

Squatting as a Solution to London's Homelessness Crisis: An Investigation of Property Rights and Economic Liberalism

‘A dissertation submitted to the
University of Wales Trinity Saint David in
partial fulfilment of the requirements
for a Creative Writing and Philosophy BA’

2019

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We cry shame on the feudal baron who forbade the peasant to turn a clod of earth unless he surrendered to his lord a fourth of his crop. We call those barbarous times. But if the forms have changed, the relations have remained the same... For, turn where he will, he can find no better conditions. Everything has become private property, and he must accept, or die of hunger.

Peter Kropotkin, *The Conquest of Bread*

ACKNOWLEDGMENTS

I would like to express my deepest thanks to several people for assisting me through the planning and writing of this dissertation.

Firstly, my thanks go to the staff of the university for their part in supporting me: Dr Rebekah Humphreys, my dissertation supervisor, for helping me develop my original idea and offering her knowledge (and books), and Dr Nigel Rodenhurst, my mentor, for his dedication in watching my progress from abroad and understanding my intentions when even I was unsure.

Secondly, my thanks go to my family for supporting me all the way through university and motivating me to do my best. Special thanks go to my mother, Debbie, for her continuing love and support over the last twenty-one years and vital part in helping me grow into the person I am today.

I am also highly grateful to my friends and flatmates, Grace and Abigail, for keeping me (relatively) sane, even when faced with their own dissertations, and driving an hour to get McDonald's when things got too much.

Finally, I would like to give the utmost thanks to Harry, my boyfriend, for his continued encouragement and patience throughout this dissertation and my university journey in its entirety. The situations may not always be easy to navigate, but I am grateful and glad to have him beside me every step of the way.

ABSTRACT

In recent years, the number of homeless people living in London has increased greatly. Many of these people sleep on the streets each night, unable or unwilling to make use of the capital's various government and charity-run shelters. At the same time, the number of empty commercial buildings in London has reached more than 20,000, with some being empty for several years. In this essay, I shall propose that the best use of these empty buildings is to provide temporary (or even permanent) homes for the city's homeless through the action of squatting.

While England's laws for the reduction of homelessness levels have been updated as recently as 2017, its laws regarding squatting have remained virtually unchanged for over forty years. The economical and philosophical spheres have changed greatly since then: the Great Recession caused the collapse of markets around the world, and newly-developed branches of economic liberalism have come to the foreground of philosophical and political thought. This fact supports my conviction there should be some change to the country's view on squatting, due to the surrounding legislature and situation having changed drastically.

Throughout this essay, I shall make three key arguments. The first considers the current economic and state of England, and explains why economic liberalism has failed in providing for those in need. This will include various real-life examples, illustrating how the current situation is unworkable. The second evaluates property rights – with a specific focus on the ideas of Locke and Proudhon – to develop a philosophical understanding in which the status of the labouring many is more important than the ownership rights of the few. Lastly, I combine the previous arguments and suggest how we can “reclaim” empty buildings, while considering any opposing arguments that may arise.

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CHAPTER 1 – THE STATE OF LIBERALISM

When considering the impact of economic liberalism¹ on today's society, economists and philosophers generally fall into two groups: (1) those who argue for the death of modern economic liberalism and (2) those who argue that it is still the *via optima* when compared with any other method. The groups seem to agree that economic liberalism is responsible for the “boom” from the 1980s onwards (regarding the neo-liberal shift in world politics that began with Reagan and Thatcher)² but disagree on its status after 2008's global financial crisis. It is the first group that I will be arguing in favour of throughout the following chapters.

While the named theory of economic liberalism did not begin to flourish until the 1930s, following the Great Depression and the rise of socialist/communist ideologies in Europe, some theorists had been supporting its *laissez-faire* economics for centuries – with a reduction of government influence, they believed, the market would naturally flourish and allow equal prosperity across the classes. Adam Smith's somewhat optimistic outlook on the free market is not based on the idea that humans will automatically do what is good/right, but instead relies on the manipulation of another's self-interest to fulfil one's own: the baker relies on his customers to make money, just as they rely on him to obtain food.³ Smith is justified here, for humans are not naturally benevolent creatures: we live a *quid pro quo* existence in which we must obtain some reward for our actions (even Aristotle's most virtuous subject acts positively towards others so that he may himself reach a state of eudaimonia). If it were true that humans are naturally altruistic, it would therefore make sense for them to have no self-interest whatsoever: I cannot focus on others while thinking about myself.

¹ When the term “liberal” is used within this essay (in lower or upper case), it refers to the proponents of economic liberalism, and not to the members of the Liberal Democrats or any similarly-named party.

² Stefan Andreasson, ‘Stand and Deliver: Private Property and the Politics of Global Dispossession’, *Political Studies*, Vol. 54, March 2006, pp. 3-22 (16).

³ Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* (Hertfordshire: Wordsworth, 2012), p. 19.

Consider a world of perfect benevolence, where I have the wealth and power to give all that I can to whoever needed it. If a person needed food, I would simply give it to them without considering if said action would affect my own self. It could be my last scrap of food or even have great emotional significance to my life, but I would selflessly donate it to another. If I were to constantly act against my own self-interest in such a way it would leave me without the means to support myself, all for the sake of benevolence. In order to maintain a state in which I can support myself but also help others, I require a certain amount of self-awareness and self-interest that the perfectly benevolent world does not afford me.

Because of this required self-interest, Smith's liberal economics allow the two private entities (either a person or business) involved in a deal to decide the terms of their relationship. The examples that are given in *Wealth of Nations* (bakers, brewers, shepherds, and so on) base Smith's liberal ideas on a localised market: we can assume that the entities are fairly equal in regards to their social standing and wealth, for they reside in the location in the manner of a closely-knit tribe.⁴ If this is the case, then the basic terms of their relationship can be easily established: they can trade solely in a 1:1 manner on an equal footing. There is, however, one key issue with this liberal state of tribe-living that is relevant here: it can easily lead to the creation of debilitating monopolies.

With each member of the tribe (society) possessing a skill in which only they excel, they become responsible for deciding the "value" of the product of their expertise: the baker is the only person who is able to manufacture bread, so he can decide how many bricks or jars or clothes it is worth. In theory, the baker would essentially be forced to keep his prices low in order to obtain what he wants from the other manufacturers/experts. However, with the baker being the sole producer of an item that is vital to the lives of the other experts, he holds full responsibility when it comes to setting the prices: if the baker states that his bread is worth ten bricks, then the brickmaker must pay that price – if he were to refuse to pay the baker's price, he would be lacking food and would eventually die from its absence.

As explained above, the baker does not care whether the other members of his community would be able to easily afford his bread, due to being motivated by

⁴ Smith, p. 20.

self-interest, so he is under no obligation to himself to maintain low prices. It is through this situation that a dictatorial monopoly has been created: the baker has total and sole control over his product, and there is no government or trade agreement attempting to remove or reduce his influence over the market. While this is beneficial to the baker, and undoubtedly favourable to the capitalist liberal who prides himself in accumulating profit and property, it is detrimental to society as a whole. Not only does the baker put lives at risk, through his monopolising of a vital resource, but he also risks the removal or decline of other commodities from the market due to the others' inability to access valuable resources. Despite self-interest being a significant part of human nature, it risks damaging society if unregulated.

While Smith is often worshipped as a *laissez-faire* hero, he himself recognised the “wretched spirit of monopoly” and acknowledged society’s need to regulate them in the form of government intervention.⁵ Salvadori and Signorino argue that, in attempting to solve the issues surrounding the monopolisation of the market for private means, Smith makes a “plea for state regulation” in his support of magistrates and clerks balancing the price of bread to that of oats.⁶ By doing this, the magistrate reduces the influence of the monopoliser upon the market and allows for the fair exchange of goods between members of the society: instead of the bread being worth ten bricks (a price set for the baker’s own self-interest) it would now be worth a more reasonable amount, of one or two bricks. While it would of course be correct to argue that the magistrate’s price-setting has decreased the value of bread, its effects on the market go beyond that: by balancing out the prices of the products, the magistrate has increased the value of bricks and the other commodities that were being used to purchase the bread. Effectively, the regulations have allowed equality within the market and represent the efforts of the other experts in creating their products.

According to Salvadori and Signorino, Smith further supported the state regulation of the market when it came to the monopolisation of coined gold: in order to make certain that the Master of the Mint maintains the value of coinage for the

⁵ Smith, p. 451.

⁶ Neri Salvadori and Rodolfo Signorino, ‘Adam Smith on Monopoly Theory. Making good a lacuna’, *Scottish Journal of Political Economy*, Vol. 61, No. 2, May 2014, pp. 178-196 (192).

“recognised public interest”, he argues that it is “necessary [that] there should be a fixed or assized price”.⁷ Much like with the aforementioned regulation of bread prices, the threat of unregulated monopolies (which the free market allows for the creation of) on society has been recognised by Smith. Without state regulation aimed at the Master of the Mint, he is free to “take any price he inclined” and therefore able to extort those who rely on the coinage to function within society.⁸ In this specific case, the monopoly is both necessary and beneficial to society: instead of the authoritarian monopolies that exist within the unregulated free market (which are focused on collecting profit for the individual in possession), price-setting regulations have allowed for the balanced co-existence of the private accumulation of the Master of the Mint and the social prosperity of those who rely on his coinage.

The implementation of state regulation to maintain the existence of monopolies is not always beneficial to society, however, as those in charge of creating agreements and price-setting can easily become corrupt. Smith believed that lawmakers would be much more likely to support laws and policies that benefit their own capital-gaining than that of society. Instead of corruption being a “breach of individual morality”, Hill argues, Smith sees it as “a function of either legally sanctioned market manipulation or an absence of regular, impartial justice”.⁹ In this regard, monopolies are allowed to exist and manipulate the markets for their own self-interest because it is made legal for them to do so. A common example of when this regulation manipulation can occur is when lawmakers have conflicts of interest: while members of parliament (MPs) in the United Kingdom are expected to “avoid conflict between personal interest and public interest”, the parliamentary Code of Conduct (CoC) contains no specific guidelines as to how this should be done.¹⁰ Therefore, it is possible that this allows for the lawmakers to avoid a proper “split” from their possible conflicts of interest while maintaining some amount of power over its regulation.

⁷ Ibid., p. 192.

⁸ Ibid., p. 192.

⁹ Lisa Hill, ‘Adam Smith and the Theme of Corruption’, *The Review of Politics*, Vol. 68, No. 4, pp. 636-662 (650).

¹⁰ Parliament.uk, *The Code of Conduct for Members of Parliament*, 16 April 2012, <<https://publications.parliament.uk/pa/cm201012/cmcode/1885/188502.htm>>, [accessed 2 May 2019].

One such instance of this was Wimbledon MP Stephen Hammond's connections with two groups: the Confederation of Passenger Transport (a rail and bus lobby group, for which he was paid over £25,000 annually) and the Professional Contractors Group (a freelancer lobby group, for which he was paid over £15,000 annually).¹¹ The CoC states that members should "base their conduct on a consideration of the public interest [and that] no Member shall act as a paid advocate in any proceeding of the House", which Hammond appears to have done in raising questions so closely related to his financial interests. When questioned about any possible conflict of interest, he argued that "[it was] very much in the general public interest ... an entirely legitimate and proper exercise of [his] parliamentary functions", while also acknowledging the clear benefits to his registered financial interests.¹² If this is the case, where Hammond has acted in the public interest while consequently benefitting from said actions, it raises a question: when do the actions of a lawmaker stop being public interest and become *private* interest instead?

In November 2017, Victoria Atkins was made Minister for Crime, Safeguarding and Vulnerability, which gave her a certain amount of authority concerning the legalisation or regulation of drugs. The issue with this, considering her staunch opposition to cannabis legalisation, was her husband's position as managing director of a company licensed to grow cannabis.¹³ Atkins was accused of "not just a conflict of interests, [but] hypocrisy on a grand scale" with suggestions that "her husband and family are directly benefitting" from the regulation of the drug.¹⁴ While Atkins declared her connections to the cannabis company and excused herself from voting on cannabis policy, her opposition to drug regulation policy still remains hypocritical and borders on a conflict of interest: she opposes the

¹¹ Melanie Newman, 'Concerns Over Questions Asked By MPs With Business Interests', *Bureau of Investigative Journalism*, 21 October 2011, <<https://www.thebureauinvestigates.com/stories/2011-10-21/concerns-over-questions-asked-by-mps-with-business-interests>>, [accessed 2 May 2019].

¹² Rachel Oldroyd, 'Stephen Hammond Answers The Bureau's Story On Questions Asked By MPs', *Bureau of Investigative Journalism*, 21 October 2011, <<https://www.thebureauinvestigates.com/stories/2011-10-21/stephen-hammond-answers-the-bureaus-story-on-questions-asked-by-mps>>, [accessed 3 May 2019].

¹³ Shehab Khan, 'Drugs minister accused of "hypocrisy on a grand scale" over husband's involvement in legal cannabis farm', *Independent*, 17 May 2018, <<https://www.independent.co.uk/news/uk/politics/drugs-minister-victoria-atkins-hypocrisy-cannabis-paul-kenward-british-sugar-a8356056.html>>, [accessed 3 May 2019].

¹⁴ 'MP Victoria Atkins accused of "hypocrisy" over legal cannabis farm', 14 May 2018, *BBC News*, <<https://www.bbc.co.uk/news/uk-england-lincolnshire-44109060>>, [accessed 3 May 2019].

legalisation of cannabis, yet personally benefits from its highly-regulated production. Thus, it would appear that her intentions are to legally maintain the monopoly which she has a private financial interest in, which is the scenario that Smith was wary of.

In a similar instance of possible lawmaker conflicts of interest, a report of July 2017 stated that over one hundred British MPs were earning money by renting out property. The report questioned the possible conflict by considering the fact that said MPs would be required to vote upon laws concerning the regulation of private property and rental income, arguing that while “there is the *potential* for a conflict of interests ... putting figures to [any financial influence] is incredibly hard”.¹⁵ To definitively state the reason behind an MPs voting would be practically impossible without them themselves confirming it (which is extremely unlikely to happen), but what remains clear is that a large number of said landlord politicians voted against a 2017 amendment that would require private landlords to ensure that the homes they rent out are “fit for human habitation”.¹⁶ Those who voted against the amendment stated that it would have “pushed up rent for tenants as it placed an extra financial burden on landlords”, meaning that those MPs who earn money in such a way would be required to spend more money and effort on their property.

While it is not certain that their intentions for voting in this way stemmed from self-interest, it does appear suspicious: it would be beneficial to society to ensure that the homes are “fit for human habitation”, despite the possible increase to renting such properties. Surely a poor citizen in a habitable home is better than a slightly richer citizen living in a life-threatening situation. To deny this would be possible within the liberal mindset, for both the citizen and landlord would have more money as a result of their stable rent prices: their self-interest in accumulating capital has been satisfied.

With the reasons behind such instances still being subject to interpretation, the risk of policy/regulation manipulation by lawmakers in a liberal state appears to

¹⁵ Martin Williams, ‘Almost one in five MPs are landlords’, *Channel 4 News*, 21 July 2017, <<https://www.channel4.com/news/factcheck/almost-one-in-five-mps-are-landlords>>, [accessed 1 May 2019].

¹⁶ Rachel Wearmouth, ‘Landlord Ministers Leading Grenfell Fire Response Told To Resign Over Voting Record On Housing’, *Huffington Post*, 20 June 2017, <https://www.huffingtonpost.co.uk/entry/landlord-mps-grenfell_uk_59479431e4b0f15cd5bc74e5>, [accessed 1 May 2019].

be legitimate. While using their positions of power to push for a freer market and the privatisation of trade, they have privately benefitted (whether by design or not) through creating a “legally sanctioned” situation in which their own financial interests prosper over the existence of others, and more or less form a monopoly. Therefore, it appears that, even with the implementation of minor state regulation, economic liberalism is not the way forward.

CHAPTER 2 – PROPERTY RIGHTS

If a state is created with the tenets of liberalism at its core, the thinkers and lawmakers of said state become focussed upon one thing: private property. In the simplest terms, how you can keep what belongs to you, and how I can keep what belongs to me. Property rights extend from possession over our body to intellectual property, but the purpose of this chapter will be to discuss the rights associated with the ownership of land and shelter,¹⁷ and to put forward an argument that focuses on the theories of Locke and Proudhon.

One of the first modern philosophers to write about property rights was John Locke, hailed as one of the leading figures of liberalism alongside Adam Smith. As part of his *Second Treatise of Government* (hereinafter referred to as the *Second Treatise*), Locke claimed that the right to property is a natural one; it is not created by humans, but “determined by nature [or] God”.¹⁸ Locke’s starting point is one of Christian sentiment, wherein:

*God, who hath given the World to Men in common, hath also given them reason to make use of it to the best advantage of Life, and convenience. The Earth, and all that is therein, is given to Men for the Support and Comfort of their being.*¹⁹

Through the assertion that mankind has been gifted the earth’s resources by God, Locke allows him to do as he thinks reasonable: he can eat whichever fruits or kill whichever animal he desires, for he has been given them to share. It is from this natural state that Locke begins to develop his theory of property rights, focusing on the labour performed by man.

While the resources of the earth are in the commons, each man is individual: he is in possession of his own body and no-one else’s. His hands are his, his head is his, his legs are his: thus, “the *Labour* of his Body, and the *Work* of his Hands ... are

¹⁷ Any reference to “property rights” will refer to the ownership of land and shelter (known as “real property”), unless otherwise stated.

¹⁸ Margaret MacDonald, ‘Natural Rights’ in *Theories of Rights*, ed. Jeremy Waldron (Oxford: Oxford University Press, 1984), p. 25.

¹⁹ John Locke, *Two Treatises of Government* (Cambridge: Cambridge University Press, 1963), p. 304.

properly his” too.²⁰ By performing work on the earth’s resources, whether it be chopping down trees or hunting a beast, Locke states, man makes those resources his. When he added his labour to the item, it “put a distinction between them and common” and made it more than just something natural, therefore becoming his “private right”.²¹ With this focus on labour as the source of ownership, no other can possess what he has worked on, for his labour belongs solely to him and he was commanded by God to “make use of [the world]”. Due to the focus on the self-ownership of work and laboured-upon resources, he requires no consent from other men. Instead, he recognises their exerted labour upon resources as they do unto him.²²

While Locke’s basic premise seems to be justified (if I work on something, it belongs to me), it does not necessarily stand up to further analysis. Throughout the *Second Treatise*, Locke makes a single reference to the transfer of work between people (“the Turfs my Servant has cut ... where I have a right to them in common with others, become my *Property*”) which raises questions over the ownership of collaborative labour.²³ Consider a situation in this natural state in which two men are pursuing the same boar: they began chasing it at the same time, and have injured it with to an equal extent. When the boar finally collapses, due to blood loss or exhaustion, who does it belong to? Both men have “worked” upon the animal, so it surely must become the property of both men. One can assume here that Locke would suggest they split the boar equally between them, as both have worked upon it, however Locke does not consider this: only the work of the individual man is discussed.

Instead, Locke continues to extend his labour theory onto the use and ownership of land, stating that “it is plain, that *Property* in [land] too is acquired as the former”, meaning that man comes into possession of the earth itself also through work.²⁴ Through this belief, man becomes the owner of land if he cultivates it, grazes his flocks upon it, or builds a fence or shelter there. This labour of the land is seen as

²⁰ Locke, pp. 305-306.

²¹ Ibid., p. 306.

²² Ibid., p. 307.

²³ Ibid.

²⁴ Ibid., p. 308.

“improving it”,²⁵ for he has added onto it with his work and made it more than simply nature: it becomes something created. Locke argues very strongly in favour of the mass ownership of the common earth, suggesting that “[the man] that incloses Land [has] a greater plenty of the conveniencys of life from ten acres, than he could have from an hundred left to Nature”.²⁶ The land is better used being tilled and worked upon by mankind than left alone to flourish as a natural thing, for man has dominion over nature: he is better than it.

The issue arises, however, when man begins to “desire not only to preserve their lives ... but also to accumulate property beyond the amount required for [comfortable] living”.²⁷ Instead of simply taking possession of land for the purpose of growing food for self-sustenance, they begin to grow food to sell for money: this in turn allows them to come into possession of more property, with the money “hoarded up without injury to any one” for the purpose of further acquisitions.²⁸ It is through the introduction of money that any limit to accumulation is made irrelevant, for it is given its value by man and cannot be destroyed. The issue here is that the original intention was for man to only take possession of that which he needs, and leave enough resources in the commons for others: Locke gives the example of Cain taking as much ground as he can to till, yet leaving enough for Abel’s sheep to graze on.²⁹ This seems to contradict his view on the mass ownership of the earth, however: if Cain can make use of the natural land to sow seeds, why should he leave it empty for the possibility of Abel’s sheep going there? He would not directly benefit from Abel’s actions, and if Locke’s views on American land use were anything to go by, we should strive to make use of as much land as we can:

For I aske whether in the wild woods and uncultivated wast of America left to Nature, without any improvement, tillage or husbandry, a thousand acres will yield the needy and wretched inhabitants as many

²⁵ Locke, p. 309.

²⁶ Ibid., p. 312.

²⁷ C. B. Macpherson, ‘Natural Rights in Hobbes and Locke’ in *Political Theory and the Rights of Man*, ed. D. D. Raphael (London: Macmillan, 1967), p. 9.

²⁸ Locke, p. 320.

²⁹ Ibid., p. 313.

*conveniences of life as ten acres of equally fertile land doe in Devonshire where they are well cultivated?*³⁰

Here, Locke again makes the argument that property is better once it has been worked upon by human hands and changed into something “more than Nature”. Would it not be beneficial and natural for Cain to till twice or three times the amount of land that he requires?

Macpherson argues that not only is Locke’s natural man “bourgeois ... rational [with] a propensity to capital accumulation”, but he has “a natural right, which others must respect, to unlimited accumulation of wealth”.³¹ Each man respects the other’s ownership of his body, so must also acknowledge and respect the other’s ownership over the land he has worked upon. While man may indeed have this natural right, it is not always respected: there may be threats made upon his property by other men, and they may try to claim it as their own. Because each man has the advantage of being equal within this natural state, each has the power to “do whatsoever he thinks fit for the preservation of himself” and “to punish the Crimes committed against that Law [of Nature]”.³² Thus, he has the power to defend his property from the intrusion of others, yet he also has the power to make claim to the property of others. If a man thinks it fit to preserve himself by claiming the land of another, then the only thing stopping him is the other’s attempts at defending their property. In order to solve this conflict between the natural right to property and the power to preserve oneself, man agrees to join a society.

The purpose of creating society from Locke’s state of nature is the key focus of all liberal societies: “The great and chief end therefore, of Mens ... putting themselves under Government, is the Preservation of their Property”.³³ When man agrees to join society, he is willing to give up certain freedoms or powers that he previously held (namely the punishment of crimes against himself) but only because others also agree to this. To join society is an open expression of his power to “do whatsoever he thinks fits for the preservation of himself”, for despite losing a few choice freedoms, he remains in possession of his property and is protected against

³⁰ Locke, p. 312.

³¹ Macpherson, p. 9.

³² Locke, p. 370.

³³ Ibid., p. 368.

any threats to his rights. The liberal society is “obliged to secure every ones Property against ... [the issues] that made the State of Nature so unsafe and uneasie”, namely the sole power to punish anyone you see fit,³⁴ so man openly consents to join it in furthering his accumulation of property.

The main issue with this justification of liberal society is that it is very rare that people explicitly consent to be a part of society: instead it appears that we are forced into it through birth. As a child, I did not choose to live within society, for my parents decided such a thing for me. If we are to understand, in Locke’s descriptions, that we alone have control and ownership over our body then my rights have surely been disrespected, for I did not choose for my body to exist within this society and therefore did not willingly consent. Locke attempts to excuse this possibility by instilling the notion of tacit consent, stating that:

*Every man, that hath any Possession, or Enjoyment, of any part of the Dominions of any Government, doth thereby give his tacit Consent, and is as far forth obliged to Obedience to the Laws of that Government.*³⁵

Through this, a person tacitly consents to living within a society if they own possessions that fall under the jurisdiction of said society. Consider the case of a woman who was born and currently resides in the United States. Her consent to the laws of her country are implied and tacit only: she benefits from possessions under the dominion of the government by living on American land. If she were to sell this land and move to another country, such as Canada, she would no longer be subject to American rulings: “the owner, who has given nothing but such a tacit consent to the government ... is at liberty to go [to another place]”.³⁶ Once emigrated, she no longer tacitly consents to the American government, but through her direct decision to relocate to land in another society gives jurisdiction over her to that government. If tacit consent can be taken back so easily, then what about express consent?

Russell suggests that “for Locke, possession of land does not, as such, make a person a member of society. The only act that makes one a member of society is

³⁴ Locke, p. 371.

³⁵ Ibid., p. 366.

³⁶ Ibid., p. 367.

that of express consent”.³⁷ This is due to Locke’s argument that “nothing can make any man [a member of society], but his actually entering into it by positive engagement and express promise”: only by agreeing outright to become a member of society, as the American woman did upon moving to Canada and agreeing to their laws, can we fully become a “perpetual subject of that commonwealth”.³⁸ While we may already live within the area of the society, we are not members of the society until we consent to the laws of the government that oversee the area. Thus, there appears to be a peculiar overlap where one can own land within a society but not be an expressly consenting member of that society themselves. This could be seen to allow those with ownership of land the chance to operate outside of government ruling, for they have not openly consented to the ruling and should not be punished under it, but Russell again suggests that “all that follows from Locke’s remarks is that all landowners must tacitly consent ... as they ‘enjoy’ that land”.³⁹ Therefore, even if the landowners refuse to expressly consent to the government’s jurisdiction over them, they are still subject to its ruling: Locke has placed them in an inescapable situation in which they are always, by the very fact of owning property, consenting.

Despite the issues of consent remaining, Andreasson argues that "modern liberal thinkers retain Locke’s emphasis on private property and the laws upholding them as essential for human freedom".⁴⁰ Without the protection of private property, they argue, we cannot be free. What Locke touches upon (before man begins his focus on accumulation and concentrated self-interest), however, is the existence of the common land under shared ownership. This ownership is not in the sense of Lockean private property, where one person owns it and no other can make use of it, but instead relies on the equal and common ownership of the people.

Similar to the theories of Locke, the Declaration of the Rights of Man and of the Citizen (hereinafter referred to as the Rights of Man) posits the existence of

³⁷ Paul Russell, ‘Locke on Express and Tacit Consent: Misinterpretations and Inconsistencies’, *Political Theory*, Vol. 14, No. 2, May 1986, pp. 291-306 (297).

³⁸ Locke, p. 367.

³⁹ Russell, p. 297.

⁴⁰ Andreasson, p. 5.

natural rights for all men as being: liberty, property, equality, and security.⁴¹ This is the basis of Proudhon's argument against the existence of the natural right to private property, in which he states that "we find that property bears no resemblance whatever to the other [rights]".⁴² While Locke certainly sees the right to property as one given to us by God, the approach taken by Proudhon in disproving it focuses on the human experience within society.

To begin with, he asserts that "liberty is inviolable ... the original condition of man", which cannot be given away or separated.⁴³ It is the freedom to do as we wish, and it guides our lives: without it we could not function as men. Property, on the other hand, can be sold or transferred with great ease, simply by the transfer of deeds for money, or inheritance through the death of a relative. Unlike liberty, property is not a part of the original human condition: even in Locke's theory of the natural state, man is not born with property. He may be born with the ability to possess property, but it is not part of his existence in the way that liberty is: he can own a house or a plot of land, but he is not entitled to it in the same way he is entitled to make decisions or do as he pleases.

With the matter of equality, the Rights of Man states that "[the law] must be the same for all, whether it protects or punishes": each person is eligible for representation and participation.⁴⁴ There exists no difference in the rights of the lowest class citizen in a court of law against someone of the highest class: both peasant and king deserve fair trial as a natural right. Against this, property does not allow equal representation to all. While it might be fair to say the peasant has property in his shack or hovel, this in no way compares to the opulent palace or mansion of the king. Yet, Proudhon explains, it is the equality in the law which allows for the ownership of property: "the law wishes all property, that has been legitimately acquired, to be kept inviolate without regard to value, and without respect for person".⁴⁵ The natural right to equality protects the property of both peasant and king, and without it doing so there would no doubt be cases of unequal

⁴¹ The Avalon Project – Yale Law School, *Declaration of the Rights of Man – 1789*, <http://avalon.law.yale.edu/18th_century/rightsof.asp>, [accessed 5 May 2019].

⁴² P. J. Proudhon, *What is Property?*, trans. B. R. Tucker (London: William Reeves, 1969), p.67.

⁴³ Proudhon, p. 67.

⁴⁴ The Avalon Project – Yale Law School.

⁴⁵ Proudhon, p. 67.

property seizure or occupation. Similarly with security, both the rich and the poor are afforded protection by the state: “the whole strength of the state is at the service of each citizen”.⁴⁶ Because each man has a natural right to be protected by the state, he thus receives an equal share to all other citizens.

With all of this considered, then, how does Proudhon consider property and our rights to it? After reiterating the status of liberty, equality, and security as “absolute; that is, susceptible of neither increase nor diminution”, he sets out his view of property as “a right outside of society”.⁴⁷ The right to property is not natural to us, nor does it appear to be one that was bestowed upon us willingly by any form of legal government: it came from necessity. Proudhon explains that:

*It was of no use to secure to the farmer the fruits of his labour, unless the means of production were at the same time secured to him. To fortify the weak against the invasion of the strong ... the necessity was felt of establishing between possessors permanent lines of division.*⁴⁸

Instead of the constant struggle to fight against oppressors, the law of the farmer’s society offers him protection as one of his natural rights. In order to give him this security, it grants him property over land. With this new right to property, he is free to work on his land as he pleases, without the threat of violence upon it: he has security and peace. The issue arises, however, when others begin to notice the farmer’s new property rights. As the society is based partly on the natural right of equality, where it is understood that each person has the same rights as another, all have the right to property and land: “the soil came to be appropriated through need of the equality which is essential to public security”.⁴⁹ While the original purpose of the right to property was to protect land that had been laboured upon by farmers, Proudhon sees it becoming corrupted through the system of inheritance that originally aimed to maintain equality.

Consider a farmer, who through years of work and labour, has come into possession of four acres of land. Upon his death, he is believed to have lost possession of this land, for he is no longer alive to own it. As already discussed, one of the natural

⁴⁶ Proudhon, p. 68.

⁴⁷ Ibid., p. 73.

⁴⁸ Ibid., p. 93.

⁴⁹ Ibid.

rights of his society is that of liberty, which guides our decisions and choices in life. It stands to reason that any decision to remove said property, even on the occasion of the farmer's death, would go against his right to decide over his belongings: property can "be sacrificed only with the consent and by the action of the proprietor".⁵⁰ Because of this, Proudhon stated, it is "necessary" for the property to be inherited by the farmer's children, so that they may have the liberty to decide how to use it. The issue of these inheritors, as Proudhon sees it, is the lack of labour to support their ownership: with labour being the original source of property, as shown by its creation through agriculture, what right do they have?

On the subject of labour, however, Connolly argues that Proudhon "believes that labour does not justify property because every person's production depends on countless others ... property gives income to those who do not actually labour", making it seemingly at odds with justice and equality.⁵¹ While exerting no labour on the land, the landlord or master of the house makes a profit from it: equality is a natural right, yet the master has corrupted it to accumulate profits. Proudhon's own assertions appear to contradict Connolly, in his recognition that "whoever labours becomes a proprietor": not only does he become owner of "his allowance, his salary, his wages", but he also becomes "proprietor of the value which he creates, and by which the master alone profits".⁵² Labour does justify the existence of property, according to Proudhon, but there is the constant flaw of private property that it also benefits those without labour. The solution, thus, is for the dismissal of state-supported private property under the false guise of *equality*, in favour of a situation in which the worker having "a partial right to the whole, in return ... is perfectly just".⁵³

⁵⁰ Proudhon, p. 94.

⁵¹ Patrick J. Connolly, 'Proudhon and Property: A Critical Examination of Equality as a Natural Right', *Eudaimonia: the Georgetown Philosophical Review*, Vol. 3, No. 1, 2006, pp. 19-27 (22-23).

⁵² Proudhon, p. 123.

⁵³ *Ibid.*, p. 124.

CHAPTER 3 – SQUATTING AS A SOLUTION

The *Wealth of Nations* was first published in 1776,⁵⁴ a time when most members of parliament (MPs) were also members of the aristocracy or landed gentry. Adam Smith had concerns over the manipulation of state regulation within society, evidenced by the fact that those who were creating laws would appear to do so to their own advantage (see the aforementioned discussion over conflicts of interest). These concerns remain relevant within England's current liberal society, especially in relation to property rights and housing.

Much as in Smith's time, the majority of Britain is still owned by rich businesses and members of the aristocracy, with a large amount belonging to the royal family and the 10th Duke of Buccleuch.⁵⁵ While neither has a direct influence upon government policy/regulations concerning the distribution of private property, this does not mean that they are irrelevant. It stands to reason that the government would be unwilling to forcibly reduce the amount of land or property possessed by the royal family or wealthy members of the aristocracy, even if it were used to house some of the 320,000 homeless people in Britain.⁵⁶ When questioning why such mass landowners should maintain possession instead of offering it to benefit others, the answer is (as shown in Chapter 2) often a simple one: because they own it. Their ancestors owned and worked on the land previously, whether eighty or eight-hundred years ago (as is the case with some of the Queen's properties), so they are entitled to it today. The laws of this economically liberal country are designed in such a way as to protect private property, even if the owners of said property possess more than we would assume is needed to live: accumulation and self-interest are key to the current human condition.

Because of this apparent need for accumulation and self-interest, the current situation regarding squatting in England focuses largely on the preservation of the

⁵⁴ Smith, p. xi.

⁵⁵ Rob Evans, 'Half of England is owned by less than 1% of the population', *The Guardian*, 17 April 2019, <<https://www.theguardian.com/money/2019/apr/17/who-owns-england-thousand-secret-landowners-author>>, [accessed 3 May 2019].

⁵⁶ Patrick Butler, 'At least 320,000 homeless people in Britain, says Shelter', *The Guardian*, 22 November 2018, <<https://www.theguardian.com/society/2018/nov/22/at-least-320000-homeless-people-in-britain-says-shelter>>, [accessed 3 May 2019].

owner's property rights over the rights of anyone else. Squatting refers to the action of occupying property that the person does not legally possess. As a result, there are often moral/ethical questions and criminal offences associated with the action. When it comes to squatting in residential properties in England, the government refuses all persons the legal ability to do so: Part II of the Criminal Law Act 1977 details the extent to which "any person who is on any premises as a trespasser ... is guilty of an offense if he fails to leave those premises".⁵⁷ By entering the residential premises of another person and refusing to leave, the trespasser has gone against that person's legal rights to privacy and property: he cannot remain within the property, for another person resides there. Because of the uncompromising laws concerning residential squatting in England, and the government's focus on the individual's right to their private property, this section will instead be focussed upon the more legally permissible topic of commercial squatting.

While the action of squatting in residential properties was officially criminalised in 2012, the legal framework still exists for squatting in commercial properties.⁵⁸ Concerning the action of entering said commercial properties, the law prohibits anyone from "[using or threatening] violence for the purpose of securing entry".⁵⁹ To enter a property through an act of violence, whether directed at a person or property, is assumed here to be morally wrong: the owner of the property has the right to protect own their own body and the right to protect their property, with the Act asserting that it is "immaterial ... whether the violence in question is directed against the person or against property".⁶⁰ Because of this assertion, private property rights are given as much importance to the human condition as bodily rights are (compare with Locke's merging of property and body in Chapter 2): an assault upon the property becomes an assault upon the owner themselves. The issue is, however, that a property is not the same as a person: if someone is violent towards the building, whether by breaking the locks or by smashing a window, it can be repaired. It may cost a certain amount of money, but it can be done. If someone is violent

⁵⁷ The National Archives, *Criminal Law Act 1977*, <http://www.legislation.gov.uk/ukpga/1977/45/pdfs/ukpga_19770045_en.pdf>, [accessed 5 May 2019].

⁵⁸ Advisory Service for Squatters, *Squatting Made Less Simple*, <<https://www.squatter.org.uk/for-new-squatters/squatting-made-less-simple/>>, [accessed 5 May 2019].

⁵⁹ *Criminal Law Act 1977*.

⁶⁰ *Ibid.*

towards the building's owner, it can have an emotional effect upon the person and the physical results of said violence often cannot be repaired. Thus, when concerning acts of violence, it appears the section should have a stronger focus upon the rights of the person than the rights of the property.

After the squatters have legally entered the commercial property, the Advisory Service for Squatters recommends that they “change the locks and secure every door ... [so they are] physically, as well as legally, protected”.⁶¹ The fact that the squatters are legally protected in this situation is based on their temporary ownership of the property, a legally fascinating thing: the attempts to secure the building so that they may be protected from intrusion has effectively allowed them to claim ownership. If an unrelated vandal made an attempt to break down the door, the squatters would have the rights of the owner, for they would be the “someone present on those premises at the time who is opposed to the entry which the violence is intended to secure” that the law requires for an offence to be committed.⁶² The temporary rights of the squatters do not remove the rights of the owner, however, for his are permanent property rights (unless he himself were to transfer the property to another person). Here we have a situation in which there are two sets of property rights over the same building, one temporary and one permanent, yet both legal.

The property rights of the squatters have been made legitimate through their occupation and securing of the building: the law recognises their state as temporary residents of the building. On the other hand, the property rights of the owner are legitimate through his purchase of the land and building: the law recognises his deeds to the property and state as the permanent owner of the building. This situation, in which the legitimate property rights of two entities have come into conflict through squatting, is one that has gone before the law multiple times. In one example of this, from March 2018, a group of rough sleepers referred to as “Sofia Solidarity Centre” began squatting in a disused London office block. The group believed that they had the legal right to occupy the building, due to being granted a licence from the janitor, but this was denied by the court.⁶³ Despite not having been

⁶¹ Advisory Service for Squatters.

⁶² *Criminal Law Act 1977*.

⁶³ Steven Hopkins, ‘Sofia Solidarity Centre: Court Evicts Dozens of Rough Sleepers from London Building Despite Safety Fears’, *Huffington Post*, 14 March 2018,

given a valid licence to reside within the property, they most likely had a temporary right to be there as suggested by the Advisory Service for Squatters. The judge, in deciding between the Centre's temporary rights as occupants and W1 Developments' permanent rights, ruled in favour of the owner as was expected. His statement that "I have to consider relevant points of law and apply them to this matter" appears to confirm society's focus on the private property rights of the owner over the needs of those who require help.⁶⁴ Had the judge acknowledged the group's temporary right to occupy the property, they may have eventually been able to gain permanent property rights over it: the law allows for the legal transfer of temporary to permanent rights given occupation of a period of over a decade.⁶⁵ While this legal process does exist, where the government can take one person's permanent property rights and transfer them to another, it very rarely (or possibly, never) happens; the owner's desire for his property outweighs the squatter's need for a home.

Despite the law's clear disapproval of extended squatting, the think tank Centre for London published a report in 2018 which claimed that "more than 20,000 commercial properties in [London] had been empty for at least six months", and suggested repurposing these to create "temporary housing or workspaces".⁶⁶ One can assume that it would be necessary to squat within these buildings in order to repurpose them efficiently, but judging by the aforementioned example it is necessary to rethink the matter of squatting in English law.

When squatters take temporary control of a building, they often bring items with them or receive items from donations, as shown in the case of Sofia Solidarity Centre.⁶⁷ While most of these items (food, clothes, toiletries, etc.) are intended to be used individually, there are some items that are intended to improve the building and make it more habitable, like cleaning equipment to maintain the building's amenities

<https://www.huffingtonpost.co.uk/entry/sofia-solidarity-centre-rough-sleepers_uk_5aa90af7e4b018e2f1c34cea>, [accessed 5 May 2019].

⁶⁴ Steve Topple, 'A court has just saved a corporation and thrown 160 homeless people out into the cold', *The Canary*, 14 March 2018, <<https://www.thecanary.co/exclusive/2018/03/14/court-just-saved-corporation-thrown-160-homeless-people-cold/>>, [accessed 5 May 2019].

⁶⁵ Gov.uk, 'Squatting and the law', <<https://www.gov.uk/squatting-law/squatters-rights-to-property>>, [accessed 5 May 2019].

⁶⁶ 'Thousands of empty London properties could be used, think tank says', 3 October 2018, *BBC News*, <<https://www.bbc.co.uk/news/uk-england-london-45720960>>, [accessed 5 May 2019].

⁶⁷ Streets Kitchen (@streetskitchen), 7 March 2018, <<https://twitter.com/streetskitchen/status/971500955899490304>>, [accessed 5 May 2019].

or curtains to block out sunlight. In fact, the Advisory Service for Squatters suggests squatters “repair any damage done by other people straight away” and that “it can be [in the owner’s] interests to have you looking after their property”.⁶⁸

If we were to take these ideas of improvement and develop them, it would make sense to combine them with a theory of property rights which has its origins in use and labour. In order to tackle the situation from a Lockean perspective, we must first establish the situation: the commercial tract of land lies empty from use for several years and free from any locked entrances. It is owned by a company, but the current legal situation of England allows others to make use of it as if it were in the commons. If the squatters were to occupy said land, erecting shelters or other structures, a case could be made that the land now belongs to them: they have worked upon it with their hands and therefore joined with it through their labour.⁶⁹ Surely, as Locke would argue, it is much better for the land to be used for some amount of productive action than to remain barren and unkempt?

If Proudhon did indeed focus on labour as the source of property rights, then he too would agree to the transferral of ownership rights to the squatters. By contributing to the maintenance and improvement of the property, they have performed labour, and Proudhon appears to have agreed with Locke that “whoever labours becomes a proprietor”.⁷⁰ This does not necessarily mean that the permanent owner is not also a proprietor of the property, for he has no doubt performed work on it over the length of his ownership. However, various other people than the owner have exerted their labour upon it and are thus entitled to their fair share of the property’s value.

It is through these two schools of thought that I come to propose a different interpretation of property rights through squatting than the one England currently has. Instead of focusing solely on the rights of the permanent owner, in the same vein as Adam Smith, the law should consider the use of property from both sides. If the property has remained unused and vacant for several years, as many have in London, it should be considered that those who exert work upon said property have a right to it: this is justified through the fact that our contribution is recognised when

⁶⁸ Advisory Service for Squatters.

⁶⁹ Locke, p. 306.

⁷⁰ Proudhon, p. 123.

we perform work at our jobs, despite another having the permanent rights to the product of our enterprise.

The legal notion of transferring ownership between the permanent owner to the temporary occupant already exists within English law: if we were to expand upon this and make it possible to argue from a theory of labour value instead of length of occupation, it would allow for the recognition of people's work in improving what has essentially become the commons, and also allow those who require a home easier access to permanent property rights. In doing this, the levels of homelessness would undoubtedly fall; instead of requiring homeless people to wait several years before obtaining property, this new system would allow them to access property quicker and easier. While it would be instrumental in balancing the levels of inequality which are present within our society, it is unlikely to happen: the self-interest and private property rights of economic liberalism are fundamental to its existence.

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