare for mankind the government of force.” Hegel reenacted an old republican song, almost a foreboding of impending doom, dating back at least to Cicero. According to all republicans of all times, attachment to one’s country would be undermined by unbridled acquisitiveness, the calculus of profit and loss, and private property.<sup>3</sup>

That America could lose its soul and become that kind of aggregate of private properties denounced by Hegel represented, in fact, Jefferson’s worst nightmare. But this does not authorize any “Marxian” reading of Jefferson. Jefferson did not consider property as scandalous. Some historians and political scientists, of course, take a different view.

Richard Matthews, for example, correctly argues that for Jefferson “positive law, not natural right, creates property rights.” He insists on “Jefferson’s explicitly rejecting property as a natural right.” For Matthews, Jefferson was a downright positivist in the matter of property: “Property is merely an institution created by society to help men gain ‘life, liberty, and the pursuit of happiness’.”<sup>4</sup>

However, using the positivist argument to conjure up Jefferson as a radical egalitarian—the same figure upon which early nineteenth-century American socialists built their theories—is in many ways problematic. Matthews abides by Staughton Lynd’s hypothesis that in Jefferson’s prin-

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<sup>2</sup> Hegel, *Philosophy of History*, 85, 84.

<sup>3</sup> Ferguson, *An Essay on the History of Civil Society*, 386-87. “Ferguson’s closest reader would be Wilhelm Friedrich Hegel, who incorporated many of Ferguson’s ideas and even phrases into his own philosophy of history, which Karl Marx would take up and develop.” Herman, *Scottish Enlightenment*, 213.

<sup>4</sup> Matthews, *Radical Politics of Jefferson*, 20, 24.

ciple that “the earth belongs in usufruct to the living” the American Revolution “approached most nearly the socialist conception that living labor has claims superior to any property rights.” Jefferson, Lynd’s argument continued, “seemed to imply that, in the absence of remedial state action, the unemployed might rightly take the land they needed.” Jefferson, Matthews is convinced, wanted “to institutionalize revolution in order to keep the Spirit of 1776 perpetually alive.” He did not hurry, as Matthews allows, but “perpetual transition is precisely what Jefferson wants.”<sup>5</sup>

Matthews arrives at his conclusion that Jefferson wanted to institutionalize revolution via a close reading of the “usufruct” letter to Madison of September 6, 1789. One passage in particular strikes Matthews in a special way: “But the child, the legatee, or creditor takes it [the parcel of land], not by any natural right, but by a law of the society of which they are members, and to which they are subject.” Discussing the question of inheritance laws, as Matthews recognizes, Jefferson wanted to clarify that the church, hospitals, colleges, orders of chivalry, and so on, have no natural right to the appropriation of land. Assessing the traditional mechanisms of appropriation of land and hence of power, Jefferson wryly denounced this ancient habit of appropriation that allotted power “to hereditary offices, authorities and jurisdictions; to hereditary orders, distinctions and appellations; to perpetual monopolies in commerce, the arts and sciences; with a long train of et ceteras.”<sup>6</sup>

We can easily agree with Matthews in every point and admit that, for Jefferson, every living society should reaffirm all its statutes, institutions, and laws approximately every twenty years, including the inheritance laws. Were this reenactment omitted, some types of property might result in an usurpation based on “an act of force, and not of right.” True as this is, however, the letter cannot be construed in a way that proves that Jefferson considered property per se to be a usurpation to be counteracted by a perpetual transition of assets.

Any socialist reading of Jefferson is biased. The focus of the letter is whether or not “one generation of men has a right to bind another.” When a society “has formed no rules for the appropriation of its lands in severalty, it will be taken by the first occupants.” This is a natural right. If rules and laws exist, they can either sanction an act of force, or of right. In the first case, a generation is binding another, as happens especially in Europe and everywhere unnatural aristocracy,

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<sup>5</sup> Ibid., 22, 23. Lynd quoted at 28-29, 136. See Lynd, *Intellectual Origins*, 8, 77, 83. For instance, we can easily remove from the context of the Shays’ Rebellion what Jefferson said in a famous letter to James Madison, 30 Jan. 1787, *Papers of Thomas Jefferson* (henceforward *PTJ*), 11:93, to give a further boost to Matthews’s radical Jefferson: “I hold it that a little rebellion now and then is a good thing, and as necessary in the political world as storms in the physical.”

<sup>6</sup> TJ to James Madison, 6 Sept. 1789, *PTJ*, 15:392-98, *passim*. See also Matthews, *Radical Politics of Jefferson*, 20. For a very convincing interpretation of this remarkable letter, see Sloan, *Principle and Interest*, 50-85. Like all complex documents, Sloan argues, the letter can be read in a number of ways. Over time, Jefferson would find new applications for the ideas he expressed at the end of 1789. Nonetheless, “debt is the key, and whatever else this insistence ‘that the earth belongs in usufruct to the living’ means, it is first and foremost a confession of what debt meant to Thomas Jefferson.” (51) Burstein and Isenberg admit the centrality of debt. In addition, they also stress the character of a mental experiment: Jefferson “hazarded a new and experimental view”; he “was not prescribing policy so much as opening a conversation about an issue he and Madison both cared about: possible ways to fix limits on public debt.” Burstein and Isenberg, *Madison and Jefferson*, 204-5. Upon his return from France, Jefferson was especially excited by the possibility of a fresh start, not corrupted by history: “he imagined being able to reshape society.” (205) By no means did such a philosophical discourse on possibilities imply that he was “preparing to unleash social and political chaos.” (205)

including orders, distinctions, and appellations, thrives. (This means that orders, appellations, and so on, take advantage of outdated laws, not reaffirmed by the living generation.) In the second case, the living generation reenact laws and institutions “as they please”: the living generation can transform the laws that were about to become a mere act of usurpation into something rightful and legitimate. The living generation can rewrite these laws, or adjust them, or even, willingly, take them as they are.<sup>7</sup>

Unsympathetic though he was to the atomization of society, what Jefferson was arguing is more limited and more circumstantial: “From the nature and purpose of civil institutions, all the lands within the limits which any particular society has circumscribed around itself, are assumed by that society, and subject to their allotment only. This may be done by themselves assembled collectively, or by their legislature to whom they may have delegated sovereign authority: and, if they are allotted in neither of these ways, each individual of the society may appropriate to himself such lands as he finds vacant, and occupancy will give him title.” The thesis, as stated, is that disassembled individuals and single laborers have the right to appropriate individually and according to their personal interests only such land as society has chosen not to allot. No mention is made of the nature of property in general as subordinate to the rights of labor. Society, not laborers as such, has the superior right.<sup>8</sup>

Finally, Matthews’s biggest mistake is drawing on the Declaration to demonstrate that Jefferson’s failure to mention property among the inalienable rights translates automatically into a judgment of value. “The omission is significant. While Locke views property as a natural right ... Jefferson does not.” Why should it be so “significant”?<sup>9</sup>

As Garry Wills demonstrated, “pursuit of happiness” was a better and more precise phrase than property. “Pursuit of happiness,” in the period, signified the right of American citizens to cultivate themselves, to pursue the realization of a proper end, in this way rising above the level of brute existence. As Wills made clear, few used it vaguely, and certainly not Jefferson. His most likely “sources” were in turn very precisely identifiable: Hutcheson, Ferguson, Lord Kames, Burlamaqui, James Wilson, George Mason in “Virginia Declaration of Rights” (1774), and Locke in chapter 21, “Of Power,” of *Essay Concerning Human Understanding* (1690). The phrase did not evoke a vague aspiration (happiness was the realization of a proper end), and Jefferson would have been quite an eccentric to list a fanciful wish among the rights that governments should protect. As Wills writes, “Jefferson meant to state scientific law in the human area—natural law as human right. ... Man pursues happiness as the stone falls. ... The stone *must* fall, but it *does* not—the illustration is Diderot’s ... . Only when one recognizes the law of man’s nature as his *right* does one remove the obstacles and let him move free, knowing this is consonant with the order of nature.”<sup>10</sup>

In the Declaration, Jefferson omitted to list property among inalienable rights because he had good reasons to do so. By their nature, in a necessary way, humans pursue life, freedom, and happiness, while property is obviously alienable. Property helps to make me the individual I am. But I can easily bequeath all my properties, or part of them, to somebody. I can run into debts. I

<sup>7</sup> Matthews, *Radical Politics of Jefferson*, 25, 24. On Jefferson’s “bold innovation,” see 22.

<sup>8</sup> TJ, *Summary View*, PTJ, 1:133. According to Matthews, Jefferson was “inform[ing] the king of the relationship between property and labor.” Matthews, *Radical Politics of Jefferson*, 24.

<sup>9</sup> *Ibid.*, 27.

<sup>10</sup> See Wills, *Inventing America*, 240-55, quotation at 247. On Mason’s Declaration, see also Maier, *American Scripture*, 126-27.

can gamble and lose. War can rob me of my estate. After all, humans are very vulnerable beings. Similarly, the living generation might rightfully reform all the extant laws concerning property.

That Jefferson did not list property among those rights does not make property something despicable; and it does not make perennial revolution a desirable condition. The mistake is that Matthews associates the term “inalienable” with predicates such as “significant,” “important,” and “morally correct.” Each society, as Matthews allows, certainly has “a right to govern itself in terms of property usage.” The Declaration’s omission may well signify that “property is merely an institution created by society to help men gain ‘life, liberty, and the pursuit of happiness.’” But this does not imply any reproof. Admitting that Jefferson was a positivist in the matter of property rights, that he believed property laws should be altered and refined every twenty years or so, that property was “merely” a convention, does not mean that, for Jefferson, property in the long run becomes a hindrance to the realization of social happiness.<sup>11</sup>

Matthews approves of Charles Wiltse’s argument that Jefferson’s political theory conveys “an organic conception of society.” But Jefferson’s “organic conception” must not be confused with socialism, that property is either a theft or a phase to be dialectically outstripped in the historical process that would restore the natural rights of laborers. When Matthews stresses that Jefferson’s view of property was “similar to that held by Rousseau,” he closes his circle. He was sure from the outset that Rousseau was the neglected source of Jefferson’s social thinking.<sup>12</sup>

As far as the origin of property is concerned, Rousseau was the main advocate for the moral reprobation of private property: “The first man who, having enclosed a piece of ground, bethought himself of saying ‘this is mine’, and found people simple enough to believe him, was the real founder of civil society.” According to Rousseau, private property was the upshot of an act of usurpation of the propertied against the rights of the un-propertied. Schooled in the eighteenth-century idea of a natural sociability and natural sympathy among individuals, Jefferson could not have consented in Rousseau’s hypothesis. For him, the history of civil institutions, at least in America, was not a perversion of the natural pre-historical order.<sup>13</sup>

Let us consider Jefferson’s most seemingly Rousseauian explanation of the origin of property. Unquestionably, he admitted of property as not founded in nature but in human laws. How earthshaking this opinion was, however, is still to be determined. In *Discourse on Political Economy* (1755) Rousseau himself called property a “sacred right” without ever regarding it as a natural right. To Isaac McPherson, Jefferson wrote: “it is a moot question whether the origin of any kind of property is derived from nature at all ... it is agreed by those who have seriously considered the subject, that no individual has, of natural right, a separate property in an acre of land, for instance. by an universal law indeed, whatever, whether fixed or moveable, belongs to all men equally and in common, is the property, for the moment, of him who occupies it; but when he relinquishes the occupation the property goes with it. stable ownership is the gift of social law, and is given late in the progress of society.” It is a “moot” question, first of all, and, in addition, it is hard to discern any trace of moral reprobation in what Jefferson said. Provided that society is a second-order natural occurrence, a gift of social law sanctioned by the living generation can be as sacred as a law

<sup>11</sup> Matthews, *Radical Politics of Jefferson*, 26, 24. For a more convincing discussion of Jefferson and property as alienable, see Yarbrough, “Jefferson and Property Rights,” especially 65-67.

<sup>12</sup> Wiltse, *Jeffersonian Tradition*, 138. Quoted in Matthews, *Radical Politics of Jefferson*, 28. On Jefferson and Rousseau, see 50.

<sup>13</sup> Rousseau, *Discourse on Inequality* (1755), part 2, *incipit*.

that comes directly from nature herself. The social order to which the living agree, at least the American order, is not in principle an unnatural perversion, even when it admits “separate property.”<sup>14</sup>

Another Jeffersonian document makes the point still clearer:

A right of property in moveable things is admitted before the establishment of government. A separate property in lands not till after that establishment. The right to moveables is acknowledged by all the hordes of Indians surrounding us. Yet by no one of them has a separate property in lands been yielded to individuals. He who plants a field keeps possession till he has gathered the produce, after which one has as good a right as another to occupy it. Government must be established and laws provided, before lands can be separately appropriated, and their owner protected in his possession. Till then, the property is in the body of the nation, and they, or their chief as trustee, must grant them to individuals, and determine the conditions of the grant.<sup>15</sup>

Once again, there is no trace of moral reprobation.

### **The Myth of Redistribution**

The key point of the whole discussion of property is not whether Jefferson deemed property of land and other immovable things as directly or indirectly founded in nature. More important is how he considered the social consequences of what we would call private property. Did he frown upon inequality? Did he consider stable property a theft perpetrated against the rights of laborers? Did he see in private property an obstacle to the full expression of human subjectivity?

We have to keep in mind that the living generation, not laborers per se, were for Jefferson sovereign. Like every other “class,” laborers relinquish their power as they enter society. Classes, that typical European staple, should not exist in America. Furthermore, the “self-evident truth” tells that the earth belongs in usufruct to *the living*. When an individual dies, his property “reverts to the society” which means “a *whole* generation of men,” not a specific class. The earth belongs to them, Jefferson says, “fully, and in their own right.” Individuals, groups, and classes, we have to remember, are “parts only of a society, subject to the laws of the whole.” Each time we contemplate this whole, we must also acknowledge that “there is no superior.” This is the plainest meaning of the phrase “self-government.” We are dealing with a “whole nation itself assembled” or with its representatives. The laws that have been emanated flow, Jefferson said, from the “will of the society.” Every generation is “independant.” They, the living generation, are the sole legal subject that can manage the earth and property “as they please.” No other subject is allowed to do that. Not classes; not even laborers. The living are the sole “masters,” as Jefferson made clear, “of their own persons, and consequently may govern them as they please.”<sup>16</sup>

<sup>14</sup> TJ to Isaac McPherson, 13 Aug. 1813, *PTJ, Retirement Series*, 6:382-83.

<sup>15</sup> TJ, The Batture at New Orleans (published as *The Proceedings of the Government of the United States, in maintaining the Public Right to the Beach of the Missisipi, etc.*, 1812), *Writings of Thomas Jefferson*, 18:45-46. On Jefferson considering property of land sanctioned by the “laws of civil society” for the encouragement of industry (also shorn of any moral reprobation), see TJ to Thomas Earle, 24 Sept. 1823, *Writings of Thomas Jefferson*, 15:470-71.

<sup>16</sup> TJ to James Madison, 6 Sept. 1789, *PTJ*, 15:392-98, *passim*. On the class conflict afflicting English, not American society, see TJ to Thomas Cooper, 10 Sept. 1814, *PTJ, Retirement Series*, 7:649-55. I will return to this letter shortly.

Obviously, the “will of the majority” can rarely be obtained “fairly and without impediment.” The people cannot easily “assemble themselves.” The representation may be “unequal and vicious.” Factions may “get possession of the public councils.” “Personal interests” lead representatives “astray from the general interests of their constituents.” But these hindrances only prove that laws should be of limited duration, not that the living whole has no real and absolute authority. Against the true and living community, no part, no class, no group should consider itself “independent.”

The issue of property and its relationship to labor must be assessed within this communitarian framework. It would be an open betrayal of the living generation if a part decided on its own to pursue its interests, however noble and just they might appear. Similarly, redistributing and socializing property would not necessarily be an act of justice made in the interest of the whole community.

Jefferson, in effect, was against redistribution. “To take from one, because it is thought that his own industry and that of his fathers has acquired too much, in order to spare to others, who, or whose fathers have not exercised equal industry and skill, is to violate arbitrarily the first principle of association, ‘the *guarantee* to every one of a free exercise of his industry, and the fruits acquired by it.’” In a similar spirit, he also wrote: “The first foundations of the social compact would be broken up were we definitely to refuse to it’s members the protection of their persons and property, while in their lawful pursuits.”<sup>17</sup>

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<sup>17</sup> TJ, prospectus introducing Tracy’s *Treatise on Political Economy*, appended to TJ to Joseph Milligan, 6 April 1816, *Writings of Thomas Jefferson*, 14:466; TJ to James Maury, 25 April 1812, *PTJ, Retirement Series*, 4:669. On Jefferson’s defending the “state of property, equal or unequal, which results to every man from his own industry, or that of his fathers,” see TJ, Second Inaugural Address, 4 March 1805, *Works of Thomas Jefferson*, 10:135. Lance Banning agrees that Jefferson wanted not just to protect the industry of each man, but in particular “*that of his fathers*.” Despite his acceptance of the general abstract principle that the right to earn a subsistence may have priority over positive laws and the wishes of the rich, Jefferson was not immune from a mode of reasoning *à la* Burke. Consequently, we have to resist representing Jefferson “as more radical than he was.” See Banning, *Jefferson and Madison*, 50-51, n. 11. In a stimulating essay, Michael Kammen argues that, against the common perception of the sacredness of private property in America (strongly supported by the last clause of the Fifth Amendment, part of the Bill of Rights of 1791: “... nor shall private property be taken for public use, without just compensation.”), American constitutional history abounds in “unsettling complexities and ambiguities.” The Preamble to the Constitution, in fact, does not mention property. “My point here,” Kammen writes, “is quite simply that Farrand’s four volumes of *Records of the Federal Convention* are amazingly silent concerning the status and protection of property per se. They contain ... little pertaining to government’s role in safeguarding private property.” Kammen, “Rights of Property,” 9. True as it is, Jefferson supported the Bill of Rights and unequivocally wanted private property to be protected. The living and loving community must be secured against any government that could become merely exterior. For Jefferson’s defense of the Bill of Rights, see for example TJ to James Madison, 20 Dec. 1787, *PTJ*, 12:438-43; TJ to James Madison, 31 July 1788, *PTJ*, 13:440-44; and TJ to Noah Webster, 4 Dec. 1790, *PTJ*, 18:131-35. For Jefferson’s support of the Bill of Rights with an explicit reference to the issue of property, see for instance TJ to A. Coray, 31 Oct. 1823, *Writings of Thomas Jefferson*, 15:489: “I have stated that the constitutions of our several States vary more or less in some particulars. But there are certain principles in which all agree, and which all cherish as vitally essential to the protection of the life, liberty, property, and safety of the citizen.” In the letter to James Madison of 28 Aug. 1789, *PTJ*, 15:367, a younger Jefferson proposed a list of “alterations and additions.” But he did not mention Article Fifth. Approving reference to Article Fifth can be found in TJ, Message on the Act for the Defence of Rivers and Harbors, March 1808, *Writings of Thomas Jefferson*, 3:326.

Jefferson was always faithful to this principle. “I am conscious that an equal division of property is impracticable,” he wrote in 1785. Of course, in France especially, there was an “enormous inequality” that produced “so much misery to the bulk of mankind.” This unbalance notwithstanding, a general principle applied that “legislators cannot invent too many devices for subdividing property.” They should take care of their constituents and “let their subdivisions go hand in hand with the natural affections of the human mind.”<sup>18</sup>

Jean Yarbrough captures this point when, following Stanley Katz, she insists that it was not Jefferson’s intention to involve government in any radical scheme of redistribution: “Jefferson was not seriously troubled by the inequality of wealth in republican America.” Elsewhere, she also writes: “In contrast to many of today’s rights advocates, Jefferson is more inclined to accept the social and economic inequalities that result from the formal possession of equal rights. ... Jefferson’s conception of rights favors equality of opportunity over equality of condition, and liberty over equality.” The reason was perhaps that Jefferson had the impression that in America the rich were “few, and of moderate wealth.” After all, America was neither France, nor England.<sup>19</sup>

Keeping these qualifications in mind, we can return to the issue of labor. Richard Matthews is correct in stressing that, for Jefferson, property was subordinate to labor. Property, according to Jefferson, was founded in labor. “The earth is given as a common stock for man to labour and live on. If, for the encouragement of industry we allow it to be appropriated, we must take care that other employment be furnished to those excluded from the appropriation. If we do not the fundamental right to labour the earth returns to the unemployed. ... [I]t is not too soon to provide by every possible means that as few as possible shall be without a little portion of land. The small landholders are the most precious part of a state.”<sup>20</sup>

This, of course, is a description of an ideal and hypothetical condition (“the earth ... given as a common stock”) and involves a sound heuristic maxim. It should not be read as a declaration of Jefferson’s commitment to redistribution, socialization, and his rejection of the market values. Yet, the fact remains that Jefferson considered labor a fundamental and natural right, and appropriation as a grant consented to by society—albeit one that has to be protected taking into account real historical circumstances.

Labor is the foundation of property in the sense that, to be able to work and satisfy their wants, everyone should have access to a parcel of land. In this sense, property also is implicitly natural. “A right to property is founded in our natural wants, in the means with which we are endowed to satisfy these wants, and the right to what we acquire by those means without violating the similar rights of other sensible beings.” Labor is the natural means through which we satisfy our natural wants. Property, in turn, is a natural means through which we can put into effect the natural means we have (labor) to satisfy our natural wants. Everybody, in an ideal state, should be placed in the condition to go successfully through this round of wants, work, property, and satisfaction. Good governments should strive to fulfil this maxim as much as they can.<sup>21</sup>

<sup>18</sup> TJ to James Madison, 28 Oct. 1785, *PTJ*, 8:682.

<sup>19</sup> Yarbrough, “Jefferson and Property Rights,” 72, and see 71; Yarbrough, *American Virtues*, 26. See also Katz, “Jefferson and the Right to Property.” On Jefferson’s aversion to progressive taxation, see Yarbrough, *American Virtues*, 97-98. On Jefferson’s impression that in America the rich were “few, and of moderate wealth,” see TJ to Thomas Cooper, 10 Sept. 1814, *PTJ, Retirement Series*, 7:651.

<sup>20</sup> TJ to James Madison, 28 Oct. 1785, *PTJ*, 8:682.

<sup>21</sup> TJ to Du Pont de Nemours, 24 April 1816, *Works of Thomas Jefferson*, 11:522.

Jefferson's claim about societal responsibility must not be mistaken for socialism and a censure of real American society. As Yarbrough writes, "Stable ownership of property, which comes about with agriculture, and is rooted in labor, can only be justified if it promotes greater industry. When it does not, as in the enclosure of royal estates for mere pleasure, the property laws are unjust." Jefferson was aware that if property cannot be justifiable on philosophical grounds, it remains totally unjustifiable. Each time the political theorist spoke out, he had no other choice but to acknowledge that "Whenever there is in any country, uncultivated lands and unemployed poor, it is clear that the laws of property have been so far extended as to violate natural right." On a normative theoretical level, stable ownership should benefit society as a whole, while the government should make sure that no one is wronged. No program of effective redistribution is entailed here.<sup>22</sup>

It would make no sense to push societal responsibility toward a utopia of communion and collectivization. The term "common stock" refers only to a hypothetical ideal condition: "That, on the principle of a communion of property, small societies may exist in habits of virtue, order, industry, and peace, and consequently in a state of as much happiness as Heaven has been pleased to deal out to imperfect humanity, I can readily conceive, and indeed, have seen its proofs in various small societies which have been constituted on that principle. But I do not feel authorized to conclude from these that an extended society, like that of the United States, or of an individual State, could be governed happily on the same principle."<sup>23</sup>

Jefferson's political vision was neither a socialist, nor a classical republican utopia. As Yarbrough admits, his view of property was "decidedly modern and democratic." That is, while classic republicanism put emphasis on the civil use of property and disparaged the acquisition of wealth as contrary to virtue, "modern political philosophy, beginning with Machiavelli and continuing through the seventeenth and eighteenth centuries, looks at acquisitiveness in a more positive light." Revitalizing an old argument already presented by the satirist Bernard Mandeville, Adam Smith proclaimed to the entire world of Enlightenment that the selfish and the social passions promoted the same end. It was an eighteenth-century commonplace, as Lord Kames put it in a famous aphorism that Jefferson entered in his *Commonplace Book*, that "Property gives life to industry, and enables us to gratify the most dignified natural affections."<sup>24</sup>

Jefferson's vision of property was modern and did not denounce a moral scandal. As a consequence, his idea that the earth is given as a "common stock" for humans to labor and live on must be approached via Locke and via those intellectuals who were more reconciled to the present "as it is," not via Rousseau or, worst, via Marx. Jefferson and many other of his contemporaries could but agree with the sound realism and theoretical clarity of Locke's ideas: "Though the earth, and all inferior creatures, be common to all men, yet every man has a *property* in his own *person*: this no body has any right to but himself. The *labour* of his body, and the *work* of his hands, we may say, are properly his. Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his *labour* with, and joined to it something that is his own, and thereby

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<sup>22</sup> Yarbrough, "Jefferson and Property Rights," 68; TJ to James Madison, 28 Oct. 1785, *PTJ*, 8:682. For another example of the political theorist pointing to the "equal right of every citizen, in his person and property, and in their management" as "the true foundation of republican government," see TJ to Samuel Kercheval, 12 July 1816, *Works of Thomas Jefferson*, 12:7.

<sup>23</sup> TJ to Cornelius Camden Blatchly, 21 Oct 1822, *Writings of Thomas Jefferson*, 15:399.

<sup>24</sup> Yarbrough, *American Virtues*, 91; TJ, *Commonplace Book*, 107-108, from Henry Home (Lord Kames), *Historical Law-Tracts* (1759), Tract 3, "History of Property."

makes it his *property*.” Locke set out the theoretical principles with clarity, but he did not complement them with a program for universal liberation.<sup>25</sup>

Ideally, land should be granted to every individual. Additionally, Jefferson went beyond Locke and many other philosophers in the sense that, in his role as a policy maker, he strove to distribute fifty acres of land to some un-propertied to make them propertied and hence “free.” But Jefferson did not fall into despair or indignation at the thought that many others, like enslaved persons, were not allowed to own and work land and that still many others, like Native Americans, refused to own and work it for cultural reasons. He did not criticize American society.

### Conclusion

Jefferson was no utopian, either in the sense that he wanted redistribution, or in the sense that he was nostalgic about the “simpler” societies of the past. Rather, Jefferson’s utopianism was enticed by the thought that in America, after the Revolution, there was no urgent need of further redistribution.

Jefferson’s utopianism bordered on a conservative utopia, so to speak, overlapping with the belief that the victorious American nation was different from Europe. The rich, here, were “few, and of moderate wealth.” As a consequence, “Our people,” need not “to labor sixteen hours in the twenty-four.” English workers “have no time to think, no means of calling the mismanagers to account.” Europeans, not Americans, were those who had no independence of heart and mind and who desperately needed redistribution.<sup>26</sup>

Jefferson was sure that American society was homogeneous in comparison to Europe. He saw no latent class conflict: “the great mass of our population is of laborers; . . . most of the laboring class possess property, cultivate their own lands, have families, and from the demand for their labor are enabled to exact from the rich and the competent such prices as enable them to be fed abundantly, clothed above meer decency, to labor moderately and raise their families.”<sup>27</sup>

Jefferson’s utopianism rested in the conviction that America was in excellent shape, and that only details had to be readjusted. While fancying “a cordial fraternization among all the American nations” old Jefferson openly yielded to a biblical dream: “the lion and the lamb, within our regions, shall lie down together in peace.” After achieving the presidency and accomplishing the “Revolution of 1800,” Jefferson had already confessed his conviction that “the storm we have passed through proves our vessel indestructible.” This kind of utopianism, insisting on uncritical optimism and emphasizing “our” greatness, made Jefferson in some way blind to the ordeal of American under-classes, Natives, enslaved individuals, women, or laboring children. He did not have the same perception we have about the fact that in America rights were actually violated.<sup>28</sup>

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<sup>25</sup> Locke, *Second Treatise*, chapter 5, section 27. On Jefferson’s theory of property as essentially Locke’s, see Griswold, “Agrarian Democracy of Jefferson.” I consider the following passage a stunning criticism of every Rousseauian perspective: “He who is permitted by law to have no property of his own [like slaves, for example], can with difficulty conceive that property is founded in any thing but force.” TJ to Edward Bancroft, 26 Jan. 1789, *PTJ*, 14:492.

<sup>26</sup> On the rich being “few, and of moderate wealth,” see TJ to Thomas Cooper, 10 Sept. 1814, *PTJ, Retirement Series*, 7:651. On “our people,” not needing “to labor sixteen hours in the twenty-four,” see TJ to Samuel Kercheval, 12 July 1816, *Works of Thomas Jefferson*, 12:10.

<sup>27</sup> TJ to Thomas Cooper, 10 Sept. 1814, *PTJ, Retirement Series*, 7:651.

<sup>28</sup> TJ to William Short, 4 Aug. 1820, *Writings of Thomas Jefferson*, 15:262-63; TJ to Lafayette, 13 March 1801, *PTJ*, 33:270.

In America “we” had achieved a condition in which, as he said to Thomas Cooper, the great mass of the laboring class possessed property. Property, for Jefferson, did not just mean owning things and land to till. It meant having families and having gained position and self-respect. Those who own property, he said, could “exact from the rich and the competent such prices as enable them to be fed abundantly, clothed above meer decency.” Property entailed *Weltweisheit*.

Property is a semantically comprehensive concept implying strong cultural values. Locke’s understanding of property, for example, has been criticized for being “exceedingly comprehensive, referring not so much to things in themselves but to the act or conditions of possession.” Such a comprehensiveness and multivocality, however, was hardly an embarrassment for an eighteenth-century mind.<sup>29</sup>

James Madison’s essay “Property,” for instance, expanded the notion of property not just to include the “means of acquiring property,” but to the point of defining conscience as “the most sacred of all property.”

In its larger and juster meaning, it embraces every thing to which a man may attach a value and have a right; and which leaves to everyone else the like advantage. . . . If there be a government then which prides itself on maintaining the inviolability of property; which provides that none shall be taken directly even for public use without indemnification to the owner, and yet directly violates the property which individuals have in their opinions, their religion, their persons, and their faculties; nay more, which indirectly violates their property, in their actual possessions, in the labor that acquires their daily subsistence, and the hollowed remnant of time which ought to relieve their fatigues and soothe their cares, the inference will have been anticipated, that such a government is not a pattern for the United States.<sup>30</sup>

For Lord Kames and for his followers as well, including Hume and Adams Smith, property was more than just material objects. It was a part of one’s sense of self. Without property, persons were missing an important dimension of their personality together with their grasp on the society around them. They had little or no chance to be publicly acknowledged. As Arthur Herman has noticed, in eighteenth-century English “*property* meant the same as *propriety*: those things that are *proper* to me, and to me alone. . . . To own *things* is in fact to own *myself*. Property makes me a whole and complete human being.”<sup>31</sup>

Besides its material connotation, property was also a condition of the mind, the best intellectual device to counteract “dependence.” To some extent, it was an anthropological category, dependent men being those who have lost propriety, namely, honor, agency, control, position, and affiliation. Jefferson may have felt sorry for all those who, for historical or biological reasons, fell into the category of the un-propertied. He also honestly sought to enlarge the opposite group. But, realistically, he expressed no moral embarrassment, let alone indignation or desperation, that an increasing number of American individuals without propriety, the “private,” would never be included in the American community.

Instead of showing desperation or indignation, Jefferson found refuge in his conservative utopia. This was most likely his way to compensate for the reality that Virginia also was dramatically changing. Before the Revolution, almost every white male had property (in both senses of the word) and was qualified. Every male was the center of a little universe. In the colony, land

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<sup>29</sup> Kammen, “Rights of Property,” 8.

<sup>30</sup> Madison, “Property,” *The National Gazette*, 29 March 1792.

<sup>31</sup> Herman, *Scottish Enlightenment*, 93.

ownership had been widespread. Perhaps as many as eighty or ninety percent of white males either had sufficient property of their own or could claim protection from a propertied friend or relation. The trend in post-Revolution Virginia was toward an increase in the white un-propertied population, landless and dependent. The sheer number of Virginians was advancing at a steady and disquieting pace.<sup>32</sup>

Although it was not immediately a natural right, Jefferson regarded property as a fundamental tool. It was an instrument, a social invention, to “augment” the self, notably, to increase individual efficacy. It was an effective means for getting a foothold in reality while winning acknowledgement from other fellows as a man of position.

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<sup>32</sup> On eighty or even ninety percent of propertied in Virginia in the 1760s, see Lewis, *Pursuit of Happiness*, 20. In 1763, according to Mullin, *Flight and Rebellion*, 16, Virginia’s population was 340,000 divided equally between black and white. In *Notes*, Jefferson gave the figures of 270,762 Blacks out of a total population of 567,614. See TJ, *Notes*, Query 8, *Works of Thomas Jefferson*, 3:491.

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