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Jürgen Georg Backhaus  
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# The State as Utopia

Continental Approaches

 Springer

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*Editor*

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# Introduction

Jürgen Georg Backhaus

When we started this project, the question was: is there a difference in the way seafaring and landlocked states visualise the commonwealth? The hypothesis was that Continental cultures develop utopias that are different from maritime cultures. This is clearly not true. In this sense, this volume follows the refutation of the Schumpeter Hypothesis. The question is discussed, if the hypothesis is refuted, why is it still relevant and useful? The answer provided in the book is that the Schumpeter Hypothesis remains important as it charts out an entire research program. The Hypothesis serves as a benchmarking instrument in defining the boundaries between public and private sectors in OECD countries and beyond. The Hypothesis may turn out to define the grammar of discourse for constitutional economic policy in the European and the OECD community.

The utopias presented in this book focus on the tension between the State and utopia. The contributors include background information, i.e. major economic, social, and cultural aspects that are important in the relationship between utopia and the State. For instance, Nicolaus Tideman focuses on the aspect of property in a utopian State. The question is, how can people gain claims to individual property? The answer is informed by the ideas of Pufendorf and Locke. In a second contribution, Nicolaus Tideman discusses a utopia based on the demand-revealing process<sup>1</sup> by Martin Bailey, who wrote “Constitution for a Future Country” as advice for a good dictator, if there were not any constraints for political legitimacy. For instance, he pursues the question how a constitution would look like, if legislators could not be influenced by a lobby. Karl-Heinz Schmidt explores the utopian elements in the formation of doctrines on the State in German State sciences; some of these utopian elements described by Schmidt we find back in Michael Montgomery’s description of Mill’s Stationary State. This shows the continental influence on Mill, which allows for a reinterpretation of the common view of this particular founder of

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<sup>1</sup>The demand-revealing process is a voting procedure by Nicolaus Tideman and Gordon Tullock in the *Journal of Political Economy* in 1976.

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modern economics. Utopian Socialism is the topic of three chapters. The aspect of “labour and leisure” in utopian socialism is discussed by Hans Frambach, who focuses on labour.

In analysing the tension between the State and utopia, some other authors find that ideas typically considered as utopian are rather realistic instead. Examples include the contributions by Marcel van Meerhaeghe, who poses the question, “Is Montaigne a Utopian?” and Gerrit Meijer, who explores the relationship between utopia and theocracy by focussing on church and the state in Calvinist Geneva.

Some of the utopias described are hardly known yet and/or almost not reviewed in English. Examples include “The Kingdom of Ophir” by Günther Chaloupek, “Justis Concrete Utopia” by Hartmut Becker, Johann Peter Süßmilch’s “Divine Rule” by Gerhard Scheuerer, “Eugen Dühring and Post-Utopian Socialism” by James Gay, Rudolph Steiner’s Utopia by Arno Daastol and Johannes Hanel, and Lambulus’ “Sun State,” and T. Campanella’s “Civitas Solis” by Christos Baloglou.

The German counter utopia of the Schlaraffenland is in this sense a continental contribution indeed. The place names indicate unvirtuous traits such as indolence, laziness, and vulgar consumption in contrast to diligence, hard work, and parsimony. The tale was made popular after the technology of printing exact maps had been developed. The tale is an old one, but it was made popular only by printing the fictitious maps – and selling the prints in the markets of major upper German cities such as Nuremberg and Augsburg, where the Fugger family showed by example the virtues of parsimony and exacting dutiful trade (Backhaus 1989).

The chapters of this book were originally presented at the 22nd annual Heilbronn Symposium in Economics and the Social Sciences, June 18–21, 2009. We are grateful to the Lord Mayor of the City of Heilbronn and the City Council for their generous hospitality and support.

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# A Demand-Revealing Utopia

Nicolaus Tideman

A compendium of utopias would be incomplete without a description of the utopia described by Martin Bailey in his book, *Constitution for a Future Country*.<sup>1</sup> Bailey notes the deplorable inefficiency with which governments operate and devises a constitution that he would recommend to a benevolent dictator, who wished to provide the people of a nation with the most efficient government that can be designed with the assistance of public-choice economics.

The fundamental principle that Bailey advances in this proposed constitution is that the search for worthwhile social changes should be a search for improvements in economic efficiency, which are to be implemented in ways that are as close to Pareto improvements as is humanly possible.

Bailey begins by separating the issue of redistribution for the needy. He argues that, in view of the rent-seeking losses from public activities that are deliberately redistributive, it is best for the issue of assistance for the needy to be settled when a country's constitution is written, and then not re-opened. It would be consistent with the Bailey's perspective if the issue of provision for the needy could be re-opened, under a rule that changes could be implemented only if they were favored by majorities in all income classes. In other words, provision for the needy could be revised if shared compassion made it possible to have a revision that was an approximate Pareto improvement.

All public activities other than provision for the needy are to be financed by taxes on those who benefit, in proportion to those benefits. An intricate process of legislative proposals and citizen approval by referendum is used to develop and certify worthwhile public programs.

To deal with the perverse incentives that arise when legislators strive for election and re-election, Bailey proposes that legislators be selected by a random process and

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<sup>1</sup>Palgrave, London, 2001.

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serve for fixed terms, like a grand jury.<sup>2</sup> Every person chosen to be a legislator would be paid 110% of whatever his or her salary had been prior to being selected.

To keep legislators from being influenced inappropriately by lobbyists, Bailey proposes that legislators and their families be housed in a community with restricted access. This can be understood as an enlargement of the idea of sequestering a jury.

This sequestration does not mean that legislators would have no access to information. Whatever expert information they needed to develop and evaluate legislative proposals would be available to them.

To guard against the possibility of a slothful legislature, Bailey proposes the combination of productivity bonuses for legislators, along with two competing legislative bodies. A legislature's productivity bonus would be based on an assessment by economic experts of the value of the laws that the legislature devised. Each legislative body would be motivated to develop its proposals as well as possible and as rapidly as possible, to secure the bonus for a good proposal before the rival legislative body removed the opportunity.

Every law proposed by either legislative body would go into effect only if it was approved by a referendum of a special type. The referendum would combine features of the demand-revealing process devised by Edward Clarke and the insurance mechanism devised by Earl Thompson.

In the demand-revealing process, each participant reports the amount of money that he or she is willing to pay to secure the adoption or the rejection of a proposal. People are motivated to report their valuations honestly, by an application of marginal cost pricing: A person is required to pay something for reporting a valuation if and only if that person's report changes the outcome. In that event, the person is required to pay the difference between the losses to those who lose from the change in the outcome and the gains to those who gain from the change, other than the person himself. All of the gains and losses are calculated from the voters' own reports.<sup>3</sup>

In the Thompson insurance mechanism, the government announces its estimate of the probability that a proposal will be approved. Based on this probability, voters buy insurance against the success of the outcome that they do not favor.<sup>4</sup>

Bailey combines the two mechanisms because the Thompson insurance mechanism is suitable for instances in which a disfavored outcome produces a loss that increases the marginal utility of money, while the Clarke procedure is suitable for instances in which a person is willing to pay for an outcome even though the disfavored outcome would not increase the marginal utility of money. Thus, Bailey's proposal is as follows:

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<sup>2</sup>Juries are not the only example one can find of random selection of public officials. Public officials in ancient Athens were selected by a random process, and the Bible describes the choice of Samuel as the first king of the Jews by a random process.

<sup>3</sup>For Clarke's explanation of his idea, see Edward H. Clarke (Clarke 1971). For an explanation that is easier to understand, see Tideman and Tullock (1976).

<sup>4</sup>Earl A. Thompson, "A Poreto Optimal Group Decision Process," in Gordon Tullock (ed.), *Papers on Nonmarket Decision Making* (Charlottesville: University of Virginia, 1966) pp. 133–40

When a legislative body has developed proposed legislation, it is sent to assessors who estimate the gains and losses that it would generate. Based on these estimates, compensation for those who are believed to lose is devised, to be financed by taxes on those who are believed to gain. If the proposal entails resource costs, the financing of these is spelled out as well. The combination of the proposal, the compensation and the taxes is presented to voters. Each household reports the amount of insurance it wishes to buy against the possibility of not getting the outcome it favors, along with the amount that it is willing to pay to achieve the outcome it desires, taking account of the insurance that it has bought. The decision on the proposal is based on whether the sum of the valuations of all households, from the combination of the Clarke mechanism and the Thompson insurance mechanism, is positive or negative. Bailey includes the possibility of weighting losses more heavily than gains in deciding the outcome.

Any systematic predictability in the direction in which individuals voted, as a function of characteristics that could have been used to assign taxes, is taken as an indication that the assessors did not do as good a job as they might have done in assigning compensation and taxes, and they are fined accordingly. (They are paid enough to afford some level of fines).

If the proposal is passed, the legislative body that made the proposal receives a bonus of a percentage of the net gains from the proposal.

Bailey argues that this proposal offers the best possible prospect for having a society in which new legislation is confined to changes that improve the level of well-being in the society, and these changes are *effected* as quickly as possible.

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# Economic, City Planning, and Environmental Proposals by Plato in the City of Atlantis and of the Laws

Christos P. Baloglou

In Plato's unfinished dialogue *Critias*, we are told of the fertile coastal plain, 2.000 stadia by 3.000 stadia (approximately 250 by 375 miles), surrounded by a large irrigation canal. The city-polis of Atlantis is circular in shape, delineated by a round capital, or aoter, wall which sets it apart from both the fertile irrigated plain and the rest of the country. The concentric design is focused upon three artificially created islands in the center of the polis. The center-most island, shaped like a sphere, is surrounded by a canal, which in turn is encircled by another island, also encircled by a canal. A third island ring completes the interior of the polis and is set off from the main body of the capital by a final water ring. Thus, we have a series of seven concentric bodies, one within another. The circular pattern is further strengthened by a series of four internal walls, one around each of the three islands and the fourth surrounding the inner sanctum on the middle island, the Akropolis, where one finds the Temple of Poseidon, its great altar, and a stele. The islands are linked by a bridge, and have been furnished with gardens, trees, sanctuaries, and a hippodrome. An elaborate system of aqueducts irrigates the groves and provides both warm and cold water for bathhouses. Bodyguards are housed on all the islands.

As far as the technological achievements of Atlantis, Plato describes the ports and forts, which recall Piraeus and Munichia (*Crit.* 117 d-f), the mining of orichalcum (*Crit.* 114e), which seems to allude to the silver of Laurium. Orichalcum may also be (*Crit.* 114e) a composite symbol here for both the silver of Laurium and the marble of Parnassus and Hymettus. The appearance of Poseidon's temple (*Crit.* 116 d-f) resembles the Parthenon. The last item implicitly refers to the strife of Athena and Poseidon over Attica, and to the great problem of Athen's dichotomy in its agrarian and maritime components, which in turn coincides with the imperialism, wealth, and insularity of the Atlantids confronted by the virtuous farmers.

Other technological achievements of Atlantis constitute its economic force and the walls with variegated surfaces, the temple covered with metals and the Atlantid inclination for canals (*Crit.* 115d; 118d), both recalling Babylon and Ecbatana. The

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case of Carthage may seem somewhat stronger: Atlantis lies in the West, and Mount Atlas and the “voracious” elephants (*Crit.* 114 e-f) point to North Africa.

Plato describes in the Atlantis the economic and social structure of the island. Poseidon with Cleito “begot five twin births of male offspring and divided the whole isle of Atlantis into ten parts” (*Crit.* 114 a); the five pairs consequently form two series, of senior and junior brothers. The decimal constitution of Poseidon’s Atlantid offspring evidently reflects the cleisthenic constitution of democratic Athens with its negative by-products such as the body of the strategoi. There is also a tripartite division of the citizens, which provides the social division of labor. This division of labor has been seen as an application of justice.

The most obvious message of Atlantis is ethical: a small but just city triumphs over a mighty aggressor. It was understood by some ancient readers of the *Timaeus* and the *Critias* – notably, Theopompus of Chios (380–300 B.C.) repeats it through the picture of the *Meropian Island* with its continuities of the Machimoi and Eusebeis (FGrH 115 F 75C)-, and stressed by many modern commentators of the two dialogues.<sup>1</sup> Other details of the conflict between wealth and modesty, a maritime and an agrarian society, an engineering science and a spiritual force, are fully in accordance, it has been realized, with a parable of a kind to be expected from the writer of the *Laws*.

The *Laws* appears to give us a somewhat different picture of the origin of the polis (735B1–736C4) from the *Republic* and the *Statesman*. In the first place, rule is exercised by a self-controlled statesman, or someone less than that, rather than by the scientific ruler of the *Statesman*. Second, purity of stock is taken for granted. Third, applications for admission to the totally new colony can be rejected. The main question of the establishment of the new colony, called Magnesia, in Crete is discussed in the *Laws* (707E1–708D7). Who will be the new colonists of Magnesia? A homogeneous group has a commonality of institutions and a feeling of community but is resistant to change. The new polis requires men who will be willing to accept radically new institutions and laws, including those that prescribe a moderate and fixed level of wealth and supervision of family size (746A2–4). On the other hand, “a miscellaneous combination of all kinds of people will perhaps be more ready to submit to a new code of laws,” because they lack the solidarity supplied by common institutions, “but to get them to ‘pull and puff as one’ (as they say of a team of horses) is very difficult and takes a long time” (708 D1–5). The solution to this problem offered by the *Laws* is that the colonists should come from Greek poleis only, but from different ones.

The commonwealth of the *Laws* clearly envisages the possibility of a larger polis and one of a different sort. Although the constitution of the *Republic* is acknowledged to be the best (739 D4–5), because it makes for the greatest unity, its commonality of property and family are abandoned. The code of Magnesia is framed with an eye on freedom, wisdom, and unity (701D7–9).

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<sup>1</sup>For an exhaustive list of these commentators, see Dusanic (1982), at p. 25, not.2.

The variables that do enter into the determination of optimum population are items such as the purity of water supply, the fertility of the land, and the condition of the neighboring states. Of these, the Athenian Stranger selects two for special mention—that the citizenry should be large enough to defend its land area, and that the land should be able to support its given number of citizens in a life of temperance.

In the *Laws*, land is distributed to families rather than to individuals. The number of households or hearths, therefore, must be kept constant (740 B3–5). The optimum population of the polis, however, is not set at any particular number. For purposes of discussion, and especially for arithmetical convenience, the Athenian Stranger sets the number of households at 5,040.<sup>2</sup>

As for the proposals for city planning in the *Laws*, Plato proposes land for other municipal buildings, such as the law courts, the gymnasia, schools, and theaters, which will all be properly placed (779D). The spatial attributes of Magnesia have fallen into place.

Plato is a consummate planner. He adheres to the planning principle that adequate maintenance of a municipal facility or service must be an integral part of its design. To achieve this purpose, commissioners are to be charged with looking after everything. There will be urban commissioners, responsible for the upkeep of city streets and buildings, country boulevards leading to the capital, the water supply and, most crucial, the sanitation facilities. There will also be rural commissioners, who will provide for the proper run-off of rainwater and see to the beautification of springs. Their many tasks run the full gamut from securing the outlying fortifications of Magnesia against external attack, to the provision and operation of restful and recreational health spas (*Laws* 758, 760–761, 763, 779).

Plato shows himself to be well versed in both the theoretical and technical applications of town-planning procedures of his day. His treatment of the architectural and engineering details in the *Critias*, considerations of siting in the *Timaeus*, and discussion of the various components of the city in the *Republic* indicate his familiarity with contemporary practices. He has formulated hypothetically for us what must have been considered the proper practices.

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<sup>2</sup>See the discussion in Morrow (1960, 112–115).

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# Property in a Utopian State, Informed by Ideas of Pufendorf and Locke

Nicolaus Tideman

In considering the nature of a utopian state, one might begin by asking whether such a thing is a contradiction in terms. A state is a repository of power that can overcome disobedience or objection. A utopian place is conceived as a place that manifests ideal conditions. One might plausibly suppose that one component of the ideal conditions of a utopian place would be harmony that made the power of the state unnecessary. How, then, could there be a utopian state?

There are several ways of resolving this apparent contradiction. First, one might suppose that the reasoning abilities of persons are so imperfect that their expressed preferences are of no consequence in a utopian state. What is important in an ideal state, by this view, is not what people say they want but rather what those with true knowledge (Plato's Guardians) understand to be ideal. The state's power is needed to impose this.

Second, and less drastically for human freedom, one might suppose, in a way analogous to some "trembling hand" economic theories (Selten 1975), that people are generally in agreement with social policies that they would be obliged to follow in a utopian state, but they slip up occasionally, and the power of the state reduces the cost of these occasional departures from their true preferences.

I propose a different approach. I define a utopian state as one that gives expression to a conception of an ideal society that is shared by the citizens of the utopian state. The power of the state is employed to ensure that those who have a different conception of an ideal state do not interfere.

A utopian state occupies territory and does not generally include all persons. Thus one of the first questions to arise with respect to a utopian state is, how does a utopian state justify, to persons who are not its citizens, its exclusive access to the territory it occupies?

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## Pufendorf's Contribution

Samuel Pufendorf (1632–1692) was a German natural law theorist. In his 1672 work, *On the Law of Nature and of Nations*, he propounded a theory of the origin of property. He wrote:

It is true that God allowed men to turn the earth, its products, and its creatures, to his own use and convenience, that is, He gave men an indefinite right to them, yet the manner, intensity, and extent of this power were left to the judgement and disposition of men; whether, in other words, they would confine it within certain limits, or within none at all, and whether they wanted every man to have a right to everything, or only to a certain and fixed part of things, or to be assigned his definite portion with which he should rest content and claim no right to anything else....

And yet there is no precept of natural law whereby all things are commanded to be proper to men in such a way, that every man should be allotted his own separate and distinct portion. Although natural law clearly advised that men should by convention introduce the assignment of such things to individuals, according as it might be of advantage to human society, yet on the condition that it would rest with the judgement of men, whether they wanted all things to be proper or only some, or would hold some things indivisible and leave the rest open to all, yet in such a way that no one might claim them for himself alone. From this it is further understood, that the law of nature approves all conventions which have been introduced about things by men, provided they involve no contradiction or do not overturn society. Therefore, the proprietorship of things has resulted immediately from the convention of men, either tacit or express. For although after God has made the gift, nothing remained to prevent man from appropriating things to himself, yet there was need of some sort of convention if it was to be understood that by such appropriation or seizure the right of others to that thing was excluded. But the fact that right reason suggested the introduction of separate dominions does not prevent them from going back to a human pact.<sup>1</sup>

In other words, property arises from human agreement. While individual property is efficient, for at least some things, it is not required. The default in the absence of agreement is that all persons are allowed to use all things: “there was need of some sort of convention if it was to be understood that by such appropriation or seizure the right of others to that thing was excluded.”

There are two striking features of Pufendorf's view. First, his view entails equal initial rights of all men, and second, the separate rights of persons to individual domains of property arise only from human conventions.

The idea of equal rights to the earth for all is not as surprising as it may seem at first, if one considers the environment in which Pufendorf was writing. Learned persons of his time would be familiar with the words of Psalm 115, verse 16, “The heavens are the Lord's heavens, but the earth he has given to human beings” (New Revised Standard Version). While there is no explicit statement of equal rights here, it is a natural way to interpret the words. And learned writers understood an obligation to keep their work in harmony with biblical teaching. Furthermore, in Pufendorf's time, the question of the origin of property was a subject on which

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<sup>1</sup>Samuel Pufendorf, *On the Law of Nature and of Nations*, Book IV, Ch. 4, Sect. 4.

many were writing, and equal initial rights to the earth was a common theme in these writings.<sup>2</sup>

The idea that private property arises from a convention among men requires interpretation. An alternative translation uses the word “agreement” rather than “convention” (Vallentyne and Steiner 2000). But “convention” is almost certainly the better word. “Agreement” suggests a unanimous agreement, with everyone having veto power. But Pufendorf would have understood that unanimous agreement was not reasonable to posit.

If property develops by convention rather than unanimous agreement, then the question arises as to whether the process by which such conventions emerge is adequately respectful of the rights of individuals, or whether some persons are treated unjustly in the development of the conventions of property. One can imagine property conventions arising as a consequence of conquest in which a dictator assigns nearly everything to himself. Is Pufendorf saying that all property conventions are just irrespective of their origins? I think, not.

A more plausible interpretation, it seems to me, is that Pufendorf is addressing a positive question rather than a normative one. He is not asking what makes property rules just, but rather, where do property rules come from? Pufendorf is right that there was a time before property, when no one had exclusive rights to anything, and property rules developed because people found them useful. If he had been aware of modern research on territoriality in animals,<sup>3</sup> he might have suggested that ideas of property in humans were built on a foundation provided by animal territoriality. But none of this addresses the question of whether the conventions regarding property that developed historically were just.

## Locke’s Contribution

John Locke wrote *Two Treatises of Government* in 1696, 24 years after Pufendorf’s *On the Law of Nature and of Nations* had been published. I do not know whether Locke was aware of Pufendorf’s work, but he was definitely aware of other writings on the subject of the origin of property.<sup>4</sup> In Chap. 5, *Of Property*, of Locke’s *Second Treatise* (paragraph 24) he says,

Whether we consider natural reason, which tells us that men, being once born, have a right to their preservation, and consequently to meat and drink and such other things as Nature affords for their subsistence, or “revelation,” which gives us an account of those grants God made of the world to Adam, and to Noah and his sons, it is very clear that God, as King David says (Psalm 115. 16), “has given the earth to the children of men,” given it to mankind in common. But, this being supposed, it seems to some a very great difficulty how any

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<sup>2</sup>See Pufendorf, *Op. cit.*, Chap. IV, Sects. 8–13.

<sup>3</sup>See Konrad Lorenz, *On Aggression*.

<sup>4</sup>See Locke’s *First Treatise*.

one should ever come to have a property in anything, I will not content myself to answer, that, if it be difficult to make out “property” upon a supposition that God gave the world to Adam and his posterity in common, it is impossible that any man but one universal monarch should have any “property” upon a supposition that God gave the world to Adam and his heirs in succession, exclusive of all the rest of his posterity; but I shall endeavor 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.

In other words, Locke says that he will explain how, even though God gave the world to all mankind, it is possible for people to have individual property, and without any express compacts among people. Locke begins with the idea that people have rights to themselves:

Though the earth and all inferior creatures be common to all men, yet every man has a “property” in his own “person.” This nobody has any right to but himself. The “labor” 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 has provided and left it in, he has mixed his labor with it, and joined to it something that is his own, and thereby makes it his property. It being by him removed from the common state Nature placed it in, it has by this labor something annexed to it that excludes the common right of other men. For this “labor” being the unquestionable property of the laborer, no man but he can have a right to what that is once joined to, at least where there is enough, and as good left in common for others.<sup>5</sup>

The last 14 words of this passage, “at least where there is enough, and as good left in common for others,” are known as “Locke’s proviso.” The interpretation of these words has been the subject of much debate. I used to think that Locke meant that if you want to claim something in nature for yourself, you must leave as much for everyone else as you take for yourself. But, more recently, I have concluded that the proper interpretation of Locke’s proviso requires that one takes into account the remainder of Locke’s argument. From this perspective I now understand that Locke was dividing his argument into the easy case and the hard case. The easy case, which is covered by the proviso, is the case when natural opportunities are not scarce, “where there is enough, and as good left in common for others.” If natural opportunities are not scarce, then, as a modern economist would say, the value of anything that is produced from natural opportunities is accounted for entirely by the value of other inputs. If no one is deprived of any opportunity by someone’s appropriation of something from nature, then there is nothing to complain about. The person who supplied the labor is the owner of the thing.

Next, Locke argues that the easy case can apply to land:

But the chief matter of property being now not the fruits of the earth and the beasts that subsist on it, but the earth itself, as that which takes in and carries with it all the rest, I think it is plain that property in that too is acquired as the former. As much land as a man tills, plants, improves, cultivates, and can use the product of, so much is his property. He by his labor does, as it were, enclose it from the common. Nor will it invalidate his right to say

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<sup>5</sup>Locke, *Second Treatise*, paragraph 26.

everybody else has an equal title to it, and therefore, he cannot appropriate, he cannot enclose, without the consent of all his fellow-commoners, all mankind. God, when He gave the world in common to all mankind, commanded man also to labor, and the penury of his condition required it of him. God and his reason commanded him to subdue the earth—i.e., improve it for the benefit of life and therein lay out something upon it that was his own, his labor. He that, in obedience to this command of God, subdued, tilled, and sowed any part of it, thereby annexed to it something that was his property, which another had no title to, nor could without injury take from him.

Nor was this appropriation of any parcel of land, by improving it, any prejudice to any other man, since there was still enough and as good left, and more than the yet unprovided could use. So that, in effect, there was never the less left for others because of his enclosure for himself. For he that leaves as much as another can make use of does as good as take nothing at all. Nobody could think himself injured by the drinking of another man, though he took a good draught, who had a whole river of the same water left him to quench his thirst. And the case of land and water, where there is enough of both, is perfectly the same....

It is true, in land that is common in England or any other country, where there are plenty of people under government who have money and commerce, no one can enclose or appropriate any part without the consent of all his fellow-commoners; because this is left common by compact—i.e., by the law of the land, which is not to be violated. And, though it be common in respect of some men, it is not so to all mankind, but is the joint propriety of this country, or this parish. Besides, the remainder, after such enclosure, would not be as good to the rest of the commoners as the whole was, when they could all make use of the whole; whereas in the beginning and first peopling of the great common of the world it was quite otherwise. The law, man was under, was rather for appropriating. God commanded, and his wants forced him to labor. That was his property, which could not be taken from him wherever he had fixed it. And hence subduing or cultivating the earth and having dominion, we see, are joined together. The one gave title to the other. So that God, by commanding to subdue, gave authority so far to appropriate. And the condition of human life, which requires labor and materials to work on, necessarily introduce private possessions.

The measure of property Nature well set, by the extent of men's labor and the convenience of life. No man's labor could subdue or appropriate all, nor could his enjoyment consume more than a small part; so that it was impossible for any man, this way, to entrench upon the right of another or acquire to himself a property to the prejudice of his neighbor, who would still have room for as good and as large a possession (after the other had taken out his) as before it was appropriated. Which measure did confine every man's possession to a very moderate proportion, and such as he might appropriate to himself without injury to anybody in the first ages of the world, when men were more in danger to be lost, by wandering from their company, in the then vast wilderness of the earth than to be straitened for want of room to plant in.

The same measure may be allowed still, without prejudice to anybody, full as the world seems. For, supposing a man or family, in the state they were at first, peopling of the world by the children of Adam or Noah, let him plant in some inland vacant places of America. We shall find that the possessions he could make himself, upon the measures we have given, would not be very large, nor, even to this day, prejudice the rest of mankind or give them reason to complain or think themselves injured by this man's encroachment, though the race of men have now spread themselves to all the corners of the world, and do infinitely exceed the small number [that] was at the beginning.<sup>6</sup>

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<sup>6</sup>Locke, *Op. cit.*, paragraphs 31–36.

Summarizing the argument so far without the biblical literalism, it is: People have a right to their labor. The human condition requires them to improve land to survive, so their work gives them the right to the land they improve. And no one can properly complain because there is still plenty of good, unclaimed land in America.

Locke's argument is both positive and normative. He proposes an account of how private property developed, and he argues that the process was just.

Locke claims that while some land has value apart from human labor, that contribution to value is quite small:

Nor is it so strange as, perhaps, before consideration, it may appear, that the property of labor should be able to overbalance the community of land, for it is labor indeed that puts the difference of value on everything; and let anyone consider what the difference is between an acre of land planted with tobacco or sugar, sown with wheat or barley, and an acre of the same land lying in common without any husbandry upon it, and he will find that the improvement of labor makes the far greater part of the value. I think it will be but a very modest computation to say, that of the products of the earth useful to the life of man, nine-tenths are the effects of labor. Nay, if we will rightly estimate things as they come to our use, and cast up the several expenses about them—what in them is purely owing to Nature and what to labor—we shall find that in most of them ninety-nine hundredths are wholly to be put on the account of labor.<sup>7</sup>

So, Locke argues, even if there is some scarcity value to land, it is so inconsequential that it can be ignored without noticeable injustice.

From all which it is evident, that though the things of Nature are given in common, man (by being master of himself, and proprietor of his own person, and the actions or labor of it) had still in himself the great foundation of property; and that which made up the great part of what he applied to the support or comfort of his being, when invention and arts had improved the conveniences of life, was perfectly his own, and did not belong in common to others.

Thus labor, in the beginning, gave a right of property, wherever any one was pleased to employ it, upon what was common, which remained a long while, the far greater part, and is yet more than mankind makes use of. Men at first, for the most part, contented themselves with what unassisted Nature offered to their necessities; and though afterwards, in some parts of the world, where the increase of people and stock, with the use of money, had made land scarce, and so of some value, the several communities settled the bounds of their distinct territories, and, by laws, within themselves, regulated the properties of the private men of their society, and so, by compact and agreement, settled the property which labor and industry began.<sup>8</sup>

Thus Locke ends with compacts and agreements among men settling the rules of property.

Because Locke goes back and forth between positive arguments and normative ones, it is sometimes difficult to keep track of the thread of his normative argument. In fact, Locke leaves his normative argument incomplete by switching to positive statements. Thus to the extent that he has succeeded in his “endeavor 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” he has shown how it *can* happen but not how it can be *just*.

<sup>7</sup>Locke, *Op. cit.*, paragraph 40.

<sup>8</sup>Locke, *Op cit.*, paragraphs 44–45.



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