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*Expiration of private property rights:
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Abstract: According to libertarian law, upon what occasions may a person's private property rights in goods, commodities, in himself, be alienated from him? The present paper is an attempt to wrestle with this question. We consider abandonment, punishment, salvage, misplacement, liberation of property.

Keywords: private property, rights negation, libertarianism

Introduction

In this essay we will assume, [1] arguendo if need be, that private property rights properly come into existence based on homesteading (Bylund 2012; Hoppe 1993, 2011; Kinsella 2003, 2006; Locke 1948; Rothbard 1973; Rozeff 2005). We also accept without question or analysis how titles to land or goods may be licitly transferred from one person to another: through any voluntary process, such as sale, barter, gambling, gifts, etc. (Nozick 1974). The only thing precluded would be violations of the non-aggression principle (NAP). We will here focus attention not on how such rights come into being and/or are relocated amongst people, but on how they may be legitimately extinguished over above and against the will of the owner. This paper is predicated upon libertarianism; it is an attempt to understand how this philosophical tradition would deal with the present challenge.

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Abandonment

One obvious way to extinguish property rights [2] is by abandonment. If a man relinquishes title to his holdings, that is it for him and them. They now pass once again into non-ownership as they were before being homesteaded, either by this person or the previous owner(s). And, in this state they are available to the first man who comes along and homesteads them on his own account. This is rather non-controversial. No reasonable person would force people to keep their erstwhile property against their will, and no libertarian would object to the ownership of them by the next man who comes along and homesteads them. There are those, however, who favor laws prohibiting owners of firms from relinquishing title in them. They do so in support of labor union members who wish to continue to act the role of a tapeworm against these companies. [3]

Precisely in what does such relinquishing consist? Is it through a declarative and legally binding act ('I hereby relinquish my holdings to ...' which has to be witnessed or such like? Yes, that would certainly suffice. Or may one's acts (or, more likely, omissions) be taken as signs of relinquishment? If one, for instance, allows a building to fall into disrepair and makes no efforts (despite warnings from others – although which others would have to be specified) to rectify this, has one relinquished one's title? Yes, that, too, would constitute a relinquishment. However, we can add, here, 'not so fast.' If that building falls apart and physically harms other persons, the owner, or, rather, the previous owner, would still be fully responsible for the damage, even though he had severed connections with the edifice.

And after how long may one be deemed to have relinquished the title? We deal with this issue below, when we consider the boat example.

Punishment

B steals a car from A. According to libertarian punishment theory, at the very least, in addition to compelling B to return this automobile to A, the same thing must be done to B as he did to A. Namely, B must be forced to give to A a vehicle of his own, or if he does not have one of comparable value, then the monetary equivalent thereof. That is to say, it is entirely appropriate to end the criminal's right to some property of his own. Given that the death penalty for murder is justified (Block 2003A, 2003B, 2003C,

2006A, 2006B, 2006C; Rothbard 2010; Whitehead and Block 2003), not only may the criminal forfeit physical property, he would be called upon to give up title to the most important piece of private property he owns, namely that to his own person. We conclude that the property rights of murderers and thieves may be justifiably taken from them. For this philosophy, property rights are indeed sacrosanct. But not so much that they may not be taken away from criminals, as part of their punishment. Take the case of slavery as an example. What should have happened in 1865 in the U.S. is that slavery should have been considered as a crime; no ex post facto excuse should have been accepted. These owners were guilty of kidnapping. Even though entirely legal at the time, slavery is one of the most egregious violations of the NAP. The punishment for this crime, at the very least, should have involved the transfer of the lands and other property from these criminals to their victims, the (ex) slaves. This would have been an entirely justified relinquishment. [4]

Salvage

C owns a large craft. An iceberg comes along and puts a hole in it. C leaves his sinking ship and heads for shore in a canoe, but does not abandon title to it. As far as he is concerned, it is lost to him. C has not the means nor ability to bring it back to the surface of the ocean and/or he tries to do so but unsuccessfully. D enters upon the scene and salvages this vessel. According to maritime law, D now owns one-third of the value of this yacht. That is, it is not the case that it would be nice if C paid a reward to D for this service at his discretion. Rather, the former now owns $\frac{2}{3}$ of this property, the latter $\frac{1}{3}$. It is not up to C to determine how much money, if any, he should give to D for returning his possession. This has been determined by the private court.

We shall not touch upon the question of whether maritime law got the percentages right. Perhaps the division should have been, instead, 50% - 50%, or 60% - 40%, or 40% - 60%, or 70% - 30%, or some other. Let it stand at 66.6% for C and 33.4% for D, since there is historical precedent (Anderson 1993; Doane 2013; Kinsella 2010; Lipka 1970; Wilder 2000) for this partition. The issue of relevance for the present paper is that C loses, against his will, not the entire boat, but, rather, one third of its value.

Is this justified from the libertarian point of view? Here, we reach something of a quandary, for there are not one but two principles emanating from the non-aggression principle (NAP) of libertarianism, and they, unhappily, lead us in opposite directions.

On the one hand, we have the presumption that private property rights are forever; that they may not be seized from the owner against his will (assuming no abandonment, no relinquishment, no criminal behavior, etc.) On the other hand, and, here, there is another hand, there is the fact that a private court has found on the opposite side of the issue, and the decisions of this institution also lie at the core of the libertarian philosophy. (Another basic premise of libertarianism is that when there seems to be a clash of rights, at least of them is invalid.) My judgment here is to award this seeming tie [5] to the principle, not the judicial finding; property rights are inviolate, and D is not entitled to any of C's boat without the latter's consent. For example, C may offer a reward of a certain amount of money, or a given percentage of the value of the lost boat, to any would-be salvager. Alternatively, if there is an owner of the ocean (Block and Nelson, forthcoming) he will likely provide a definitive ruling in this regard. As part of the price of entry C will have in effect agreed to this, and thus contractually obligated himself to be bound by them.

Why do I tip the balance in this direction? I do so because is it always possible, plausible, defensible, to ask, an otherwise legitimate private court [6] made thus and such a determination, but is it really in accord with the NAP? Whereas, in contrast, it does not trip as lightly off the tongue to question private property rights, the very bedrock of libertarianism. Suttie is a practice that is clearly incompatible with the NAP of libertarianism. Yet, it takes no great deal of imagination to suppose that were there private courts in India during those epochs they would have supported this system.

However, suppose that C insists that no one should salvage his ship, and/or that he, C, will not pay a dime to anyone who does. May this vessel languish at the bottom of the sea forever? No. Eventually, there is a continuum (Block and Barnett 2008) problem here that can only be addressed by courts, he or his heirs if need be will be deemed to have abandoned this boat, and anyone else would be free to rescue this property without paying anything at all to C. It is crucially important to recognize that not all legal findings can be directly deduced from the libertarian NAP. Courts, judges, hopefully private ones who have passed a market weeding out test (Hazlitt 1946), will have to make such determinations. This holds particularly true to timing: precisely how long will it take before abandoned property is deemed to be no longer owned. No libertarian principle can serve as the basic premise from which specific number of years can be deduced. The judicial market will have to make all such determinations.

Such decisions will undoubtedly give rise to a bargaining situation between the Cs and the Ds of the world. Perhaps this is reflected in the 33.3% that the private courts had determined upon. But if the courts deem that anyone may salvage the boat and keep it, why should that lead to a bargaining situation? It might be argued that the potential salvagers do not need to bargain with the owner/heirs if anyone may now retrieve the boat and keep it. This is false, because the courts will only make this determination at time x. The bargaining will take place *before* that cut off time period.

The argument for salvage is further weakened when what is rescued is not property, but a human being. Consider the following case: B, the bad guy kidnaps A, the victim. C, the hero, rescues A from B. [7] According to salvage precedents, A owes C one third of the value of her life. According the view being put forth in the present paper, C may not enslave A at all, even to the extent of one-third, [8] since her title in her own self may not be vanquished by anyone: certainly not by B and not even by C (to any extent). However, her self-ownership rights in herself may be ended by one and only person: herself. This is based on the libertarian case for 'voluntary slavery.' [9]

Let us consider some criticisms of this section of the paper. Here, decisions of courts or legislators enter the argument. But what is the normative force of these for libertarians? Private maritime courts might not get it right, according to libertarians, so perhaps the libertarian would simply say that property rights are eternal, and the court's view is invalid.

Response: it is always possible to ask of a court decision, but, is it compatible with the NAP. In the case of a court upholding suttee, or slavery, or rape, the judge has clearly made a mistake. On the other hand, there are decisions about which the operation of the NAP is not clear. For example, statutory rape laws. We all know full well that if a man goes to bed with a five year old girl, even if she gives 'consent' he is a statutory rapist. This is because we do not believe that a child of that age, even if she is very smart, has the maturity to give consent to such an act. On the other hand, if this man has intercourse with a willing twenty-five year old woman, he is not guilty of statutory or any other kind of rape. But where shall the line be drawn? Shall it be at fifteen years of age? But why not fourteen or sixteen? The answer to this continuum problem (Block and Barnett 2008) does not emanate, certainly not directly, from the non-aggression principle of libertarians. All supporters of this philosophy would say, correctly, that only (private) courts should make such a determination. Most would be

content with ages 14-19, and a few with anywhere from 12-21. But, outside of these limits, again we could validly question any age as being compatible with the NAP.

Query: why would an owner of the ocean have the right to provide a definitive ruling? If a crime is committed in someone's back garden, does this give him, rather than a court, the right to rule on the case? Yes, indeed, would be the response of the libertarian: The owner gets to decide the rules in his domain. Every man's home is his castle. Private property rights are sacrosanct. Now, there are of course limitations. No one can invite you to his back garden, murder you, and claim that in his property he is allowed to shoot anyone who displeases him. However, he may do precisely that, provide only that he clearly warns people of the special rules that prevail in his justly owned territory. Consider 'murder park' in this regard. I open a new kind of amusement park. It has 20-foot thick walls so that no bullets can pierce them. I issue a gun and six bullets to all clients, and tell them they may shoot each other for the next 50 minutes, when a bell will ring. Then, no shooting is allowed. I cart out the dead bodies, issue new bullets to those who wish to remain, and introduce new shooters during the next ten minutes. After that two bells ring, and we have our next free for all. Would such an emporium be legal in the libertarian society? Of course it would. And no heir of any of those killed (not murdered) in the melee would have the right to sue for wrongful death.

Here is another objection: there are great dissimilarities between this kidnapping case and the boat example; the simple impracticality of owning one-third of a person makes the two cases disanalogous (unless, of course, we can put a monetary value on a person's life and have the 'salvager' of the life being paid this monetary amount as a condition of 'freeing' the one-third of the slave whom the salvager now partly owns; though what if the salvager refuses to accept this price?). Legal scholars always exercise caution in applying the law in one area to another, and a little more judiciousness in the making of the analogy between boats and people would be welcome here.

Response. There is no great difficulty in owning one third, or two thirds of a person. For example, slave owner A would have the services of this person for two months in a row, and B for one month. In this way, any proportions could be accommodated. For example, if A owns 10% of the slave and B 90%, they distributed his services one day for A, nine days for B, and then repeat. [10] Of course we can place a monetary value on human lives, easily during the epochs when this vicious and depraved system was legal. This is precisely what auctions and sales and purchases did. As to 'applying the law in

one area to another' this is perhaps one of libertarian's unique and important contributions to philosophy. For example, consider the case of reconciling the non-discrimination aspects of the so called Civil Rights Act of 1964 with the law of free association. It applies only to commercial interactions, not personal ones. Thus, it would be illegal to refuse service in a restaurant to a black person, but entirely legal not to marry or date a member of that racial community. But this is highly problematic. In the libertarian philosophy, the law is the law is the law. There should be no invidious distinctions of this sort. Murder, rape and theft are equally invidious whether conducted in the home or at the office or factory. If free association is to be upheld in our personal lives, and of course it should be, then logical consistency implies the same rules should hold true in business relationships. Pure logic requires that free association be allowed in either both cases or none. Libertarianism stipulates the former. Or take the case of the baker or the photographer refusing the custom of homosexuals who want to marry. Were the legal finding that they be compelled to do so applied to personal relationships, this would imply compulsory bi-sexuality, since they are the only ones who do not discriminate, in their personal lives, on the basis of gender (of course these people do discriminate on the basis of beauty, sense of humor, personality, so they too would be considered criminals were our laws logical). While of course caution must always be exercised, logical consistency in law is to be applauded, not denigrated.

Misplacement

E loses his wallet. He does so on unowned land, so that no landowner's rules can obviate the conundrums we are now trying to create. F sees the wallet lying there and picks it up. What legal obligation, if any, does F have to return this piece of property to E? According to the 'finders keepers, losers weepers' perspective, F has none at all. But is this aphorism compatible with libertarianism? One strike against it, of course, is that it would support the separation of E and his justly owned billfold. This is something not lightly countenanced by the freedom philosophy. On the other hand, there is the libertarian postulate of no positive obligations. Under this legal system, we are obligated, only, to refrain from violating the rights of others. Good Samaritanism is supererogatory; virtuous, but by no means required. Why should F bestir himself to go to the aid of E in this manner to return his lost property to him? There are only negative rights under laissez faire capitalism, not positive ones. As long as F did not

himself pickpocket the wallet from E, or work with any accomplice to this end, he is not legally obligated to return it to him.

But suppose E shows up on F's doorstep and asks him to return his missing billfold (Don't ask how E learned that F had found his wallet; perhaps this was an act of God, or intuition, or a coincidence or accident). Then F does have a legal obligation to oblige. (Libertarianism is concerned only with what the law should be, what is the proper use of violence, not with morality; on the latter basis, of course, F is required to return E's property to him forthwith.) For in this case the act he must undertake implies so little effort on his part as to nullify the positive obligation objection. F need not engage in any activity at all. The only thing required of him would be to *allow* E to repossess his wallet, which we may suppose is lying there in clear sight. If F prohibits E from repossessing his own wallet, F would be guilty of theft.

But why must E do all this work, ferreting out F, pleading with him for the return of his property? [11] Can we not push the envelope further in the direction of supporting E's private property rights? We cannot. It does not at all depend upon just how difficult it is for F to find E. Even if all the former has to do is telephone or e mail the latter, since this information is readily available in the wallet, he still need not do so, at least according to the interpretation of libertarianism now being offered, for this would be a violation of the rule of no positive obligations. If great detective work is called for on the part of F, then he certainly need not undertake this onerous responsibility.

Of course, we may well ask on whose property was the wallet lost? In the free society, every square inch of territory would be privately owned: streets, sidewalks, roads (Block 2009), parks, museums, schools, garbage dumps, forests, etc. Very likely, land owners would anticipate the lost wallet phenomenon, and set out rules to cover such eventualities. Presumably, these would require that finders make all reasonable efforts to find the rightful owners and return their property to them. Profit and loss considerations would nudge real estate holders in this direction. There would probably be a rule in effect mandating that the finder turn in the billfold to the private police (Tinsley 1998-1999) and would only keep it after a year or so had passed during which unsuccessful efforts would be made to ascertain the identity of the owner.

We ignore this possibility so as to be able to probe more deeply into libertarian theory. Implicitly, and now explicitly, we are supposing that the wallet was found on sub marginal and hence unowned land. Only then can pure libertarian law function in the absence of explicit rules set out by property owners.

Liberation of property

A woman, G is walking along an unowned path, whereupon the evil H snatches her purse. J, our hero, chases after the criminal and grabs the pocketbook back from him. At this point, H disappears from the scene, lest he unduly complicate matters. If he can be found, the libertarian analysis is much more straightforward. He will be severely punished for his uncivilized deeds, and made to fully compensate his victim.

So, must J return the pocketbook to G so as to act compatibly with libertarianism? I answer in the same manner as the lost wallet: again, there are no positive obligations, but if J can do so without obliging himself, he must do so. If J chases H only a few feet, and relieves H of G's wallet, then it would be easy for J to return it to G. Were J to keep it for himself, and not return it to G, J would then start to look a bit like the abominable H. On the other hand, suppose J has to pursue H for 26.2 miles, marathon distance before he can get the latter to disgorge his ill-gotten gains. [12] Must J, our hero, trudge back that entire distance to return these stolen goods to G? Not a bit of it. For one thing, even at world class marathon time it would take over four hours for J to make the round trip; by the time he returned to the scene of the crime, G might well be long gone. Similarly to the previous case, if G's identity is readily available, and all J need do is telephone, or e mail or skype her, then he is obliged to do so. If this is not relatively easily accessible, then G is out of luck, unless she has some way to ferret out J. Only in this way can we reconcile G's stake in non-relinquishment of her property with the requirement that we not impose positive obligations on J.

Ragnar Danneskjold

Ragnar is my favorite hero of Ayn Rand's (1957) book, *Atlas Shrugged*. My man Danneskjold is a 'pirate.' Quotes around that word to indicate that he does not steal property from honest owners (Leeson 2007, 2011), but, rather, *liberates* stolen property

from a band of robbers and thieves, the government of course (Spooner 1870). Indeed, it is impossible to *rob* a thief [13]; one can only *relieve* him of his ill-gotten gains.

What does Ragnar do with the wealth he takes from the state? He gives it to another hero in the book, Hank Reardon. Here, Ragnar is returning stolen property, since the premise of this novel is that the government has improperly seized wealth from Hank. But, suppose, Ragnar did not do this. Posit, instead, he kept these goods, stolen from Reardon in the first place, and then commandeered by him, Ragnar, from the bad guy Federales? Assume, further, that Ragnar was born on Mars [14] and thus could not offer as a justification for his confiscation of government ships that the state had stolen from his parents.

As we have seen in our case of the pocketbook, heterogeneous material such as stolen paintings, wallets, identifiable jewelry must be returned to their rightful owners. [15] But money is fungible. So, neither Reardon, nor any Tom, Dick or Harry, may not approach Ragnar and demand 1/300millionth of the gold of which he has relieved the government. (In order for this figure to make sense, we assume the government steals through – unjustified - taxation an equal amount from each of its 300 million taxpayers.). How could such a claimant prove that it was *his* money that Ragnar had commandeered from the state?

Let us move from the world of fiction to one a bit closer to reality. Consider the case where a libertarian works for the government, say, as a professor, or runs for political office and accepts matching funds (Block 2007C) from the state. Whereupon an opponent of libertarianism approaches him and demands that the libertarian return some of this wealth to him, since, according to that philosophy, it was stolen from him. Is the libertarian required to do so, if he is to remain consistent with his own principles? The obvious practical implication of this demand, if it is upheld, is that it would be exceedingly difficult for the libertarian to benefit from such decisions, since any funds he obtains thereby will become forfeit to the enemies of liberty. Then, he would be less likely to engage in them.

There are several objections available to the libertarian. First, he could say to the critic, 'Hey, go liberate your own money from the government, if you want to follow this precept. They have plenty to go around: all that they improperly took at the point of a gun from the populace.' But the 'progressive' is not without a response. He can

reply: 'Yes, but they are a bunch of thieves, according to you. It is dangerous to attack them. But you, Ragnar, hold yourself out as a libertarian. You would not use violence against me for merely asking you to be true to your own principles.' Whereupon a second round response. Take the case where Ragnar is about to blow up the Nazi garage, filled with automobiles of oppression. Along comes an 'innocent' German who objects to this act on the ground that one of the jeeps was stolen from him by the Nazis. Assume there is no way to dispatch this armory without also destroying that particular vehicle. The libertarian response is that the person who objects to this fire-bombing is no longer innocent himself. In protesting against this justified act of Ragnar's, he reveals himself as objectively in support of the Nazi regime. [16] In like manner, the 'liberal' [17] who demands an aliquot share of the salary of the libertarian who teaches in a public university [18] demonstrates that he does not come to this little tableau with fully clean hands, and it is only such a person who deserves to have his property returned to him. (E.g., if it can be demonstrated in the case considered supra that the woman whose purse was snatched is herself a criminal, then all bets are off in terms of her claim to receive this bit of property.) He is objectively guilty of trying to undermine this process of fighting for justice.

Let us summarize thus far. Ragnar liberates property. A leftie demands it, or at least his proportional share. He does so, since he does not like Ragnar, he supports the state, and correctly sees that our 'pirate' is undermining this institution. Ragnar can say, sure, I'll give you a share, after I give it to others who have also been stolen from. But the leftie can reply, 'I want my proportional (1/300 million, the approximate size of the US population) share right now. But he then reveals himself as a member of the ruling class, since his purpose is to undermine Ragnar's liberation of state property.

Property titles may not licitly be extinguished by theft (or kidnapping). They are never ended by legitimate law (there is no proper statute of limitations on punishing criminals).

Then, third, the libertarian is not without a *reductio ad absurdum* of his own: in the modern era, the state apparatus has immersed itself into virtually *every* aspect of life. Short of committing suicide, or becoming a total hermit, it is *impossible* to exist without accepting government 'largesse,' and in so doing becoming a target for this type of critic of libertarianism. For example, who among us does not use government roads, or government sidewalks, or government parks, or government museums, or government symphony halls, or government fiat currency, or ... the list goes on and on. Even eating

food constitutes a violation in this regard, given subsidies by our favorite organization, yes, government.

Fourth, and perhaps the most powerful rejoinder in defense of Ragnar refusing to relinquish his properly seized government property, is that there is no warrant for saying that he is required to do so on a proportional basis. That is, he need not give one 300millionth of every penny he commandeers to everyone in the nation. Rather, he may pick and choose. He may return this property to those he thinks most deserving, without abrogating any libertarian principle. There are also de minimus issues. Dividing anything by 300 million tends to reduce its value to a pittance, something not worth distributing since the costs of doing so would likely be greater than the value of that which is supposedly to be dispersed. If the state steals a specific item from a victim, all is well and good from the point of view of the critic of Ragnar: he is obliged to return it, subject to considerations mentioned above. But, professors' salaries, and matching funds, are in the form of money: there is no way Ragnar's critic can prove that these particular monies were mulcted from him.

Appendix: The importance of property rights for economics

Private property rights are the be all and end all of economics; they are the bedrock of the dismal science. Let us take perhaps the most widely used model in all of this discipline as a jumping off point: supply and demand. Deep within the bowels of this concept are property rights. The demand curve, for instance, is a locus of points in price and quantity space depicting how much product the buyer will purchase at different or alternative prices. But an implicit premise of this entire enterprise, rarely discussed because it is so obvious, is that the seller owns the good in question; once the transaction is completed, the vendor will no longer be the proprietor of that which he sold, but the new buyer will. Ditto for the supply curve: the supplier now owns the good, and will relinquish control over it once the commercial transaction is consummated. Property rights also enter the picture when the economist analyzes why some countries are rich and others not. It is not quite accurate to say that Smith (1776, IV.2.9) gave a two word answer to this question, 'property rights,' but it is almost correct. In perhaps his most famous statement, he wrote: 'But the annual revenue of every society is always precisely equal to the exchangeable value of the whole annual produce of its industry, or rather is precisely the same thing with that exchangeable

value. As every individual, therefore, endeavours as much as he can both to employ his capital in the support of domestic industry, and so to direct that industry that its produce may be of the greatest value; every individual necessarily labours to render the annual revenue of the society as great as he can. He generally, indeed, neither intends to promote the public interest, nor knows how much he is promoting it. By preferring the support of domestic to that of foreign industry, he intends only his own security; and by directing that industry in such a manner as its produce may be of the greatest value, he intends only his own gain, and he is in this, as in many other cases, led by an invisible hand to promote an end which was no part of his intention. Nor is it always the worse for the society that it was no part of it. By pursuing his own interest he frequently promotes that of the society more effectually than when he really intends to promote it. I have never known much good done by those who affected to trade for the public good. It is an affectation, indeed, not very common among merchants, and very few words need be employed in dissuading them from it.' What is this other than the claim that each individual is striving mightily to increase the value of his property? More recent economists have followed up on this lead and have attempted to account for the same phenomenon: the divergent amounts of wealth enjoyed by different countries. And, their (Gwartney, 1976) analysis has shown, once again, that private property is crucial. In those countries where people are more free to use these rights (low taxes, little regulation, free trade in goods both domestically and internationally, ease of using property to set up businesses) they are richer, and their wealth is growing at a greater rate. When property rights are denigrated (e.g., Venezuela, North Korea, Cuba), the opposite results occur.

Proudhon famously stated that 'Property is theft.' [19] This is wrong in several different dimensions. The point is, without property, there can be no such thing as theft. The former is entirely dependent upon the latter for its very existence. For, theft is the unjustified taking of private property. If there were no such thing as the latter, the former could not exist either. Under a regime without private property, everything would be owned in common. There would be no such thing as 'mine' and 'thine.' If A grabbed the food out of B's mouth, the latter could not complain about any theft, for it is by no means clear that B is entitled to ownership rights over the food in dispute. There could not even be any such thing as murder or rape, since the former is the theft of a person's property in his own body, and the latter is an invasion of, or a trespass on, the property rights we all hold in our own bodies. But without property understood in this manner, no one could object to being murdered or raped, since it is not clear we

own our own bodies. No, rather, it is clear that we do not have property rights in our own persons, since there is no such a thing as property rights, at least for Proudhon and his ilk.

Endnotes

[1] I thank Matt Gilliland for interviewing me on this subject, and for contributing to my thinking about it. I am also grateful to several referees of this journal for important contributions. All errors of omission or commission of course lie with the author.

[2] The importance of property rights for economics cannot possibly be overstated. See appendix for an elaboration of this claim.

[3] See on this Hutt 1989; Petro 1957; Reynolds 1984. For a libertarian analysis of abandoning property, see Block and Nelson, forthcoming.

[4] For libertarian justifications of reparations to the children and grandchildren of slaves, see Alston and Block 2007; Block 1993, 2001A, 2002A; Block and Yeatts 1999-2000.

[5] See on this Machan 2010; Rand 1963; Rothbard 2005; Steiner 1994; Touchstone 2010

[6] Benson 1989, 1990; Berman and Dasser 1990; Marcus 2009; Olson 1979; Popeo 1988; Rothbard 1973; Tannehill 2001; Young 2002.

[7] A, B and C are persons.

[8] Whatever that would mean.

[9] See on this: Andersson 2007; Block 1969, 1979, 1999, 2001B, 2002B, 2003D, 2004, 2005, 2006B, 2007A, 2007B, 2009A, 2009B; Boldrin and Levine 2008; Frederick 2014; Kershnar 2003; Lester 2000; Mosquito 2014; Nozick 1974, pp. 58, 283, 331; Steiner 1994, p. 232; Thomson 1990.

[10] It should not be necessary to say this, but perhaps in our politically correct times it would be better to do so: the analysis in the text does not imply that the present author favors slavery.

[11] I owe this question to David Luntz.

[12] Again H disappears from our consideration.

[13] One can only steal from the rightful owner.

[14] As was Heinlein's (1961) hero, Michael.

[15] Subject to limitations imposed by the libertarian proscription of positive obligations mentioned above, of course.

[16] He is defending the Nazis against Ragnar's attempt to deprive them of their transportation.

[17] In the 20th and 20st century understanding of this term.

[18] Or a private one, significantly supported by the government through subsidies, 'contracts,' etc. And/or one which is a member of the ruling class, according to the libertarian understanding of that phenomenon. See on this Block 2006; Burris 2012; Domhoff 1967, 1971, 1998; Donaldson and Poynting 2007; Grinder and Hagel 1977; Hoppe 1990; Hughes 1977; Kolko 1963; Mises 1978; Oppenheimer 1975; Raico 1977; Richman 2006; Rockwell 2001; Rothbard 2011.

[19] Proudhon (1840, p. 131); Edwards (1969, p. 124): 'If I had to answer the question 'What is slavery?' and if I were to answer in one word, 'Murder,' I would immediately be understood. I would not need to use a lengthy argument to demonstrate that the power to deprive a man of his thoughts, his will and his personality is a power of life and death, and that to enslave a man is to murder him. Why, then, to the question 'What is property?' may I not likewise reply 'theft,' without knowing that I am certain to be misunderstood, even though the second proposition is simply a transformation of the first?'

References

- Alston, Wilton D. and Walter E. Block (2007), 'Reparations, once again,' *Human Rights Review*, Vol. 9, No. 3, September, 379-392.
- Andersson, Anna-Karin (2007). 'An alleged contradiction in Nozick's entitlement theory,' *Journal of Libertarian Studies*, Vol. 21, No. 3, Fall: 43-63.
- Benson, Bruce L. (1989), 'Enforcement of private property rights in primitive societies: law without government,' *The Journal of Libertarian Studies*, Vol. IX, No. 1, Winter, 1-26.
- Benson, Bruce L. (1990), 'Customary law with private means of resolving disputes and dispensing justice: A description of a modern system of law and order without state coercion.' *The Journal of Libertarian Studies*, Vol. IX, No. 2, 25-42.
- Berman, Harold J., and Dasser, Felix J. (1990), 'The "new" law merchant and the "old": sources, content and legitimacy,' in Thomas E. Carbonneau, (ed.), *Lex Mercatoria and Arbitration: A Discussion of the Law Merchant*, Dobbs Ferry, N.Y.: Transnational Juris Publications.
- Block, Walter E. (1969), 'Voluntary slavery,' *The Libertarian Connection*, Vol. I, No. 3, April 13, pp. 9-11.
- Block, Walter E. (1979), Book review of Nancy C. Baker, *Baby Selling: the Scandal of Black Market Adoptions*, New York: The Vanguard Press, 1978; in *Libertarian Review*, January, Vol. 7, No. 12, 44-45.
- Block, Walter E. (1993), 'Malcolm X,' *Fraser Forum*, January, 18-19; <http://mises.org/Community/forums/t/5361.aspx>
- Block, Walter E. (1999), 'Market inalienability once again: Reply to Radin,' *Thomas Jefferson Law Journal*, Vol. 22, No. 1, Fall, 37-88.
- Block, Walter E. (2001A), 'The moral dimensions of poverty, entitlements and theft,' *The Journal of Markets and Morality*, Vol. 4, No. 1, 83-93.

Block, Walter E. (2015), Expiration of private property rights: a note, *The Journal of Philosophical Economics: Reflections on Economic and Social Issues*, VIII: 2, 43-65

Block, Walter E. (2001B), 'Alienability, inalienability, paternalism and the law: Reply to Kronman,' *American Journal of Criminal Law*, Vol. 28, No. 3, Summer, 351-371.

Block, Walter E. (2002A), 'On Reparations to Blacks for Slavery,' *Human Rights Review*, Vol. 3, No. 4, July-September, 53-73.

Block, Walter E. (2002B), 'A libertarian theory of secession and slavery,' June 10; <http://www.lewrockwell.com/block/block15.html>;

Block, Walter E. (2003A), 'The death penalty.' November 11; <http://www.lewrockwell.com/block/block34.html>

Block, Walter E. (2003B), 'Death penalty essential for social justice.' Loyola University New Orleans *Loyola University New Orleans The Maroon*; October 10; <http://maroon.loyno.edu/news/2003/10/10/Editorial/Death.Penalty.Essential.To.Social.Justice-525232.shtml>

Block, Walter E. (2003C), 'Libertarianism vs. objectivism; A response to Peter Schwartz,' *Reason Papers*, Vol. 26, Summer, 39-62.

Block, Walter E. (2003D), 'Toward a libertarian theory of inalienability: A critique of Rothbard, Barnett, Gordon, Smith, Kinsella and Epstein,' *Journal of Libertarian Studies*, Vol.17, No. 2, Spring, 39-85.

Block, Walter E. (2004), 'Are alienability and the apriori of argument logically incompatible?' *Dialogue*, Vol. 1, No. 1. <http://www.uni-svishtov.bg/dialog/2004/256gord6.pdf>

Block, Walter E. (2005), 'Ayn Rand and Austrian economics: Two peas in a pod.' *The Journal of Ayn Rand Studies*. Vol. 6, No. 2, Spring, 259-269.

Block, Walter E. (2006A), 'Radical libertarianism: Applying libertarian principles to dealing with the unjust government, part II' *Reason Papers*, Vol. 28, Spring, 85-109.

Block, Walter E. (2006C), 'Epstein on alienation: a rejoinder' *International Journal of Social Economics*; Vol. 33, Nos. 3-4, 241-260.

Block, Walter E. (2015), Expiration of private property rights: a note, *The Journal of Philosophical Economics: Reflections on Economic and Social Issues*, VIII: 2, 43-65

Block, Walter E. (2007A), 'Secession,' *Dialogue*. No. 4; 1-14.

Block, Walter E. (2007B), 'Alienability: Reply to Kuflik.' *Humanomics* Vol. 23, No. 3, 117-136.

Block, Walter E. (2007C), 'Ron Paul and matching funds,' October 1;
<http://www.lewrockwell.com/block/block86.html>

Block, Walter E. (2009A), 'Yes, sell rivers! And make legal some slave contracts' *The Tye*. July 25; <http://thetyee.ca/Opinion/2009/07/24/SellRivers/>

Block, Walter E. (2009B), 'Privatizing rivers and voluntary slave contracts' July 27;
<http://www.lewrockwell.com/block/block134.html>

Block, Walter and William Barnett II (2008), 'Continuums' *Journal Etica e Politica / Ethics & Politics*, Vol. 1, 151-166.

Block, Walter E. and Guillermo Yeatts (1999-2000), 'The economics and ethics of land reform: A critique of the pontifical council for justice and peace's "Toward a Better Distribution of Land: The Challenge of Agrarian Reform,"' *Journal of Natural Resources and Environmental Law*, Vol. 15, No. 1, 37-69.

Boldrin, Michele and David K. Levine (2008), *Against Intellectual Monopoly*.
Cambridge: Cambridge University Press.

Burris, Charles A. (2012), 'Who rules america: power elite analysis and American history.' January 18; <http://archive.lewrockwell.com/burris/burris21.1.html>

Bylund, Per (2012), 'Man and matter: how the former gains ownership of the latter.' *Libertarian Papers*, Vol. 4, No. 1; <http://libertarianpapers.org/articles/2012/lp-4-1-5.pdf>

Domhoff, G. William (1967), *Who Rules America?* Englewood Cliffs NJ: Prentice-Hall.

Domhoff, G. William. (1971), *The Higher Circles: The Governing Class in America*.
New York: Vintage Books.

Block, Walter E. (2015), Expiration of private property rights: a note, *The Journal of Philosophical Economics: Reflections on Economic and Social Issues*, VIII: 2, 43-65

Domhoff, G. William (1998), *Who Rules America? Power and Politics in the Year 2000*, Third Edition, Santa Cruz: University of California.

Donaldson, Mike and Scott Poynting. (2007), *Ruling Class Men: Money, Sex, Power*. Peter Lang.

Edwards, Stewart (ed.), (1969), *Selected Writings of Pierre-Joseph Proudhon*. New York: Anchor Books.

Frederick, Danny (2014), 'Voluntary slavery,' *Las Torres de Lucca* 4, 115-37.

Grinder, Walter E. and John Hagel III (1977), 'Toward a theory of state capitalism: Ultimate decision making and class structure,' *Journal of Libertarian Studies*, Vol. 1, No. 1, 59-79.

Gwartney, James, Robert W. Lawson and Walter E. Block (1996), *Economic Freedom of the World, 1975-1995*, Vancouver, B.C. Canada: the Fraser Institute.

Heinlein, Robert (1961), *Stranger in a Strange Land*. New York, N.Y.: Putnam.

Hoppe, Hans-Hermann (1990), 'Marxist and Austrian class analysis,' *The Journal of Libertarian Studies*, Vol. 9, No. 2, Fall, 79-94.

Hoppe, Hans-Hermann (1993), *The Economics and Ethics of Private Property: Studies in Political Economy and Philosophy*, Boston: Kluwer.

Hoppe, Hans-Hermann. (2011), 'Of Private, Common, and Public Property and the Rationale for Total Privatization,' *Libertarian Papers* Vol. 3, No. 1, 1-13.

Hughes, Jonathan R.T. (1977), *The Governmental Habit: Economic Controls from Colonial Times to the Present*. New York: Basic Books.

Hutt, W. H. (1989), 'Trade unions: The private use of coercive power,' *The Review of Austrian Economics*, Vol. III, 109-120.

Block, Walter E. (2015), Expiration of private property rights: a note, *The Journal of Philosophical Economics: Reflections on Economic and Social Issues*, VIII: 2, 43-65

Kinsella, Stephan N. (2003), 'A libertarian theory of contract: title transfer, binding promises, and inalienability' *Journal of Libertarian Studies*, Vol. 17, No. 2, Spring, 11–37.

Kinsella, Stephan N. (2006), 'How we come to own ourselves' September 7;
<http://www.mises.org/story/2291>

Kershnar, Stephen (2003), 'A liberal argument for slavery,' *Journal of Social Philosophy*, 34 (4), 510-36.

Kolko, Gabriel (1963), *Triumph of Conservatism*, Chicago: Quadrangle Books

Leeson, Peter T. (2007), 'An-*arrgh*-chy: The law and economics of pirate organization,' *Journal of Political Economy*, Vol. 115, No. 6, 1049-1094.

Leeson, Peter T. (2011), *The Invisible Hook: The Hidden Economics of Pirates*. Princeton University Press.

Lester, Jan Clifford (2000), *Escape from Leviathan*. St. Martin's Press.
<http://www.amazon.com/exec/obidos/ASIN/0312234163/qid%3D989845939/107-8070279-6411737>

Locke, John (1948), An essay concerning the true origin, extent and end of civil government, in E. Barker, (ed.), *Social Contract*, New York: Oxford University Press, pp. 17-19.

Machan, Tibor R. (2010), 'Rights may never be in conflict,' *The Daily Bell*. May 31;
<http://szatyor2693.wordpress.com/2010/05/29/column-on-why-basic-rights-cannot-conflict/>; <http://www.thedailybell.com/1088/Tibor-Machan-Rights-May-Never-Be-In-Conflict.html>

Marcus, B. K. (2009), 'The enterprise of customary law.' June 29;
<http://archive.mises.org/6795/the-enterprise-of-customary-law/>

Mises, Ludwig von (1978), *The Clash of Group Interests and Other Essays*. New York: Center for Libertarian Studies. <http://www.mises.org/etexts/mises/clash/clash.asp>

Mosquito, Bionic (2014), 'The Sanctity of Contract.' April 19;

Block, Walter E. (2015), Expiration of private property rights: a note, *The Journal of Philosophical Economics: Reflections on Economic and Social Issues*, VIII: 2, 43-65

<http://bionicosquito.blogspot.com/2014/04/the-sanctity-of-contract.html>

Nozick, Robert (1974), *Anarchy, State and Utopia*, New York: Basic Books.

Olson, Charles B. (1979), 'Law in anarchy,' *Libertarian Forum*. Vol. XII, No. 6, November-December, p. 4.

Oppenheimer, Franz ([1914] 1975), *The State*, New York: Free Life Editions.

Petro, Sylvester (1957), *The Labor Policy of the Free Society*, New York: Ronald Press.

Popeo, Daniel (1988), 'Privatizing the Judiciary.' August 1;
http://www.fee.org/the_freeman/detail/privatizing-the-judiciary/

Proudhon, Pierre-Joseph (1966 [1840]), *What Is Property?* New York: Howard Fertig.

Raico, Ralph (1977), 'Classical liberal exploitation theory: a comment on professor Liggio's paper,' *The Journal of Libertarian Studies*, Vol. 1, No. 3, Summer, 179-184.

Rand, Ayn (1957), *Atlas Shrugged*, New York, NY: Random House.

Rand, Ayn (1963), 'Collectivized "rights."' June;
http://www.aynrand.org/site/PageServer?pagename=arc_ayn_rand_collectivized_rights

Reynolds, Morgan O. (1984), *Power and Privilege: Labor Unions in America*, New York: Manhattan Institute for Policy Research; <http://mises.org/document/4962/Power-and-Privilege-Labor-Unions-in-America>

Richman, Sheldon (2006), 'Libertarian class analysis' June 1; <http://fff.org/explore-freedom/article/libertarian-class-analysis/>

Rockwell, Jr. Llewellyn H. (2001), 'Liberty and the common good' December 31;
<http://www.mises.org/article.aspx?Id=860>

Rothbard, Murray N. (1973), *For a New Liberty*, Macmillan, New York;
<http://www.mises.org/rothbard/newliberty.asp>

Block, Walter E. (2015), Expiration of private property rights: a note, *The Journal of Philosophical Economics: Reflections on Economic and Social Issues*, VIII: 2, 43-65

Rothbard, Murray N. (2005), 'The Heresy of Prudence.'
<http://www.lewrockwell.com/rothbard/rothbard65.html>

Rothbard, Murray N. (2010), 'The libertarian position on capital punishment.' July 13;
<http://mises.org/library/libertarian-position-capital-punishment>

Rothbard, Murray N. (2011), 'Wall Street, banks, and American foreign policy,'
<http://mises.org/document/1223>

Rozeff, Michael S. (2005), 'Original appropriation and its critics.' September 1.
<http://www.lewrockwell.com/rozeff/rozeff18.html>

Smith, Adam ([1776] 1979), *An Inquiry into the Nature and Causes of the Wealth of Nations*, Indianapolis, IN: Liberty Fund.

Spooner, Lysander (1966[1870]), *No Treason: The Constitution of No Authority and A Letter to Thomas F. Bayard*, Larkspur, Colorado: Rampart College;
<http://jim.com/treason.htm>

Steiner, Hillel (1994), *An Essay on Rights*, Oxford: Blackwell Publishers.

Tannehill Morris and Linda (2001), 'Arbitration of disputes' July 1;
<http://mises.org/daily/5404>

Thierer, Adam (1992), 'Judgement Day: The Case for Alternative Dispute Resolution.'
Adam Smith Institute;
<http://www.adamsmith.org/sites/default/files/images/uploads/publications/judgement-day.pdf>

Thomson, Judith Jarvis (1990), *The Realm of Rights*, Cambridge, MA, Harvard University Press, pp. 283-84.

Tinsley, Patrick (1998-1999), 'With liberty and justice for all: A case for private police,' *Journal of Libertarian Studies*, Vol. 14, No. 1, Winter, 95-100.

Touchstone, Kathleen (2010), 'Rand, Rothbard, and rights reconsidered.' *Libertarian Papers*, Vol. 2, Art. No. 18, <http://libertarianpapers.org/articles/2010/lp-2-18.pdf>

Block, Walter E. (2015), Expiration of private property rights: a note, *The Journal of Philosophical Economics: Reflections on Economic and Social Issues*, VIII: 2, 43-65

Whitehead, Roy and Walter E. Block (2003), 'Taking the assets of the criminal to compensate victims of violence: a legal and philosophical approach,' *Wayne State University Law School Journal of Law in Society* Vol. 5, No. 1, Fall, 229-254.

Young, Adam (2002), 'Arbitration on trial.' July 17;
<https://mises.org/daily/1002/Arbitration-on-Trial>

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