

The Myth of
PROPERTY

Toward an Egalitarian
Theory of Ownership

John Christman

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Toward an Egalitarian
Theory of Ownership

JOHN CHRISTMAN

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*To my father,
John P. Christman, Jr.
and to the memory of my mother,
Anna Mae Christman*

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Preface

This project has a long history, especially if one traces it back to its earliest forms. Indeed, I have been thinking about issues connected with property—and inequalities in the distribution of it—for about as long as I have been thinking about philosophy. Those ideas come to fruition in the present work, which is motivated by a concern for the relation between the prerogatives of property ownership and the goal of distributive equality. At least, this is my *philosophical* concern; my concern (sans phrase) has much to do with the unchecked inequality of life prospects for those in many contemporary societies.

So while the motivations are purely my own, the project's extensive past makes it the case that the contributions of many other people find themselves here. Numerous individuals over the years have generously contributed both to my philosophical development in general and to these ideas in particular by courteously attending to my (often pesky) inquiries. It is, therefore, not at all inappropriate to take this opportunity to thank some of my earliest philosophy teachers. In particular, the members of the Philosophy Department at the University of New Orleans took time away from their extremely taxing teaching responsibilities to give me some measure of special attention. In the end, they provided me with what they give to all of their students, a superb foundation in philosophy. I would like to lend a special note of thanks in this regard to Edward Johnson, Carolyn Morillo, Norton Nelkin, and Deborah Rosen.

Many of the particular ideas here first took form when I did my dissertation some years ago at the University of Illinois at Chicago. At that point, Gerald Dworkin (my advisor), Russell Hardin, John Bogart, and other faculty members and fellow students made comments that in some form survive in the present work. I wish to thank all of these individuals for their support, advice, and suggestions.

More recently, I have benefited greatly from my association with the Philosophy Department at Virginia Tech, which has been tremendously supportive of this and all my other projects. I am grateful to the institution as well as my colleagues and friends in the department. More particularly, Harlan Miller read parts of the manuscript and made very helpful comments. But I would like to extend special thanks to Marjorie Grene. Marjorie read more than half of the manuscript, and although she claimed that her only objective was to make stylistic suggestions, she never failed to offer valuable substantive comments about the arguments themselves.

Most of the book was written during the 1991–92 academic year, during which I was supported by a grant from the National Endowment for the Humanities for which

I am very grateful. I spent that year in Madison, Wisconsin, where the Philosophy Department at the University of Wisconsin was kind enough to grant me the status of Honorary Fellow and allow me to use mail, library, and office facilities. I was invited to read a paper to the department and presented what became part of chapter 8. The comments made by that audience and other faculty and friends there were very helpful. In particular, Andrew Levine and Daniel Hausman read several parts of the manuscript and made many insightful comments. David Weberman also was the source of much stimulating conversation and advice, as were Murry Smith and Miri Song. I thank all of these individuals warmly.

There are others (some of whom I've never met) who were kind enough to look at material and make comments, often in response to my unsolicited requests. These include Stephen Munzer, C. Edwin Baker, G. A. Cohen, Ian Shapiro, and Peter Vallentyne. I am grateful to all of these people for their time and attention.

Parts of this book were read in some form to various audiences, including the Ethics Workshop at the University of Chicago, the Political Theory Workshop at Yale University, the Political Science Department at the University of Virginia, and the Public Choice Society. I very much appreciate the invitations extended to me and the opportunity to share my work in progress. At some of these gatherings, the presentation was commented upon. These commentators included John Marshall, Jonathan Riley, and Sue Martinelly, all of whose ideas contributed to the quality of the finished product.

In addition, some of what follows is based on previous published work. Chapter 3 is an expansion of "Can Ownership Be Justified by Natural Rights?" published in *Philosophy and Public Affairs* 15, no. 2 (Spring 1986), 156–77 (reprinted by permission of Princeton University Press). Chapter 5 makes use of material from "Entrepreneurs, Profits, and Deserving Market Shares," which appeared in *Social Philosophy and Policy* 6, no. 1 (Fall 1988), 1–16 (used by permission). The main line of argument of chapter 8 is from "Self-Ownership, Equality, and the Structure of Property Rights," which appeared in *Political Theory* 19, no. 1 (February 1991), 28–46 (reprinted by permission of Sage Publications, Thousand Oaks, CA). I am very grateful to these journals for permission for use of the material in those articles. Also, in all these cases, many people and audiences contributed to the quality of this earlier work in ways that survive in these chapters. They are named in the journals, but I wish to extend another general note of thanks to them here.

I am grateful to the people at Oxford University Press for their help in bringing the project to completion. In particular, Angela Blackburn was extremely helpful in getting the manuscript together and ready for publication. I would like to extend a special thanks to Juanita Lewis, who vastly improved the manuscript. An anonymous reviewer provided insightful suggestions and criticisms as well, and I thank him or her for this attention.

A project like this also benefits in rather intangible ways from conversation, support, and simple good cheer from a number of close friends. This includes all of my good friends here in Blacksburg as well as others who are now separated from me by time and distance (but whose words and ideas echo in these and any other pages I write). My dear friends Gerald Nosich and Jean Nosich deserve particular mention in this regard. And special thanks are extended to Thomas Christiano, with whom I have discussed virtually every idea in the text (indeed, I'm not sure I have

had *any* interesting philosophical ideas that I haven't run past Thomas). His philosophical acumen was especially valuable to me in working through the ideas of chapter 9. No matter how flawed the reader may think these arguments are now, they are extremely improved over the versions first shown to Thomas.

Finally, this project, like any other project I embark upon, could not be completed without the love and support of Mary Beth Oliver. My debt to her for her helpful advice, insightful suggestions, and tireless patience could not adequately be expressed, here or anywhere else.

Blacksburg, Virginia
June 1993

J. C.

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THE MYTH OF PROPERTY

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Introduction

Property is the right of increase. To us this axiom shall be like the name of the beast in the Apocalypse, a name in which is hidden the complete explanation of the whole mystery of this beast. It was known that he who should solve the mystery of this name would obtain a knowledge of the whole prophecy, and would succeed in mastering the beast. . . . Starting from this eminently characteristic fact . . . we shall pursue the old serpent throughout his coils; we shall count the murderous entwinings of this frightful taenia, whose head, with its thousand suckers, is always hidden from the sword of its most violent enemies, though abandoning to them immense fragments of its body.

P.-J. Proudhon

The word “myth” has two complementary meanings. The first is “a legend,” a traditional tale which, while containing various inaccuracies and exaggerations, still powerfully conveys some important moral and social lesson. The second is “a falsehood,” an outright untruth which should be revealed as such in order to be abandoned. I shall use both of these meanings in my examinations here. For it will be my contention that “property” in its traditional sense, which I call the liberal conception of ownership, is truly a myth that ought to be exposed and abandoned. But in doing so, I retain the core elements from the traditional understanding of ownership in order to create what I hope is a more useful and constructive model.

In her book on property and American constitutionalism, Jennifer Nedelsky writes: “it may be that every society rests on illusory and contradictory beliefs. And it may be, as I have suggested, that there is something compelling about property and its links to liberty and security that cannot be revealed (or shaken). . . . I do not reject the role of myth in a well-functioning society. But the myth of property is pernicious because it hides a structure of power and insulates it from democratic debate.”¹ My project here is to expose the inner structure of this myth in order to separate its pernicious elements from its more compelling parts. In the end, I expose the inadequacies of the traditional view of individual ownership and replace it with an alternative framework through which we can better understand what it means to own something.

I also want to claim inspiration from P.-J. Proudhon, whose inflammatory rhetoric and brash confidence (both of which I hope to do without) might have masked the truly revolutionary insights of his analysis. In particular, it was Proudhon who first drew attention to the aspects of property ownership that by their very nature conflict with the goals of justice and equality. Proudhon’s famous claim that “property is theft”

is most often understood to mean simply that private property *per se* is inconsistent with justice and must be abandoned.² But his arguments were actually more subtle than this. Proudhon's central idea was that what he called the "right of increase"—an integral component of the structure of property on his view—was the real villain in all dramatic struggles for just social relations. His argument went this way: equality of condition was an essential implication of justice; property ownership, in any form that included the right of increase, destroyed equality, so property was unjust (or "impossible"). The right of increase, for Proudhon, was the right to gain income from the ownership of property through either the productive development of the resource or its exchange.³

But Proudhon did not reject all forms of ownership, for he later argued against the view of other socialists of his day that all ownership must be abandoned.⁴ The explanation of this shift involves a change in his characterization of property, not an abandonment of his principles of justice. The claim of his later work was that *possession* is the essential element of the kind of property constitutive of justice. This shift manifests a conceptual move implicit in Proudhon's work that I want to make the centerpiece of mine, namely, that when one separates the right of increase from rights of possession, one's normative conclusions concerning the right to property in a just society are significantly altered.

The way in which a person owns a thing is as central to questions of justice as is the amount of such things that she owns. To see this, imagine that a certain pattern of holdings was stipulated for a society, and goods were all assigned to owners according to some generally accepted distributive scheme. However, it was not stated what rights different people had over those goods: how people could use their holdings, or whether they could sell them and, if so, at what price. Lacking such information would mean, of course, that the real distribution of goods in that society would be wholly undetermined. Distributive justice must concern itself not just with "who has what" but with the nature of "having." The characteristics of having something as one's own—the rights, liberties, and powers that people have in relation to their goods—amount to what I call the "structure" of their ownership. One of the principal aims of this book is to put the question of what is the proper structure of ownership into the forefront of discussions of distributive justice.

Debates over distributive questions take place without an explicit discussion of the nature of ownership often because it is simply presupposed that there are two relevant alternatives: private individual ownership, where owners have "dominion" or "sovereignty" over their goods (capitalism), and state or social ownership of all resources (socialism). But of course, these paradigms are much too simplified to help in sorting out the various alternatives available in the real world. In a basically capitalist society such as the United States, for example, there are any number of restrictions on individuals' prerogatives regarding the way they can use, change, destroy, and charge for the use of their possessions. State agencies and bureaucracies enforce numerous regulations concerning the use and sale of goods, and receipts generated from the rent, sale, or transfer of goods are themselves regulated by taxation. It is not clear how one should describe such cases: is it a question of individuals having diminished control over their property or of the state's having limited rights over *its* property? The notion of private property, then, begins to look rather fuzzy.

But you might quickly say that such cases of state regulation and taxation are just deviations from the *model* or *paradigm* of private property, a model under which owners would have complete control over their goods and complete claim to the sales receipts from trades with willing buyers. It is only for particular social or political goals (which may compete with the goals that private ownership itself embodies) that ownership in capitalist societies has become regulated and circumscribed. After all, the language we are using to describe this phenomenon reveals such a paradigm: the government “restricts,” “regulates,” and “circumscribes” the full rights of owners.

One of the chief goals of this book is to deny the claim that either historically, conceptually, or (most important) normatively, the paradigm of ownership is the *full* ownership of goods without restriction or regulation. I will argue that although the notion of “sole despotic dominion” is pervasive as a general understanding of property ownership (and hence private property, hence capitalism), such a view, together with the distributive implications of that structure, cannot be defended on grounds of moral or political principle. This implies, as we shall see, that the connection between the state’s role in directing a certain distribution of goods and its role in protecting a particular structure of ownership must be more intimate than the individual dominion view of property presupposes.

One could, of course, admit all this, and claim that there is certainly no clear distinction between a private ownership economy and a state-controlled one. There is a continuum, one could say, along which a state might take a greater and greater role in the authority of owners as one moves away from a private property regime. I do not quarrel with this observation except to make three points (each of which will be developed in the chapters to follow). First, the view that there is a clear continuum between full private ownership and state control of property presupposes that the owner of property can always be unambiguously identified. When an “owner” of a factory has rights to the profits from the firm but the workers at the factory have rights to a certain minimum wage (share of the receipts), or rights to certain levels of safety, or to maintenance of machinery and so on, it is not clear whose “private” rights should be considered the locus of ownership (against which state regulation competes). If the state steps in and alters the situation (raising the minimum wage, say), is that a move *away from* private property (the owner’s) or *toward* it (the workers’)?

Second, it is too often assumed that a private property economy is synonymous with a market economy, that the continuum referred to describes the difference between full state control of an economy and completely free markets. But as I will discuss in detail in chapter 2, the connection between private property and free markets is not so simple.

But, third, even if one does admit that this continuum toward or away from the paradigm of private ownership parallels movement toward or away from capitalist free markets, the central question remains what *grounds* the state has in moving in one direction rather than another. As long as we are not at the extreme of private (liberal) ownership, the state is restricting ownership for some social purpose. What, then, are the proper social purposes or, more contentiously, what is the proper distributive policy that the state should be guided by? By the end of this work I address these questions head on and show that in answering them, one is essentially presenting a theory of property ownership for a society.

I. The Liberal Conception of Ownership

The view of property that says that owners have dominion over their goods in relation to all others is what I will refer to as “private liberal ownership,” referring to the classic liberal stance toward individuals’ entitlements to their possessions. Although this is a type of ownership and not manifestly a principle of distribution, it is a structure that has close connections with free (or nearly free) market capitalism. I will conduct an extended critical analysis of this paradigm of ownership and conclude that it must be discarded as a model of what it means to own something in a just society.

As I will explain, private liberal ownership amounts to the enforcement of individual rights to use, possess, destroy, transfer, and gain income from goods (or if any of these rights are curtailed, it is not for the purpose of shaping the distribution of wealth in the society at large). That is, liberal ownership is a package of rights that is not regulated or reshaped for distributive purposes. There are many implications for this structure concerning limits on the regulatory powers of central governments, but one of the chief such implications is that any taxation on income (especially that gained through trade of goods in a less than perfectly free market) is ruled out by liberal ownership in that structure’s purest form. Indeed, regulations or limitations on any of the rights listed for the purpose of correcting a distributive pattern are just what the paradigm of liberal ownership stands against.

While the idea of liberal ownership per se may not be explicitly defended in many theoretical quarters these days (though it definitely is defended in some), it nevertheless occupies a central place in the general ideology of capitalist market societies. And like any kind of ideological tenet, its details are often not articulated in public discussion, or even in the minds of its adherents. A dominant assumption in capitalist societies is that property owners are in some sense the *sovereigns* of what they own (metaphors about homes and castles reflect this). And even if greater social needs, such as preventing starvation or aiding the disabled, override this sovereignty, they do so only after a fight. Owners of property always see taxation for these types of programs as an encroachment on their private domain, one which even if justified in the end, is an invasion nonetheless.

This kind of thinking is also linked centrally with the public-private distinction crucial to the liberal (and capitalist) legal order. The government’s power stops at the threshold of my home (or my car or my suitcase). This presupposes that the more or less full rights that I have over my possessions are part of the sanctum of activity that the state has no business invading, except perhaps for some tremendously weighty social goal. And liberal ownership, in this way of thinking, would afford citizens the greatest possible range of independence, privacy, and personal sovereignty allowable in a social order.

A corollary to this view is the idea that the institutions of *egalitarian* economic policy, traditionally manifested in some manner of socialism, would entail the complete eradication of this sort of private control. Since ownership equals individual sovereignty, an economic policy that sees property as socially owned is then in direct conflict with this sovereignty. And all of the nightmares of central economic planning that were spawned by twentieth-century Eastern European socialism come rushing to mind.

However, I hope to show that this picture of social life is seriously mistaken. Privacy and liberty are certainly important values, but demanding their protection simply does not necessitate or entail the sovereignty model of ownership. Like many related values thought to bear a close relation to private property, such values in no way entail the full package of liberal ownership rights that many accept as the essence of private property systems. I will show further that once the components of ownership are seen in their proper light, the connection between ownership and such individualist values as privacy and liberty will take a new, more subtle, and hopefully more plausible shape.

The primary goal here is to recast, at least partially, questions of distributive justice into a critical analysis of the structure of ownership. This means that this work will tread along some well-travelled paths. There have been several excellent books on the topic of property rights lately, for example, and the material covered here is in some ways similar. But there is a large difference, I think, between this project and other recent works in both orientation and conclusion. Those studies were either surveys of various arguments for whether private property *simpliciter* could be justified or essentially analyses of competing principles of distributive justice. I deviate here on both counts, for I am interested more in the internal *structure* of property (whether, for example, the liberal paradigm should be jettisoned in favor of a more flexible alternative) and in the relation between that structure and distributive justice.⁵

The arguments I survey in support of the sovereignty conception of ownership (liberal ownership) are those that I think provide the greatest support for such a thesis, or at least those that have had the most influence in this regard. These strategies include the argument from natural right, from liberty, from moral desert, and from the principle of utility. In each case I critically analyze the ways that such considerations could be brought forward in support of a liberal property regime and in each case find them flawed. After concluding that liberal ownership cannot be justified on the most powerful grounds traditionally given in support of it, I turn to my central positive argument: in lieu of the failure of the liberal notion, the concept of ownership ought to be recast into an altogether new mold. I argue that such a new understanding of what it means to own something will be relevant to the appraisal of any economic policies, whether they are egalitarian or not.

In particular, I claim that ownership should be seen, not as a monolithic bundle of rights and powers connecting people to goods, but as *two* sets of such rights that must be considered separately in any evaluation of economic policies for a society. The new understanding I will put forward says that ownership can involve a kind of *control* over the thing owned, or it can involve a right to *income* from trade or rent of the thing owned. The interests that these two (sets of) rights protect are different in character and weight and hence the function of the rules underlying such rights is also different. Thus the set of property rules adopted by a society—those rules that principles of justice demand—must be considered as separate packages. The reasons one might give for allowing people to control their property (or for distributing goods so that everyone has property to control) are different from the reasons one might give for allowing people to gain income from it. The former protect what I call “autonomy interests” and the latter “income interests.” Correspondingly, control rights serve an autonomy-protecting function, while income rights serve an allocative

function. The contrast between each of these pairs is so stark that principles of distributive justice must deal with them as completely separate normative structures.

I intend this work to be a part of a protracted defense of egalitarian economic principles, but as such, this particular study can only serve as a prolegomenon. My strategy is to point out that one of the major reasons for rejecting egalitarian economic principles as unjust or inefficient is that private liberal ownership, which is inconsistent with egalitarianism, is independently justified. Because of arguments such as this, I canvas the reasons people have given for the conclusion that liberal ownership is justified and show them all to be wanting. This negative conclusion is at best a partial victory for egalitarianism, however, since the belief in liberal ownership is certainly not the only reason that people have given for not being egalitarians. But it is my view that the understanding of ownership as a unified and monolithic set of sovereign powers is one of the central elements in the resistance to equality.⁶

I will, however, take a few steps in defense of egalitarian social and economic principles. I shall argue also that egalitarian economic principles must treat control ownership differently from income ownership in specifying the most plausible distributive scheme for a just society. So I want my positive conclusion also to aid in the development of acceptable principles of economic equality.

II. Strategies for Defending Liberal Ownership

It is important to distinguish two types of arguments that will be considered in defense of liberal ownership and treated below. These are direct and indirect arguments. A direct argument, like those appealed to in chapters 3, most of 4, and 5, advance considerations supporting liberal ownership based on its being implied by, or connected with, fundamental moral principles. The strength of such arguments, based on such things as natural rights, liberty, and moral desert, will be independent of the consequences of adopting liberal ownership—independent, that is, of accidental facts about the production levels and distributions that such structures might induce.

Indirect arguments do take these latter things into account, and launch their defense of liberal ownership on the basis of the instrumental value it has in bringing about desired effects. The principal argument of this sort takes utilitarianism as its moral basis and attempts to show a causal link between liberal ownership and efficiency and productivity. This argument is dealt with in chapter 6. It should be noted, however, that indirect arguments are characteristically weaker than direct ones, for the plausibility of the claim that liberal ownership is justified because of its distributive effects depends crucially on one's evaluation of those distributive outcomes. If we have no *other* argument for liberal ownership, we must shift our focus to an evaluation of those outcomes and ask whether they are truly worth pursuing, even if it is true that liberal ownership is most effective in bringing them about. My main conclusion concerning such arguments is that they are hopelessly indeterminate, although I also raise various questions about the attractiveness of the distributive consequences being advanced in them.

This last conclusion may seem like a rather meek one, since the argument over equality versus productivity (or efficiency) is where most discussions of this sort

begin. But we cannot ignore the serious implications of abandoning direct arguments for liberal ownership. For after this is done, much that is traditionally brought to bear in the defense of free market capitalism is ruled out. For example, it can no longer be claimed that interference with owners' liberal property rights decreases their liberty (in a significant way), or violates their natural rights, or conflicts with what they deserve. What we are left with is a fight over distributions, and this is a fight I am confident that a plausible egalitarian principle can win.

More important, we will see that in the direct arguments for liberal ownership, it is so-called income rights which repeatedly emerge as the culprit blocking traditional attempts to justify that structure. Similar to Proudhon's "right of increase," this aspect of the liberal package will often be left dangling in these justificatory strategies. I will emphasize this further in my attempt to generate a new bifurcated notion of ownership in Part III.

In my positive argument for the reconstruction of ownership, I proceed with reference to interests that people have and to the ways that distributive principles, such as egalitarianism, must take these interests into account. I remain non-committal on the question of the weight that such interests should get in the final analysis (simply because this is not intended to be the final analysis). This is also not to say whether these interests, in the end, ground moral rights. My purpose here is to make important distinctions between kinds of interests rather than to advance final arguments in support of them.

I also make much use of the terminology of rights without supplying a logical analysis of them. That is, I take no stand on the issue of which theory of rights—a will theory, an interest theory, or a benefit theory—is most plausible.⁷ I avoid these issues because I do not think their resolution bears on the questions I discuss. For our purposes, rights (claim rights) are enforceable valid claims.⁸ Whether the interests I refer to will be weighty enough to secure a claim that must be respected by others and the state—what amounts to a right—will be a question I will attend to when necessary.⁹

Also, I do not throw my lot in with any particular foundational moral theory, such as utilitarianism or Kantianism. However, I do make particular claims about values and interests that do not, it turns out, fit well into the architecture of certain particular moral theories. As I said, I take autonomy interests to be a value that any just society must promote and protect (chapters 7 and 9), and I argue that certain utilitarian attempts to account for this value fail (chapter 9). So I do take stands on substantive value issues, though I do so without adopting a wholesale theory of moral and political principle.

Along the way, other conclusions are defended. For example, I urge that the entire conception of the relation between owners and the state that is usually assumed must be recast. As I said, it is my contention that the received view of this relation is unduly tainted by the influence of the liberal conception of ownership. Under the liberal conception, there exist owners whose rights to fully control and gain income from their holdings can be independently delineated, and in opposition to this set of concerns there is the state, bearing down on these owners and constraining their prerogatives. In such a picture, application of the principles of economic justice are *imposed* by the state upon the individual citizen, tightening the circle that her *prima facie* property rights would have carved out.

I argue that this picture involves several confusions. For example, the rights, liberties, powers, and the like that ownership confers on individuals in a society are not determinable separately from the general principles of distributive justice that apply in that society. If the correct principles of economic justice say that you do not have a certain right (to gain untaxed income from the sale of an asset, say), then there *does not exist* a *prima facie* right that has been ignored, counterbalanced, or outweighed. What one owns is what one owns justly.

Such a revision should throw into sharp relief, for example, public debates over radical revision of tax policy, government control of the economy, or any number of “interventionist” economic policies. Moreover, the usual separation of economies into private property capitalism and public ownership socialism must be rethought. For once the idea of liberal ownership is jettisoned, there is no longer a category of economic organization under which individual citizens maintain full sovereignty over their goods without state structuring of ownership rights.

Although I take on what I consider the most powerful traditional arguments for liberal ownership, I am certainly aware that this group of strategies is by no means complete, and many may suggest different and creative arguments for liberal ownership. For example, one of the most glaring lacunae here is that of contractarian defenses of liberal capitalism and liberal ownership. One could imagine any number of arguments utilizing the model of rational choice and hypothetical contract in support of conclusions I attack.¹⁰ But my opposition to such arguments is too methodological to be of much use in a substantive debate such as this. It is my view that contractarian approaches to these issues can never, by themselves, determine an outcome concerning distributions, for the outcomes of individual negotiations are always a function of the relative bargaining positions of the parties to the contract. Relative bargaining position could not be specified without indicating the holdings of the parties and, more important, the structure of the ownership rights over those holdings (including their own talents). And these are the very conclusions that the arguments are intended to support.

So not all roads to liberal ownership are exhaustively travelled. But in attacking the most powerful and influential of such arguments, I conclude, by a kind of indirect induction, that liberal ownership ought to be rejected as the paradigm of individual property rights in a just society. Upon this criticism I then build the structure that I am most interested in—a new understanding of ownership and of the interests ownership can and does function to protect.

III. Overview and Plan

The argument of parts I and II of this book can be outlined as follows: Under a system of private liberal ownership, the state plays no direct role in structuring ownership so as to promote a certain distributive pattern. It follows that if private liberal ownership can be justified by sound moral arguments, it is *unjustified* for the state to directly structure the property rights of individuals for the purpose of directing a distributive pattern. However, the strongest arguments supporting private liberal ownership are all found wanting. I conclude that private liberal ownership should be rejected as the dominant property structure in a society. Therefore, I reject the claim

that the state should play no role in structuring property rights for the sake of distributive goals.

These arguments represent the negative portion of my purposes here. I then suggest a new model of ownership. In part III, I argue that ownership must be thought of as two quite different arrays of rights (and liberties and powers): the rights to control (use, manage, destroy, and the like) the thing owned and the right to income flows from the trade, rent, or productive use of the thing. I argue for the necessity of separating these two elements of ownership in the justification of distributive schemes.

Whatever one comes to think is the proper set of economic policies that justice demands of the state, ownership should be thought of as these two different sets of rights. So the question of what package of rights owners ought to have over their goods must be answered in two stages: first, what manner of control owners should enjoy over their goods, and second, what rights to trade and gain income from that property they should have. The interests protected by these two packages of rights, liberties, and powers are so radically different and represent such markedly different social goals that they must be considered as separate kinds of ownership. Although I mean this as a general conclusion, I argue that this bifurcation of the idea of ownership is of special relevance for the development of a plausible egalitarian economic policy. And I lay out some groundwork for such an egalitarian policy—and the use it makes of the bifurcated notion of ownership—in the final chapters.

The procedure is as follows: In the opening two chapters, I discuss the components of ownership and its relation to economic institutions such as free markets and capitalism. I consider the idea, prominent among legal theorists, that ownership is such a variable and indeterminate concept that it ought to be jettisoned altogether from the pages of political theory. And I press the point that although ownership is indeed a highly variable concept, and liberal ownership simply one of its many manifestations, it is not an eliminable notion altogether. In chapter 2 I argue that although liberal ownership and free economic markets are contingently related, liberal ownership is neither necessary nor sufficient for fully competitive markets. Liberal ownership and markets entail one another only when fairly robust assumptions are made about both the economic environment and individual motivations.

In the subsequent chapters, I take on some familiar arguments about economic justice and recast them in terms of a debate over the correct structure of individual ownership. In particular, I critically discuss the following arguments purporting to justify liberal ownership: arguments based on the natural right to property (chapter 3); those based on considerations of liberty (chapter 4); those based on claims of moral desert (chapter 5); and those based on utilitarian arguments (chapter 6). I conclude that although these strategies introduce considerations that must be taken into account by any theory of property, they do not succeed in justifying the proposition that individuals should have liberal ownership rights over their goods.

As I mentioned previously, these arguments are well rehearsed and familiar. But I ask a slightly different question from that which is usually asked, namely, whether the arguments I deal with succeed in justifying a *particular structure* of ownership (liberal ownership). Other theorists who have dealt with this material have not taken seriously enough the variability of the concept of ownership and, in particular, the internal complexity of the concept. By rejecting these traditional attempts to justify *liberal* property rights—as a singular concept but by no means the only possibility—