

# CHANGING CONCEPTIONS OF PROPERTY

Consider the simple act of walking your dogs over a patch of fields. Have you ever considered who owns those fields or whether you even have the right to walk across them, what manner of law and justification enacts this right; a public right of way, a private licence meaning permission agreed with the owner or an incorporeal right over the property itself? What makes it so that you are not simply trespassing over someone else's land? For this is the key principle that envelops the entire history of our modern conceptions of property; where ever you are and where ever you go you are not merely making use of land. You are making use of 'someone's' land.

'Property,' and its intrinsic relationship to land and the regulation of land, is a term that encapsulates a vast array of complex ideologies and conceptions towards the freedoms and restrictions that hold modern society together and has a momentarily massive impact on the way we behave within society. This impact is often taken for granted during the typical dealings of daily life but its profundity resonates profusely in almost everything we do. Those of us who study land law and conceptions of property are often inclined to fondly jest that property rights 'bind the world'. Land provides the physical basis for all human activity and as such we can never escape from the legal and conceptual framework that constitutes our current notion of property. In fact, some of the most challenging and prevailing questions surrounding every modern liberal democracy concern the scope, mechanism and content of the property notion. The notion of what someone can 'own', what kinds of resources it can be that someone can 'own', what rights do those who 'own' property in land have over others and what does it even mean to 'own' something at all? All these questions ricochet into fundamental inquiries that affect debates on how we justify our very way of existence – civil liberty, distributive justice, control of knowledge and information, social exclusion, environmental welfare and freedom of commercial enterprise to name just a few.

The modern property rights system assigns rights to use specific goods or interests from a non-prohibited set of uses. Full private property rights assign and recognise exclusive use of goods to particular individuals; bounded by some constraints, such as the freedom of use must not go as far as to violate the rights of someone else. They give an individual access rights in the stream of benefits from these goods and the right to transfer this right to others in whatever way they see fit.

Some of the basic premises that are taken for granted within our modern, liberal system may seem elementary for me to point out even if they are not fully understood in their common context. We all have a practical idea of how property works; how 'owners' can have a certain control and entitlement to a piece of land, how others must respect the boundaries of each other's property, how the legal instrument of a deed is used to affirm entitlement to land, how property can change ownership through a contractual sale or purchase or even merely a transfer of a deed from one party to another. The system is ingrained in us; from the highflying real estate agent to the mother telling her child not to go onto the grass as it's 'someone else's front garden'. We take it for granted simply because it is the system that we live in and all, within our lifetime, we have ever lived by. And, of course, its justification is supplied by

our acceptance of it. However, it is worth asking how we got to this point in the first place.

It is first worth mentioning that the current system of property law based on seventeenth century liberal conceptions of individual rights, modern empiricism and materialism are relatively new in comparison to the entire human history of written civilization. It was not until around the twelfth century that we saw the beginnings toward the journey of philosophical, legal and social trends that led us to our justification of the property notion as we know it today. Prior to this seemingly small backdrop of three hundred years enshrining property through the filter of a liberal democracy there has been another dominant principle stretching back centuries; through the Medieval period, as far back as to classical antiquity and the traditions of Natural Law extended by Plato and Aristotle; the principle that property should be held in common with all mankind.

It was perceived all land ultimately belonged to the higher order of Nature and Humankind were a part of Nature and so possessed no right to claim land as his own; and as such Humankind should take only what he needs from the land which nature had provided him. This principle was linked to the dominant perceptions of wealth and value in these classical societies, which radically differ from our current conceptions. Wealth was viewed in terms of use rather than in terms of ownership. As Aristotle comments in *Nicomachean Ethics* "whoever produces something produces it for an end".<sup>1</sup> The question was never so much 'what is mine?' but rather 'what is the right use of things?'. In this sense, individuals never truly laid claim to any property over that of Nature. Land belonged to no man and so Humankind was able to maintain an awe-filled, receptive and even trustworthy conformity to Nature's provision and membership to that of society's greater moral purpose. This, of course, perpetuated a harmony between Nature and Humankind so as to emphasize principles of unity, community and the collective common good.

However, Humankind's connection to Nature was gradually forgotten as western society attempted to re-imagine the relationship between the Church and the state, and at the same time, the state and the individual. With the loss of this higher order, both land and the human individual became 'private property'. The notion of human nature being defined by its membership in society was replaced by the notion of the private, autonomous individual as distinct from the state. Principles of unity, community and the common good were replaced with assertions about the preservation of the rights of the individual. The understanding of wealth determined by right use was replaced with that of ownership. As a consequence, a system emerged that justified these new favoured principles concocting the complex set of ideologies that eventually became our modern property notion. Within the heart of this arose both industrial and scientific revolutions and other such key periods in history that led to the conception of a Liberal Democracy and the current understanding of ownership. One is the most crucial influence in this journey was the period of Enclosure. Throughout the Medieval period, rural England was largely

managed by an open field system of farming. Villages were surrounded by a number of large fields, which were divided into strips, and these strips were then farmed by individual families in the village. The rest of the land was mostly left unchecked and retained the status of common land. A whole host of rights in common were allowed on lands such as these, including the right to pasture cattle, the right to fish (piscary) or the right to procure wood (estovers). It was this common land that was sought out as refuge by some of the England's poorest inhabitants; those without land.

Enclosure ended these ancient rights in common and stamped the traditional open field system into extinction. Land was fenced and deeded to its owner thereby restricting its use and the rights enjoyed to only the individual (or individuals) who held legal title. *Everyone's Dictionary of Economics* defines Enclosure as:

*The creation of private property rights over land formerly used in common.*<sup>2</sup>

Over time, as Enclosure became widespread across England, virtually all common land was converted into private property changing the economical and social landscape forever. The basic premise was to increase productivity of farming in light of various threats to England's economy, such as inflation and the rising population; however alongside this came devastating consequences for the poor, including increased poverty, rural depopulation and homelessness. In fact, a running theme of Enclosure in the Tudor period was the economic collapse of entire villages.

Enclosure had been taking place over England since as early as the twelfth century. Initially, extensive open land was enclosed on a small, local scale; undertaken unilaterally by landowners who wished to convert their arable land to pasture in order to capitalise on the growing profitability of the wool industry. The process became more widespread during the fifteenth and sixteenth centuries as sheep herding became even more profitable.

As inflation and the population increased so did the pressure to enclose lands in order to optimise the productivity of land resources and survive growing economic difficulties. As a consequence, most commoning economies vanished from existence at some point between the fifteenth and nineteenth centuries. The pace of this change was sporadic and uneven. The bulk of England remained relatively open in 1700, but mostly enclosed by 1840. This was because as elite opinion started to shift in favour of Enclosure, Parliament enacted a series of Enclosure Acts, extending chiefly from 1750 to 1860, effectively nationalising the system.

The time of Enclosure has remained one of the most controversial periods of rural English history. Neither the defenders of common rights nor the ambassadors of Enclosure denied the consequences for the poor or the social calamity that the time brought about. The controversy was centred mostly on the question whether the loss of commons were an indication of unacceptable negative attitudes towards the poor or whether the loss was a necessary evil in order to bring new life and new wealth to the country's economy.

Defenders of common rights argue that common fields supported the economies of small farmers and by extension that of the cottagers, mechanics and shopkeepers. Commoners "lived their own lives and cultivated the soil on the basis of independence"<sup>3</sup> and always with even the smallest chance for the "humblest and poorest labourer to rise in the village."<sup>4</sup> Their communal bonds generated the incentive of thrift and industry, an encouragement to intermarry and a means of providing for their children with relative comfort rendering them valuable members of society.

Enclosure brought about a concentration of wealth; rents rose and prices followed, labour intensified and luxury was encouraged. Whilst Enclosure gave more land to those already in possession of it, the process impoverished twenty small farmers for the enrichment of one. It ruined small farming families, often uprooting them from their ancestral lands, forcing them to find other parishes to live in (if they could afford it) or move to the cities, forsaking their self-sufficient livelihoods to be dependent on the employment of others, facing poor working conditions and low wages tantamount to slave labour. Commoners became labourers, losing their independence. As eighteenth century protestor Thomas Andrews remarks:

*Stand from betwixt me and the sun, lest thou take away what thou can'st not give me. For, in those places where the poor are deprived of their Common Pasturage, the most comfortable Gift of a Free Country is taken away.*<sup>5</sup>

Labourers became the mere 'tools' of their employers. Landlords grew comfortable among their wealth, grew lazy and selfish; some no better than "tyrants or bashaws. . . who when they had less wealth were more sensible of their dependence and connections, and could feel both for the poor and the public upon every emergency."<sup>6</sup> Above all, Enclosure destroyed equality, as Dr. Richard Price, one of the most published eighteenth century defenders of commons, wrote:

*Modern policy is, indeed, more favourable to the higher classes of people and the consequences may in time prove that the whole kingdom will consist of only gentry and beggars, or grandees and slaves.*<sup>7</sup>

'Slave' being the operative word here; it was a key theme in the poetry of John Clare who expressed a similar sentiment in his poem, 'The Mores':

*Inclosure came and trampled on the grave  
Of labour's rights and left the poor a slave*

Many conservative moralists and romanticist poets at the time used the symbolism of trees and landscape to connote the misguided sense of liberty interwoven into the privatisation of land. However it was only Clare's, and others like him, knowledge of the Natural world that enabled him to see what was truly happening to society and led him far beyond that of other major Romanticists. Clare was a child of Enclosure and was affected first hand by the sufferings of the poor. His testimony is critical in giving an understanding of the view from below. The view of a man not just living amongst Enclosure, but one shaped by it; the view of a commoner. Clare's deliberate acts of remembrance and nostalgia gives insights into the awe, wonder and freedom the world offered for those who treasured the commons:

*Unbounded freedom ruled the wandering scene  
Nor fence of ownership crept in between  
To hide the prospect of the following eye  
Its only bondage was the circling sky  
One mighty flat undwarfed by bush and tree  
Spread its faint shadow of immensity*

And, of course, their anger and loss when this was taken away:

*These paths are stopt - the rude philistine's thrall  
Is laid upon them and destroyed them all  
Each little tyrant with his little sign  
Shows where man claims earth glows no more divine  
But paths to freedom and to childhood dear  
A board sticks up to notice 'no road here'  
And on the tree with ivy overhung  
The hated sign by vulgar taste is hung*

*As tho' the very birds should learn to know  
When they go there they must no further go  
Thus, with the poor, scared freedom bade goodbye  
And much they feel it in the smothered sigh  
And birds and trees and flowers without a name  
All sighed when lawless law's enclosure came  
And dreams of plunder in such rebel schemes  
Have found too truly that they were but dreams.*

It is clear that whatever the justification for Enclosure, Clare sees it as a morally indefensible case for stripping away the livelihoods and social customs of the community; the people's very way of life that had held out for centuries. He saw no defence for clearing the mass of the people off the land – a land they had mostly occupied since the original settlers many centuries before.

This powerful sentiment has a resounding echo through time; in 1944, George Orwell commented on the indefensibility of Enclosure in this rather direct and extreme comment from his *As I Please* article series:

*Stop to consider how the so-called owners of the land got hold of it. They simply seized it by force, afterwards hiring lawyers to provide them with title-deeds. In the case of the enclosure of the common lands . . . the land-grabbers did not even have the excuse of being foreign conquerors; they were quite frankly taking the heritage of their own countrymen, upon no sort of pretext except that they had the power to do so.*

The supporters of Enclosure seemed to think the instability was worth it. Professor J.D. Chambers saw common right only as a “thin and squalid curtain”<sup>9</sup> hanging between the poor and even greater poverty. Their view for Enclosure was one of fear that with the population growing at an ever-increasing rate eventually the number of mouths to be fed would outstrip the food supply. What was needed was substantial and sustained economic growth.

Reverend Howlett, an outspoken eighteenth century supporter of Enclosure who sought critique of Price, agreed that Enclosure reduced commoners to labourers; however the loss was worth the sacrifice because it would encourage population growth under the new system. Enclosure would create a rapid increase of labouring and then of indignant poor. Dependence and unemployment, supposedly the worst consequences of privatisation became advantageous.

Under this new system, population growth would result in the creation of a newly formed proletariat and this would secure economic growth on a grand scale because the system would become self-perpetuating. It would lead to larger agricultural and manufacturing populations, greater agricultural production, stable grain prices and so on. In this sense, the traditional argument against enclosure was reversed; privatisation, instead of damning the disappearance of common right, justified it.

Nonetheless, it is evidently possible to foresee the logical fallacy in this justification of the social engineering that rendered millions unemployed. Even in consideration of the increase in jobs that were created as a result of the Industrial Revolution, by accelerating enclosures and therefore encouraging population growth Parliament was left, at least in the initial sense, with an overwhelming increase of mouths to feed, actually exacerbating

the problem which they had ostensibly set out to solve.

Arguments aside, it is clear that Enclosure signified a dramatic social change in the attitudes towards income, economy and livelihood. Previously Parliament had maintained a paternalistic and protective attitude towards small landowners and those without land. However, “within a generation the House of Commons exchanged its policy of medieval protection for one of administrative nihilism.”<sup>10</sup> England had stepped into the beginnings of a market economy; a set of rules, compliances procedures and behavioural norms designed for the purposes of maximising wealth. An epoch such as this inspires a very different outlook from the medieval customary society in which a man's right to property depends on his need to use it. A market economy thrives on the freedom of property; it demands that property be freely transferrable so that it can pass from hand to hand, coming to rest only in the possession of those who can most efficiently exploit it. From a medieval standpoint, the concept that a man was free to do whatever he wished with his property would seem repugnant, as men were not entirely free (at least not in the sense that we are accustomed to today); they owed duty to their Lord, their family and fellow men and, of course, to Nature and to God. However, as Enclosure melted these duties away men saw the opportunity to step out from their feudal burdens, striving to control their own destinies, to plan their own lives and not to leave everything to Providence. They desired the freedom to become wealthy; to acquire or sell, to mortgage or settle, to inherit or devise. Landlords increasingly desired the freedom to use their lands, to exploit them for agriculture, pasture, mining or any other economic purpose that proved productive. It is not a coincidence that one of the first ‘Acts of the Parliament of 1688-9’ relinquished the Royal claim to mineral rights on the subjects’ lands, with the notable exception of gold and silver.

All these freedoms served to create ideologies of individualism. Individualism treasures the worth of the individual and the advancement of self-interest and self-preservation. It holds that each individual should be allowed autonomy over their own decisions as opposed to those decisions being made for them by the state or the community. With society adopting the rights of the individual as the apex of moral and economical worth, private and exclusive ownership of land was legitimised and socialised into public opinion. This instilled an entirely different set of social customs between landowners to those previously emulated on common lands. Instead of interests being invested in the values of kindness, sharing, co-habitation and the common good, landowners saw only their self-interest, and so a relationship of cooperation manifested that was not based on any moral affinities to each other but entirely on compromise. Consequently, land law was shaped to ensure the enforcement of cooperation of landowners in order to help the facilitation of these negotiations.

To look for a paradigm example we should turn our attention to the progression of proprietary rights. These refer to certain abstract entitlements over or in respect to land; most commonly including easements, restrictive covenants, profits à prendre, mortgages, rent charges, rights of entry, beneficial interests existing under a trust of land and so on. Proprietary rights are especially relevant in the facilitation of compromise between landowners in instances where one person's claim of property to a particular parcel of land is consistent with the acquisition by others of different quantum of property in the same resource.



This brings a legal element to the practical reality that in some circumstances it is necessary for a person to use another's land.

So in the case of an easement – a typical example would comprise of a right of way which one landowner may have over the land of another. An agreement such as this confers a degree of control over the use and exploitation of the other land, although marginally less extensive than the control implicit in the ownership of it, it is nevertheless still of some significance. A small quantum of property has transferred to the beneficiary of the right and this presents consequences for the balance of control of the property as a whole. Though the owner of the land still holds legal title and therefore maintains the greater part of control over the property, he is forced to tolerate the burden and inconvenience of the right of way entitled to the beneficiary.

Interestingly, the early theory of the law concerning proprietary rights was closely analogous to simple local custom, in which the competing needs of landlords were accommodated on a practical but informal basis. However, as individualistic private property rights gained dominance over society, the judiciary sought to place stringent limits on the types of entitlement that could be held under the banner of proprietary rights. No doubt, this was intended to reinforce certainty of ownership and to prevent the cluttering of land with long term burdens of an antisocial or idiosyncratic nature. It was thought that by keeping strict boundaries on the freedom for people to customise new forms of proprietary right marketability of property would be facilitated by reducing the transaction costs otherwise incurred in trading with unfamiliar or unorthodox packages of entitlement.

There is a more abstract mechanism that supports compromise between landowners, its existence is the reason for the allowed intellectual manoeuvrability to create proprietary rights and its development is what carries us into the system of property rights as we know them today. In the seventeenth century, the new favoured private property system was built with the desired consensus for landowners to enjoy 'absolute ownership' over their lands. Thus Blackstone defines the right of property as:

*[T]hat sole and despotic dominion which one man claims and exercises over the external things of the world, in total exclusion of the right of any other individual in the universe.<sup>14</sup>*

It is a given that the modern landlord conceives himself as the exclusive owner of his property and takes the nature of this ownership to be absolute. However, this is more a matter of theoretical abstraction than one of strict law; for in reality this philosophy has never been truly realised. The landlord was more closely analogous to a free tenant, at least in theory, and this was the position maintained in the seventeenth century, as it still is today.

During the Medieval period, English Land law was shaped by the doctrine of tenure, under which a person did not own the land, but held it as a tenant of the Crown or a feudal superior. This system of hierarchical landholding fitted neatly with the tiered feudal structure by defining each tenant by his duty to his immediate superior, evidently putting the king at its apex. So in a highly technical sense, the bedrock for English land law was never initiated by the concept of ownership. Rather it was the possession and physical control of land that influenced legal reasoning about title and rights to property. All titles to land were based on possession or 'seisin', so that a person 'seised' triumphed above all others who could not show a better right to seisin. Title was fundamentally relative and defeasible.

Tenure lost most of its practicality as feudal certainties were stripped away in the seventeenth century and private property

rights came into focus. The beginning of the end came with the Tenures Abolition Act 1660; however vestiges remained until as recent as the twentieth century. It was the Law of Property Act 1922 that completed the process of dismantling the system of tenure and now any vestige of it is maintained through the relationship of a tenant and his landlord.

Nevertheless, the notion of relative title lived on, though now seen through conceptions of private ownership, and claims to title are still largely based on de facto physical possession of land. At the heart of common law stand three prepositions; that some claims of possession of land are stronger than others, that any person in possession of land holds legal title and is, for all intents and purposes, the owner and that the best title to land is simply a person whose claim to possession is superior to that of anyone else. Even deeds or other documentary titles can sometimes be defeated, such as in cases of adverse possession. A squatter enters land unlawfully and exercises an uninterrupted long term possession of land over a specified statutory limitation period, after which the earlier title is vulnerable to the showing of a superior claim of possession. Under the Limitation Act 1980, this period is twelve years and if the newer title is proved superior the earlier one can be completely extinguished. This fragile transience of property claims makes it easier for people to swallow the fact that their rights to exclusive ownership of land are not forever secure and that control of their land is not always in their hands.

The belief that an owner enjoys complete autonomy over whatever they wish to do with his land is not strictly true either. As a consequence of statutory planning control, they have little or no assumed entitlement to alter, develop or extend the land; they can't paint it in polka dots, change its use or much less destroy it if they wished to. Moreover, land is always vulnerable to compulsory purchase by the state, either if the owner has failed to maintain the land to a standard deemed appropriate by some state official, or a forcible transfer should be found to serve some sort of higher public interest.

It appears that all these freedoms of property and the growing sense of individuality emanating from the seventeenth century eventually brought about its own set of burdens and restrictions in order to keep society in check, to unify principles and to maintain order. Contrary to their medieval counterparts, these restrictions are seen as inherently antagonistic and principally oppositional. A society in which the worth of individuals is enshrined in its highest values, no doubt, causes those individuals to assume that their own self-serving natures are all that matter. Therefore, the conception of a modern liberal society is one based on the essential notion of competition of each against all, and laws are consequently shaped to protect individuals against other individuals. Modern conceptions of property and land law are perfect examples of this truth.

Today, the property notion is facing another philosophical shift, one that has already fundamentally challenged our attitudes towards property and ownership, as well as completely changing the way land is regulated. The beginnings of this development originate primarily from the substantial and recasting legislation of 1925, the Law of Property Act 1925. Although since the beginning of the twentieth century there have been many further developments, both statutory and judicial, refining the laws established in the Law of Property Act, the 1925 legislation still contains a great deal of the theoretical underpinning upon which the modern conception of property is founded and remains one of the most influential pieces of legislation in land law to date.

The policy of the Act was to consolidate and simplify the highly complex, confusing and frankly messy substantive common and statutory law relating to land, prior to this legislation,

by ridding the law of some of those more technical and sometimes unnecessary aspects, in order to reaffirm claims of private ownership, add security to the process of retaining and transferring land and help maintain marketability of property. Measures enacted to this effect included; reducing the number of legal estates, claims of ownership, which can exist in law to simply two expressions, the reformation of co-ownership of land by reducing the maximum number of legal owners of land to only four title holders so as to avoid land ownership becoming fragmented between numerous people, the registration of certain equitable interests so as to enable a purchaser to easily discover what third party proprietary rights the property they were buying would be subject to, and these are just a few among many. However, the practice of consolidation and simplification of the previous substantive law was simply a necessary prelude to the act's ultimate goal.

The Law of Property Act's supreme intention was to facilitate the registration of title to land, brought into force by its sister act, the Land Registration Act 1925, whereby a person's ownership of the land would be entered upon a register regulated by the state. Traditionally, the process of establishing that a title holder genuinely owned the land which they intended to sell was to examine the title deeds, the purpose of which was to reveal a convincing account of the transference of the property in the past to affirm their right to deal with the land. This method was not the most reliable one; in fact mistakes were a very common occurrence. Add this to the fact that it was very time-consuming and we have enough dissatisfaction for legislators to look for alternative regulation systems. Registration of title is an idea designed to make the traditional process obsolete.

An official register was to be created that would contain all of the details of each parcel of land, ideally including all estates and interests, which affect that land. Once title of land is registered then the owner becomes clear and the information becomes easily accessible for anyone wishing to view it. Certainty of title no longer depends on the painstaking meticulous nature of historical record keeping and familial collective memory; rather it is derived from and legitimised by a reliable, centralised state apparatus. Throughout the twentieth century various areas of the country were designated areas of compulsory registration by order, so that some areas of compulsory registration had been around longer than others. The most recent order was in 1990, and now almost all transactions in land result in registration. If we jump forward to the Land Registry Act 2002, the now and future principle piece of legislation relating to land, registry of title has taken on an even more modern and expedient approach.

The 2002 Act leaves the 1925 system mostly in place, aside from a few modifications on the protection of third party rights and the reformation of the law on adverse possession, but enables the future enforcement of transferring and registering property through electronic means. Under this system it is possible to complete formal documents electronically via a secure electronic communications network, which is, of course, tightly monitored and protected by the state. By embracing the recent progression of a technologically adept culture, land registry is made even simpler, clearer and familiar for easier access.

Alongside these seemingly solely beneficial consequences of registration of title, such as newfound clarity and efficiency in the system, are posed some interesting indications to some new understandings of ownership. The traditional perception that ownership equates to superior possession is in decline. It has become unnecessary to demonstrate any kind of physical nexus with the land in order to gain the right to deal with it or acquire interests, as long as the register proclaims the individual the owner then this is evidence enough. As the principle of possession

declines, the legitimacy of registration is bolstered because the only way of dealing with land is through alteration of the register. The 2002 legislation defines a title as: '*No more and no less than the register entry which records proprietorship of the relevant estate*'.<sup>12</sup> In this sense, the philosophical basis of English Land law has shifted from empirically defined fact to officially defined entitlement, from property as a reaction of social actuality to property as a construct of state control.

Akin to this, and perhaps far more radical, we are seeing the demise of relative title. The regime of title-by-registration endows a higher degree of security for the particular pieces of land brought on to the register. An inevitable upshot of the modern administrative system is the creation of far more robust and deeply stabilised form of state endorsed title. By virtue of greatly enhanced protection from the state, titles will enjoy a more 'absolute' quality than they have ever done previously. The registered proprietor of a piece of land is identified as the absolute, indefeasible owner of that land. Conclusive identification of a proprietor is assembled from the formal record of the register itself and so as long as that record is maintained then the claim of ownership can never be defeated.

So it appears that our deep-rooted seventeenth century desires have finally caught up with reality. We are seeing the first incarnations of truly exclusive and absolute ownership that Realist thinkers and policy makers envisioned three centuries ago. Predictions on where our attitudes and philosophies concerning the property notion will take us next are always in question. It is quite possible that these new certainties in title may ease the competitive nature of land ownership to a degree. There will certainly be less litigation concerning arguments over property claims, as all the parties would need to do is examine the register in most cases. Of course, certain proprietary rights are also recorded on the register so cooperation and compromise between land owners is protected as much as indefeasible titles are. However, it is also quite feasible that society's self-serving individualistic tendencies will be greatly exacerbated by the reality of absolute ownership. The very foundation of land regulation, the efficient transference of social and economic use of all land resources, depends on some level of cooperation – no matter how unjustified or unwilling that cooperation might be. Absolute ownership implies that this is an impossibility. After all, nobody ever wants to share their toys. The question 'what is mine?' has never been more appropriate. The claim that society is fundamentally selfish is a serious accusation to make, however if we ever look to the most extreme possible context, whereby in the future the simple act of walking your dogs across a patch of fields becomes a near impossible and unheard of endeavour because it is 'someone else's land,' then we will have Aristotle and Plato spinning in their graves. ■

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