

## Notes and Questions

JOHN STUART MILL, from *Principles of Political Economy*

1. John Stuart Mill's description of the history of private property in land is very different from Locke's. He argues that the origin of property provides no justification for the institution as it stands, yet he contends the system should be maintained once it is long established. Why?

2. Many people object to the institution of private property altogether, Mill notes. What two classes of objectors does he name? He suggests that although these alternative economic schemes may have defects, they are not without plausibility. Using communism as an example of an alternative economy, Mill argues that a communistic system is as defensible and practical as private property. What grounds does he give?

3. Mill's next question is, What are the implications and boundaries of the concept of property? This is rather like the question Honoré asked, but Mill approaches it a little differently. He sets out the foundation of ownership as Locke did, on the basis of labor. But for Mill labor is not the only consideration; we must also account for capital. How does he do that? How does Mill answer the objection that heirs profit from the work of others and not their own labor? How does he respond to the objection to competition?

4. Mill argues that the concept of property also includes the right of title by prescription after a certain lapse of time. How does he support this position? How does he limit it? How can this position be reconciled with justice? Mill recognizes that for a legitimate claim to die after a lapse of time may seem unjust. Do his limits help address this injustice?

5. Mill notes that while bequest is implied in the concept of property, inheritance is not. What conclusions does he draw from this idea? He further argues that even bequest should be limited. On what grounds?

6. Unlike Locke, Mill distinguishes the ownership of land from the ownership of goods or the products of labor. According to Mill, property in land should be sharply limited. Why? What is the only justification for land ownership?

7. Some things, Mill notes, should not be property at all. What does he name as things unfit for ownership? Do you find any principle that explains which things should not be owned and why?

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[From] *Principles of Political Economy*

JOHN STUART MILL

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Private property, as an institution, did not owe its origin to any of those considerations of utility, which plead for the maintenance of it when established. Enough is known of rude ages, both from history and from analogous states of society in our own time, to show, that tribunals (which always precede laws) were originally established, not to determine rights, but to repress violence and terminate quarrels. With this object

chiefly in view, they naturally enough gave legal effect to first occupancy, by treating as the aggressor the person who first commenced violence, by turning, or attempting to turn, another out of possession. The preservation of the peace, which was the original object of civil government, was thus attained; while by confirming, to those who already possessed it, even what was not the fruit of personal exertion, a guarantee

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was incidentally given to them and others that they would be protected in what was so. . . .

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The assailants of the principle of individual property may be divided into two classes: those whose scheme implies absolute equality in the distribution of the physical means of life and enjoyment, and those who admit inequality, but grounded on some principle, or supposed principle, of justice or general expediency, and not, like so many of the existing social inequalities, dependent on accident alone.

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Whatever may be the merits or defects of these various schemes, they cannot be truly said to be impracticable. No reasonable person can doubt that a village community, composed of a few thousand inhabitants cultivating in joint ownership the same extent of land which at present feeds the number of people, and producing by combined labour and the most improved processes the manufactured articles which they required, could raise an amount of productions sufficient to maintain them in comfort; and would find the means of obtaining, and if need be, exacting, the quantity of labour necessary for this purpose, from every member of the association who was capable of work.

The objection ordinarily made to a system of community of property and equal distribution of the produce, that each person would be incessantly occupied in evading his fair share of the work, points, undoubtedly, to a real difficulty. But those who urge this objection, forget to how great an extent the same difficulty exists under the system on which nine-tenths of the business of society is now conducted. The objection supposes, that honest and efficient labour is only to be had from those who are themselves individually to reap the benefit of their own exertions. But how small a part of all the labour performed in England, from the lowest paid to the highest, is done by persons working for their own benefit. From the Irish reaper or hodman to the chief justice or the minister of state, nearly all the work of society is remunerated by day wages or fixed salaries. A factory operative has less personal interest in his work than a member of a Communist association, since he is not, like him, working for a partnership of which he is himself a

member. It will no doubt be said, that though the labourers themselves have not, in most cases, a personal interest in their work, they are watched and superintended, and their labour directed, and the mental part of the labour performed, by persons who have. Even this, however, is far from being universally the fact. In all public, and many of the largest and most successful private undertakings, not only the labours of detail but the control and superintendence are entrusted to salaried officers. And though the "master's eye," when the master is vigilant and intelligent, is of proverbial value, it must be remembered that in a Socialist farm or manufactory, each labourer would be under the eye not of one master, but of the whole community. In the extreme case of obstinate perseverance in not performing the due share of work, the community would have the same resources which society now has for compelling conformity to the necessary conditions of the association. Dismissal, the only remedy at present, is no remedy when any other labourer who may be engaged does no better than his predecessor: the power of dismissal only enables an employer to obtain from his workmen the customary amount of labour, but that customary labour may be of any degree of inefficiency. Even the labourer who loses his employment by idleness or negligence, has nothing worse to suffer, in the most unfavourable case, than the discipline of a workhouse, and if the desire to avoid this be a sufficient motive in the one system, it would be sufficient in the other. . . .

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. . . [Further,] mankind are capable of a far greater amount of public spirit than the present age is accustomed to suppose possible. History bears witness to the success with which large bodies of human beings may be trained to feel the public interest their own. And no soil could be more favourable to the growth of such a feeling, than a Communist association, since all the ambition, and the bodily and mental activity, which are now exerted in the pursuit of separate and self-regarding interests, would require another sphere of employment, and would naturally find it in the pursuit of the general benefit of the community. The same cause, so often assigned in explanation of the devotion of the Catholic priest or monk to the interest of his order—that he has

no interest apart from it—would, under Communism, attach the citizen to the community. And independently of the public motive, every member of the association would be amenable to the most universal, and one of the strongest, of personal motives, that of public opinion. The force of this motive in deterring from any act or omission positively reprobated by the community, no one is likely to deny; but the power also of emulation, in exciting to the most strenuous exertions for the sake of the approbation and admiration of others, is borne witness to by experience in every situation in which human beings publicly compete with one another, even if it be in things frivolous, or from which the public derive no benefit. A contest, who can do most for the common good, is not the kind of competition which Socialists repudiate. To what extent, therefore, the energy of labour would be diminished by Communism, or whether in the long run it would be diminished at all, must be considered for the present an undecided question. . . .

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If . . . the choice were to be made between Communism with all its chances, and the present state of society with all its sufferings and injustices; if the institution of private property necessarily carried with it as a consequence, that the produce of labour should be apportioned as we now see it, almost in an inverse ratio to the labour—the largest portions to those who have never worked at all, the next largest to those whose work is almost nominal, and so in a descending scale, the remuneration dwindles as the work grows harder and more disagreeable, until the most-fatiguing and exhausting bodily labour cannot count with certainty on being able to earn even the necessities of life; if this, or Communism, were the alternative, all the difficulties, great or small, of Communism, would be but as dust in the balance. But to make the comparison applicable, we must compare Communism at its best, with the régime of individual property, not as it is, but as it might be made. The principle of private property has never yet had a fair trial in any country; and less so, perhaps, in this country than in some others. The social arrangements of modern Europe commenced from a distribution of property which was the result, not of just partition, or acquisition

by industry, but of conquest and violence: and notwithstanding what industry has been doing for many centuries to modify the work of force, the system still retains many and large traces of its origin. The laws of property have never yet conformed to the principles on which the justification of private property rests. They have made property of things which never ought to be property, and absolute property where only a qualified property ought to exist. They have not held the balance fairly between human beings, but have heaped impediments upon some, to give advantage to others; they have purposely fostered inequalities, and prevented all from starting fair in the race. . . .

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It is next to be considered, what is included in the idea of private property, and by what considerations the application of the principle should be bounded.

The institution of property, when limited to its essential elements, consists in the recognition, in each person, of a right to the exclusive disposal of what he or she have produced by their own exertions, or received either by gift or by fair agreement, without force or fraud, from those who produced it. The foundation of the whole is, the right of producers to what they themselves have produced. It may be objected, therefore, to the institution as it now exists, that it recognises rights of property in individuals over things which they have not produced. For example (it may be said) the operatives in a manufactory create, by their labour and skill, the whole produce; yet, instead of its belonging to them, the law gives them only their stipulated hire, and transfers the produce to some one who has merely supplied the funds, without perhaps contributing anything to the work itself, even in the form of superintendence. The answer to this is, that the labour of manufacture is only one of the conditions which must combine for the production of the commodity. The labour cannot be carried on without materials and machinery, nor without a stock of necessities provided in advance, to maintain the labourers during the production. All these things are the fruits of previous labour. If the labourers were possessed of them, they would not need to divide the produce with any one; but while they have them not, an equivalent must be

given to those who have, both for the antecedent labour, and for the abstinence by which the produce of that labour, instead of being expended on indulgences, has been reserved for this use. The capital may not have been, and in most cases was not, created by the labour and abstinence of the present possessor; but it was created by the labour and abstinence of some former person, who may indeed have been wrongfully dispossessed of it, but who, in the present age of the world, much more probably transferred his claims to the present capitalist by gift or voluntary contract: and the abstinence at least must have been continued by each successive owner, down to the present. If it be said, as it may with truth, that those who have inherited the savings of others have an advantage which they have in no way deserved, over the industrious whose predecessors have not left them anything; I not only admit, but strenuously contend, that this unearned advantage should be curtailed, as much as is consistent with justice to those who thought fit to dispose of their savings by giving them to their descendants. But while it is true that the labourers are at a disadvantage compared with those whose predecessors have saved, it is also true that the labourers are far better off than if those predecessors had not saved. They share in the advantage, though not to an equal extent with the inheritors. The terms of co-operation between present labour and the fruits of past labour and saving, are a subject for adjustment between the two parties. Each is necessary to the other. The capitalist can do nothing without labourers, nor the labourers without capital. If the labourers compete for employment, the capitalists on their part compete for labour, to the full extent of the circulating capital of the country. Competition is often spoken of as if it were necessarily a cause of misery and degradation to the labouring class; as if high wages were not precisely as much a product of competition as low wages. The remuneration of labour is as much the result of the law of competition in the United States, as it is in Ireland, and much more completely so than in England.

The right of property includes, then, the freedom of acquiring by contract. The right of each to what he has produced, implies a right to what has been produced by others, if obtained by their free consent; since the producers must either

have given it from good will, or exchanged it for what they esteemed an equivalent, and to prevent them from doing so would be to infringe their right of property in the product of their own industry.

Before proceeding to consider the things which the principle of individual property does not include, we must specify one more thing which it does include: and this is that a title, after a certain period, should be given by prescription. According to the fundamental idea of property, indeed, nothing ought to be treated as such, which has been acquired by force or fraud, or appropriated in ignorance of a prior title vested in some other person; but it is necessary to the security of rightful possessors, that they should not be molested by charges of wrongful acquisition, when by the lapse of time witnesses must have perished or been lost sight of, and the real character of the transaction can no longer be cleared up. Possession which has not been legally questioned within a moderate number of years, ought to be, as by the laws of all nations it is, a complete title. Even when the acquisition was wrongful, the dispossession, after a generation has elapsed, of the probably *bond fide* possessors, by the revival of a claim which had been long dormant, would generally be a greater injustice, and almost always a greater private and public mischief, than leaving the original wrong without atonement. It may seem hard that a claim, originally just, should be defeated by mere lapse of time; but there is a time after which, (even looking at the individual case, and without regard to the general effect on the security of possessors,) the balance of hardship turns the other way. With the injustices of men, as with the convulsions and disasters of nature, the longer they remain unrepaired, the greater become the obstacles to repairing them, arising from the aftergrowths which would have to be torn up or broken through. In no human transactions, not even in the simplest and clearest, does it follow that a thing is fit to be done now, because it was fit to be done sixty years ago. It is scarcely needful to remark, that these reasons for not disturbing acts of injustice of old date, cannot apply to unjust systems or institutions; since a bad law or usage is not one bad act, in the remote past, but a perpetual repetition of bad acts, as long as the law or usage lasts.

Such, then, being the essentials of private property, it is now to be considered, to what extent the forms in which the institution has existed in different states of society, or still exists, are necessary consequences of its principle, or are recommended by the reasons on which it is grounded.

Nothing is implied in property but the right of each to his (or her) own faculties, to what he can produce by them, and to whatever he can get for them in a fair market: together with his right to give this to any other person if he chooses, and the right of that other to receive and enjoy it.

It follows, therefore, that although the right of bequest, or gift after death, forms part of the idea of private property, the right of inheritance, as distinguished from bequest, does not. That the property of persons who have made no disposition of it during their lifetime, should pass first to their children, and failing them, to the nearest relations, may be a proper arrangement or not, but is no consequence of the principle of private property. Although there belong to the decision of such questions many considerations besides those of political economy, it is not foreign to the plan of this work to suggest, for the judgment of thinkers, the view of them which most recommends itself to the writer's mind. . . .

Whether the power of bequest should itself be subject to limitation is an ulterior question of great importance. Unlike inheritance *ab intestato*, bequest is one of the attributes of property: the ownership of a thing cannot be looked upon as complete without the power of bestowing it, at death or during life, at the owner's pleasure: and all the reasons, which recommend that private property should exist, recommend *pro tanto* this extension of it. But property is only a means to an end, not itself the end. Like all other proprietary rights, and even in a greater degree than most, the power of bequest may be so exercised as to conflict with the permanent interests of the human race. It does so, when, not content with bequeathing an estate to A, the testator prescribes that on A's death it shall pass to his eldest son, and to that son's son, and so on for ever. No doubt, persons have occasionally exerted themselves more strenuously to acquire a fortune from the hope of founding a family in perpetuity; but the mischiefs to society of such perpetuities outweigh the value of this incentive to exertion, and the incentives in

the case of those who have the opportunity of making large fortunes are strong enough without it. A similar abuse of the power of bequest is committed when a person who does the meritorious act of leaving property for public uses, attempts to prescribe the details of its application in perpetuity; when in founding a place of education (for instance) he dictates, for ever, what doctrines shall be taught. It being impossible that any one should know what doctrines will be fit to be taught after he has been dead for centuries, the law ought not to give effect to such dispositions of property, unless subject to the perpetual revision (after a certain interval has elapsed) of a fitting authority. . . .

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The next point to be considered is, whether the reasons on which the institution of property rests, are applicable to all things in which a right of exclusive ownership is at present recognized; and if not, on what other grounds the recognition is defensible.

The essential principle of property being to assure to all persons what they have produced by their labour and accumulated by their abstinence, this principle cannot apply to what is not the produce of labour, the raw material of the earth. If the land derived its productive power wholly from nature, and not at all from industry, or if there were any means of discriminating what is derived from each source, it not only would not be necessary, but it would be the height of injustice, to let the gift of nature be engrossed by individuals. The use of the land in agriculture must indeed, for the time being, be of necessity exclusive; the same person who has ploughed and sown must be permitted to reap: but the land might be occupied for one season only, as among the ancient Germans; or might be periodically redivided as population increased: or the State might be the universal landlord, and the cultivators tenants under it, either on lease or at will.

But though land is not the produce of industry, most of its valuable qualities are so. Labour is not only requisite for using, but almost equally so for fashioning, the instrument. Considerable labour is often required at the commencement, to clear the land for cultivation. In many cases, even when cleared, its productiveness is wholly the effect of labour and art. . . .

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... Cultivation also requires buildings and fences, which are wholly the produce of labour. The fruits of this industry cannot be reaped in a short period. The labour and outlay are immediate, the benefit is spread over many years, perhaps over all future time. A holder will not incur this labour and outlay when strangers and not himself will be benefited by it. If he undertakes such improvements, he must have a sufficient period before him in which to profit by them; and he is in no way so sure of having always a sufficient period as when his tenure is perpetual. ...

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These are the reasons which form the justification in an economical point of view, of property in land. It is seen, that they are only valid, in so far as the proprietor of land is its improver. Whenever, in any country, the proprietor, generally speaking, ceases to be the improver, political economy has nothing to say in defence of landed property, as there established. In no sound theory of private property was it ever contemplated that the proprietor of land should be merely a sinecrist quartered on it. ...

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When the "sacredness of property" is talked of, it should always be remembered, that any such sacredness does not belong in the same degree to landed property. No man made the land. It is the original inheritance of the whole species. Its appropriation is wholly a question of general expediency. When private property in land is not expedient, it is unjust. It is no hardship to any one, to be excluded from what others have produced: they were not bound to produce it for his use, and he loses nothing by not sharing in what otherwise would not have existed at all. But is some hardship to be born into the world and to find all nature's gifts previously engrossed, and no place left for the new-comer. To reconcile people to this, after they have once admitted into their minds the idea that any moral rights belong to them as human beings, it will always be necessary to convince them that the exclusive appropriation is good for mankind on the whole, themselves included. But this is what no sane human being could be persuaded of, if the relation between the landowner and the cultivator were the same everywhere as it has been in Ireland.

Landed property is felt, even by those most tenacious of its rights, to be a different thing

from other property; and where the bulk of the community have been disinherited of their share of it, and it has become the exclusive attribute of a small minority, men have generally tried to reconcile it, at least in theory, to their sense of justice, by endeavouring to attach duties to it, and erecting it into a sort of magistracy, either moral or legal. But if the state is at liberty to treat the possessors of land as public functionaries, it is only going one step further to say, that it is at liberty to discard them. The claim of the landowners to the land is altogether subordinate to the general policy of the state. The principle of property gives them no right to the land, but only a right to compensation for whatever portion of their interest in the land it may be the policy of the state to deprive them of. To that, their claim is indefeasible. It is due to landowners, and to owners of any property whatever, recognized as such by the state, that they should not be dispossessed of it without receiving its pecuniary value, or an annual income equal to what they derived from it. This is due on the general principles on which property rests. If the land was bought with the produce of the labor and abstinence of themselves or their ancestors, compensation is due to them on that ground; even if otherwise, it is still due on the ground of prescription. Nor can it ever be necessary for accomplishing an object by which the community altogether will gain, that a particular portion of the community should be immolated. When the property is of a kind to which peculiar affections attach themselves, the compensation ought to exceed a bare pecuniary equivalent. But, subject to this proviso, the state is at liberty to deal with landed property as the general interests of the community may require, even to the extent, if it so happen, of doing with the whole, what is done with a part whenever a bill is passed for a railroad or a new street. The community has too much at stake in the proper cultivation of the land, and in the conditions annexed to the occupancy of it, to leave these things to the discretion of a class of persons called landlords, when they have shown themselves unfit for the trust. ...

To me it seems almost an axiom that property in land should be interpreted strictly, and that the balance in all cases of doubt should incline against the proprietor. The reverse is the case with property in moveables, and in all things the product of

labour: over these, the owner's power both of use and of exclusion should be absolute, except where positive evil to others would result from it; but in the case of land, no exclusive right should be permitted in any individual, which cannot be shown to be productive of positive good. To be allowed any exclusive right at all, over a portion of the common inheritance, while there are others who have no portion, is already a privilege. No quantity of moveable goods which a person can acquire by his labour, prevents others from acquiring the like by the same means; but from the very nature of the case, whoever owns land, keeps others out of the enjoyment of it. The privilege, or monopoly, is only defensible as a necessary evil; it becomes an injustice when carried to any point to which the compensating good does not follow it.

For instance, the exclusive right to the land for purposes of cultivation does not imply an exclusive right to it for purposes of access; and no such right ought to be recognized, except to the extent necessary to protect the produce against damage, and the owner's privacy against invasion. The pretension of two Dukes to shut up a part of the Highlands, and exclude the rest of mankind from many square miles of mountain scenery to prevent disturbance to wild animals, is an abuse; it exceeds the legitimate bounds of the right of landed property. When land is not intended to be cultivated, no good reason can in general be given for its being private property at all; and if any one is permitted to call it his, he ought to know that he holds it by sufferance of the community, and on an implied condition that his ownership, since it cannot possibly do them any good, at least shall not deprive them of any, which they could have derived from the land if it had been unappropriated. Even in the case of cultivated land, a man whom, though only one among millions, the law permits to hold thousands of acres as his single share, is not entitled to think that all this is given to him to use and abuse, and deal with as if it concerned nobody but himself. The rents or profits which he can obtain from it are at his sole disposal; but with regard to the land, in everything which he does with it, and in everything which he abstains from doing, he is morally bound, and should whenever the case admits be legally compelled, to make his interest and pleasure consistent with the public good. The species at large still retains, of its orig-

inal claim to the soil of the planet which it inhabits, as much as is compatible with the purposes for which it has parted with the remainder.

Besides property in the produce of labour, and property in land, there are other things which are or have been subjects of property, in which no proprietary rights ought to exist at all. But as the civilized world has in general made up its mind on most of these, there is no necessity for dwelling on them in this place. At the head of them, is property in human beings. It is almost superfluous to observe, that this institution can have no place in any society even pretending to be founded on justice, or on fellowship between human creatures. But, iniquitous as it is, yet when the state has expressly legalized it, and human beings, for generations, have been bought, sold, and inherited under sanction of law, it is another wrong, in abolishing the property, not to make full compensation. . . . Other examples of property which ought not to have been created, are properties in public trusts; such as judicial offices under the old French régime, and the heritable jurisdictions which, in countries not wholly emerged from feudality, pass with the land. Our own country affords, as cases in point, that of a commission in the army, and of an advowson, or right of nomination to an ecclesiastical benefice. A property is also sometimes created in a right of taxing the public; in a monopoly, for instance, or other exclusive privilege. These abuses prevail most in semibarbarous countries; but are not without example in the most civilized. In France there are several important trades and professions, including notaries, attorneys, brokers, appraisers, printers, even bakers, and (until lately) butchers, of which the numbers are limited by law. The *brevet* or privilege of one of the permitted number consequently brings a high price in the market. In these cases, compensation probably could not with justice be refused, on the abolition of the privilege. There are other cases in which this would be more doubtful. The question would turn upon what, in the peculiar circumstances, was sufficient to constitute prescription; and whether the legal recognition which the abuse had obtained, was sufficient to constitute it an institution, or amounted only to an occasional license. It would be absurd to claim compensation for losses caused by changes in a tariff, a thing confessedly variable

from year to year; or for monopolies like those granted to individuals by Queen Elizabeth, favours of a despotic authority, which the power that gave was competent at any time to recall.

So much on the institution of property, a subject of which, for the purposes of political economy, it was indispensable to treat, but on which

we could not usefully confine ourselves to economical considerations. We have now to inquire on what principles and with what results the distribution of the produce of land and labour is effected, under the relations which this institution creates among the different members of the community.