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Critically Examined, Are Disputed

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Libertarianism and Private Property in Land:

The Positions of Rothbard and Nozick, Critically Examined, Are Disputed

By WALTER HORN*

ABSTRACT. The positions on *private landownership* of two *libertarian* scholars thought to have a wide following in that movement are examined. The libertarians—*Murray Rothbard* and *Robert Nozick*—hold positions which are untenable. Rothbard's theory is almost indistinguishable from *John Locke's* and rests on the *labor theory of ownership* and 'the *admixture theory of labor*,' standards which are too vague. Nozick believes that making something valuable gives a right of ownership; but again the standard is too ambiguous. And it is necessary to appropriate a thing before one can improve it. The *value-added theory* permits a *utilitarian* justification of landownership involving the payment of *compensation* to non-owners.

I

Introduction

IN THIS STUDY, two libertarian positions on landownership will be examined. The positions, which I take to be fairly representative of contemporary American Libertarianism, are those of Murray Rothbard and Robert Nozick. Although the views of Rothbard and Nozick differ in certain fundamental ways, they both remain within the mainstream of the American libertarian tradition. I intend to show the untenability of these views on the question of landed property and give some indications of whether and how one might better justify the appropriation of land.

Throughout the work, when I use the term "ownership," I shall mean *rightful* or *legitimate* ownership (with "own" and "owner" defined in terms of this ownership). Though much of the discussion centers around *justification* for ownership in this sense, no definition shall be attempted. I assume that we all have a rough and ready notion of what ownership is and no more carefully articulated concept will be necessary in what follows.

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II

Land Before Individual Ownership

IT HAS BEEN THE POSITION of some theorists that no piece of land has ever been unowned, though it may have been unowned by any *individual human being*. Some have held that God owned the earth until giving it to this or that individual or to mankind as a whole. Others would claim that what is God's cannot be rendered unto Caesar—that the land always has belonged and always will belong to God, whatever any register of deeds may claim. Still others have seemed to hold that the earth was “given by nature” to all the people residing on its surface, that it is the “natural heritage” of mankind. One might say here—depending on the “objects” one is willing to allow one's quantifiers to range over—either that there was indeed a time at which the land was unowned (before the first human being was born and it became that person's property) or that even before the emergence of *homo sapiens* the land was the legitimate property of all those who would make their appearances at future dates.

Although Rothbard uses the phrase “nature-given” to describe raw land, he seems to have meant it only metaphorically, for he claims that “through gifts and through exchanges, we must reach a man and an unowned natural resource. In a free society, any piece of nature that has never been used is “*unowned*”.¹ At any rate, it seems clear that Rothbard holds that before anyone has appropriated a portion of land, *no person or persons* can be said to have any legitimate claim to ownership, and further, this land need not be *given* to the first user by *anyone* (whether owner, superintendent, sovereign, etc.) in order for it to be appropriated.

Nozick, too, seems to hold that there was a time during which there was no ownership of property. He writes,

We should note that it is not only persons favoring *private* property who need a theory of how property rights legitimately originate. Those believing in collective property, for example those believing that a group of persons living in an area jointly own the territory or its mineral resources, also must provide a theory of how such property rights arise.²

There could be no question of how property rights *arise* or *originate* if such rights were always existent.

Throughout the present essay I will assume, with Rothbard and Nozick, that no piece of land is “given” to any particular individual, to all humankind (past, present and future) or to “the living” by God or “nature.” To do otherwise would be to disadvantage the libertarian argument greatly. If, for example, God had made land the “common heritage of mankind,” any appropriation without compensation to or the permission of each person (or some authorized rep-

resentative) would amount to theft—something clearly unpalatable to the libertarian.

Again, if God were to have given parcels of land to particular individuals, any acquirers not among the favored group (or their heirs, assigns or trading partners) would be expropriators. Of course, it could be held that those who have come to own land are just those to whom God has given it, but it would be at least as difficult to show this as it would be to show that individuals have had the authority (without divine intervention) to appropriate previously unowned land.

So, even if it were true that God or “nature” had somehow bequeathed portions of the earth to particular people, it would be no easier for the libertarian to justify the legitimacy of any particular case of private ownership of land.

III

The Foundation of Property Rights: Rothbard

IN *Man, Economy, and State*, ROTHBARD gives a theory of property rights that is almost indistinguishable from that proposed by John Locke in his *Second Treatise of Government* in 1690. That venerable theory is based upon two distinct arguments—the labor theory of ownership and what might be called “the admixture theory of labor.” As Rothbard puts it, “any piece of nature . . . is subject to a man’s ownership through his first use or mixing of his labor with this resource.”³ This is a quite explicit statement of the admixture theory. We may assume that Rothbard also subscribes to the labor theory of ownership—in spite of the absence of an explicit endorsement—for it would be quite implausible to hold that one owns what one’s labor (or its products) are intermixed with if it were not also the case that one always owns one’s labor (and its products).

Locke put the labor theory of ownership as follows: “every man has a property in his own person; this nobody has any right to but himself. The labor of his body and the work of his hands, we may say, are properly his.”⁴ It is important not to confuse this claim that one has property rights over one’s labor or its products with the admixture theory. Neither labor nor its products will ever be an *object*, but will always be a *service*. Someone who transports a piano from one country to another has labored and may be said to own the “product” of his labor, but this product is neither the piano nor some part thereof. To suppose otherwise is to presuppose the truth of the admixture argument or to misunderstand the nature of *production*, something done by even the most

acute writers on this subject. Consider, for example, the following remark from an interesting paper on property acquisition by Lawrence Becker:

How is it that the property rights to one's body "transfer" or extend to property in the products of one's labor? Insofar as one's labor is inseparable (by way of ownership rights) from one's body, it is understandable how the first "extension"—from ownership of the body to ownership of the labor—is warranted. But the same can hardly be said for the second extension—from ownership of the labor to ownership of labor's products. The products of one's labors are clearly separable from one's body . . . Why is it that investing one's labor in something causes one to come to own that thing?⁵

Obviously, the answer to this question is that it does not have that effect at all, unless the admixture theory is true. The issue can only be confused by assuming that labor must always produce some *object* which is its product. Clearly, people who do not *make* anything at all may sell the products of their labor, and many do so every day. Furthermore, without first assuming the admixture theory, it is simply not the case that, for example, a sculpture made of clay is actually the product of anyone's labor, for the sculptor has simply rearranged the clay he has discovered; this material is no product of his labor unless its discovery and appropriation is labor of the sort that mixes with it and makes it his own. But to say that is to claim the truth of the admixture theory.

The labor theory of ownership follows, as Locke saw, from the right to one's own body and the right to liberty. To deny the truth of this theory (in the narrow sense that I have construed it) one must deny that people have a *prima facie* right to move their limbs about as they wish to. Of course, there are those who have denied the existence of any such right. All I wish to claim here is that if one has a right to the free use of one's own body, to take from him the product of his labor without compensation or consent is a transgression.

As we have seen, Rothbard subscribes not only to the labor theory of ownership, but also to the admixture theory: ". . . the origin of all property is ultimately traceable to the appropriation of an unused nature-given factor by a man and his mixing his labor with this natural factor to produce a capital good or a consumers' good."⁶ This admixture theory, as I have noted, like the labor theory of ownership, goes back at least as far as Locke's *Second Treatise*. As Locke put it, "Whatsoever (a man) removes out of the state that nature has provided and left it in, he has mixed his labor with, and joined to it something that is his own, and thereby makes it his property."⁷ Of course one cannot literally remove land from its state of nature and thereby come to be the owner of real estate, but Locke believes that what is true of removable goods is also

true of land: "As much land as a man tills, plants, improves, cultivates and can use the product of, so much is his property."⁸

Rothbard is not the only contemporary theorist to have accepted the admixture doctrine. S. B. Drury and Karl Olivecrona have also endorsed the view. The latter, for example, has written, "Something of oneself is infused into an object. The object contains something of oneself; in this sense, it is part of oneself. Nobody else can have any right to it."⁹ A similar passage may be found in the work of Leon Wolowski and Emile Levasseur: "[Appropriated nature] is his because it has come entirely from himself, and is in no way anything but an emanation from his being."¹⁰

In spite of all of this impressive talk of emanations and infusions, there are some serious problems with the admixture doctrine. The objections have been rehearsed since Locke's time, but they seem not to have had much effect on defenders of the faith. Among the questions are: Just how far does the labored-upon object stretch? The area a farmer cultivates (that the plow actually touches) may be discontinuous. Does the farmer own only those plowed strips? If it is only the outermost strips that count, with everything between them counting as labored upon property, what would prevent one from simply plowing around the perimeter of a huge tract? How deep does such admixture extend? If one owns the mineral resources under the land one has improved, why doesn't one own land on the other side of the earth? (Is there something about the earth's crust that makes it susceptible to admixture, while the earth's core is impermeable?) What about the air above one's farm—does one own the space that different molecules inhabit or rather these molecules themselves (and if the latter, why can't I act to prevent my neighbor from breathing some of *my* air that has blown over onto his land)?

Not only what counts as the labored upon object, but also what counts as labor is open to question. Rothbard does not require that a piece of land actually be tilled to be labored upon. He includes *clearing* for a house or pasture and *caring* for some plots of land among the sorts of "cultivation" that create property rights for first appropriators. But if "care" of timberland counts as labor, what about *keeping an eye on* a particular waterfront property or *admiring* a mountain range? Are these not *uses* of a sort? (Remember, there is nothing in the concept of labor that requires it to be unpleasant or difficult.)

Even if these matters could be settled, however, there would remain something fishy about the entire admixture doctrine. Nozick has asked,

Why does mixing one's labor with something make one the owner of it? Perhaps because one owns one's labor and so one comes to own a previously unowned thing that becomes permeated with what one owns. Ownership seeps over into the rest. But why isn't mixing

what I own with what I don't own a way of losing what I own rather than a way of gaining what I don't? If I own a can of tomato juice and spill it in the sea so that its molecules . . . mingle evenly throughout the sea, do I thereby come to own the sea, or have I foolishly dissipated my tomato juice.¹¹

I think Nozick is right here; there is really nothing to the admixture theory beyond the pretty metaphors of infusion and emanation.

IV

The Foundation of Property Rights: Nozick

NOZICK, LIKE ROTHBARD, gives a natural right (rather than a utility) justification for private property. As we have seen, however, the admixture theory is not available to him. Instead, he bases private ownership on the notion that one who makes something valuable deserves ownership of that thing: “. . . laboring on something improves it and makes it more valuable; and anyone is entitled to own a thing whose value he has created.”¹²

This view may seem plausible if we restrict our examples to such activities as picking up a rock from a commons and carving it into a statue, but when we turn to private ownership of land, it suffers from the same problems as the admixture theory. We may grant that something has been improved by clearing and planting, but what are the boundaries of that thing? For if any part of the earth's surface has been improved by cultivation, it may truly be said that the earth (or even the solar system) has been improved by this cultivation (*ceterus paribus*). Does the farmer come to own the entire earth through his efforts? If not, does he just gain ownership of the dirt actually touched by his plow? Nozick noticed this problem with the admixture theory, so it is odd that he ignores it in regard to his own proposal regarding the foundation of private property.

A second problem with Nozick's view results from the subtle move in his above quoted remark between something that one has improved and something whose value one has created. Obviously, one can improve an item without creating *all* its value; so, how much of the value of something must one create before one may claim ownership of it? May only things that were previously valueless come to be owned, or is it enough for someone to at least double the value of an item (*i.e.*, create *most* of its value) in order to appropriate it legitimately?

Perhaps the most serious flaw with Nozick's analysis is that it is generally necessary to appropriate an item *before* one can improve it at all. No one can either cultivate a parcel of land or fashion a bust from a piece of clay unless

he has first appropriated the land or the clay. It must, therefore, be held that one may legitimate such appropriation by the eventual improvement of it, but no hint is given regarding how much later the improvement may occur before it is "too late" for the prior appropriation to be justified.

Perhaps it will be asserted that the sincere intention to improve the item in question is sufficient to justify the taking of it. It should be noted that if we make such a move, we must be willing to distinguish between property rights and acquisition rights. That is, we will be forced to admit that an individual may have a right to take and hold a piece of land in spite of lacking any claim of ownership to the land and without recourse to any utilitarian considerations about the good of the community. This situation would arise between the time at which the parcel is acquired and the time at which it is improved in those cases where there is a sincere intent to improve at some future date.

Nozick briefly criticizes the theory according to which one is entitled only to the "added value one's labor has produced." He simply says of such a view that "no workable or coherent value-added property scheme has yet been devised, and any such scheme presumably would fall to objections (similar to those) that fell the theory of Henry George."¹³ Although I am not certain which objections to George's theory Nozick has in mind here, we may assume that he is referring to difficulties in distinguishing the value of unimproved land from the value of any improvements made thereto. Actually, however, it seems that whatever difficulties there may be in making such determinations, the defender of the "value-added property scheme" is likely to have a much simpler time of it than one, like Nozick, who holds that anyone who improves a previously unowned item is (subject to the Lockean proviso discussed below) entitled to ownership of the entire item.

The difference in the market value of an item before and after labor is applied to it will give a fairly good indication of the value that has been added. It will not here be as important to get an exact determination of the extent of the improved object as it was for the admixture theorist or the "whole-value" theorist. We can just approximate in accordance with prevailing conventions regarding land title and property rights (or any other more convenient rule) and find the difference between market values before and after improvements. It is true that such a calculation may not exactly capture the value of the improvements because, for example, demand for land may increase in the time between the two assessments, or some natural resource may have been depleted underneath the land in question. However, such technical problems are almost insignificant when compared with the question of whether one's labor has intermingled with the entire surface of the globe or with one acre only.

On the theories of Rothbard and Nozick, one may not make recourse to prevailing conventions of title, for it is just these that the theories are attempting to justify or alter. The value-added theorist can turn to utility when discussing the advantages of private title and can use common law or other rules regarding such title to assist in the computation of the compensation claimed to be owed to the community in return for allowing a certain piece of land to be held by a single individual. Alternatively, the value-added theorist may, without fear of inconsistency, also advocate the use of entirely new conventions regarding property rights in land or may simply offer minor revisions of the prevailing codes. Such changes may be justified purely by considerations of utility on this theory, since no natural right to private ownership of land need be appealed to. It has generally been the case that those who have endorsed the value-added theory have given a labor (natural right) theory of ownership which permits a utilitarian justification of landownership involving the payment of compensation to non-owners.

V

Permanence of Admixture and the 'Harmlessness' of Speculation: Rothbard

ROTHBARD IS CONCERNED to justify private ownership of land not only in those cases in which labor is continuously applied to it by the appropriator, but also in those cases in which a piece of land is once worked and then left idle. Clearly, it is quite important for one holding the admixture theory to address this problem, for if only current labor justifies ownership, land would revert to commons as soon as its appropriator put down his plough. Those in search of land would be quite as justified in taking a piece of land while its prior owner slept as this prior owner was in fencing it off from the commons in which it was once included. Rothbard apparently recognized this problem, for he writes,

There is no requirement . . . that land *continue* to be used in order for it to continue to be a man's property. Suppose that Jones uses some new land, then finds it is unprofitable, and lets it fall into disuse. Or suppose that he clears new land and therefore obtains title to it, but then finds that it is no longer useful in production and allows it to remain idle. In a free society, would he lose title? No, for once his labor is mixed with the natural resource, it remains his owned land. His labor has been irretrievably mixed with the land, and the land is therefore his or his assigns in perpetuity.¹⁴

Rothbard does not give any indication of why he thinks that such admixture is permanent, but, as has been noted, there are some pretty good reasons for insisting that terms of title ought not to depend upon perpetual applications

of labor. It would seem that a stable society requires some permanence and predictability of land use rights. This, of course, is a justification based upon utility, but since no other defense is given of the continuance of ownership and since such continuance does not follow from the notion of admixture (some chemicals will disappear from a chemical compound moments after being added) we may suppose that, if pressed, Rothbard would be forced to give such a defense.

Another reason for thinking that Rothbard would give a justification of continuing ownership based on utility is that he pauses later in his book to respond to claims that continuing ownership, when not accompanied by the productive use of a parcel of land, may cause a great deal of disutility in a society that allows such land tenure without compensation. According to Rothbard, such claims are usually made by those who have been influenced by the writings of George.

According to the Georgists, a whole host of economic evils, including the depression of the business cycle, stem from speculative withholding of ground land (sic) from use, causing an artificial scarcity and high rents for the sites in use. . . . Yet, curiously, speculation in *land* is far less likely to occur and is far less important than in the case of any other economic good. For consumers' or capital goods, being nonpermanent, can be used either now or at some later date. There is a choice between use in the present or use at various times in the future. . . . Land, however, is a permanent resource. . . . It can be used all the time, both in the present and in the future. Therefore, any withholding of land from use by the owner is simply silly; it means merely that he is refusing monetary rents unnecessarily. The fact that a landowner may anticipate that his land value will increase (because of increases in future rents) in a few years furnishes no reason whatever for the owner to refuse to acquire rents in the meanwhile.¹⁵

Rothbard goes on to say that speculative site owners perform a great service to consumers and to the market by not committing land to poorer productive uses, but rather allocating uses to those most demanded by consumers.

Thus, Rothbard has little use for the arguments of Mill, George and their followers to the effect that land speculation may have a net harmful effect on the economy of a region in which there is a demand for land. A closer look at the nature of speculation throws doubt on Rothbard's assertions, however. It is of paramount importance for a speculator to be able to turn over his goods at a moment's notice; the opportunity to make a killing in a particular market will not often wait for a lease to terminate. So, a land speculator wishing to rent his land until the time is just right to sell will be able to offer only very short-term leases or tenancy at will. This alone will make the property useless for many purposes. There are likely to be further restrictions placed upon its use. If, for example, the speculator believes that the land is going to become very valuable to real estate developers in the business of constructing con-

dominiums, he will not rent the land to be used for a factory, rock quarry or waste treatment plant.

He is even unlikely to allow the building of any structure that would be expensive to destroy (unless the tenant is willing to absorb these costs upon departure) for such costs would be subtracted from the market price of the property if the buyer were forced to clear the land for development. It seems, therefore, that speculation is consistent with only the most limited and unproductive uses of land and that if the withholding of land from use does have unfavorable consequences, one ought to frown upon land speculation as a precursor of such consequences.

It is interesting that Rothbard is forced to admit that when supramarginal land goes into use the change "increases the total output of goods in the society,"¹⁶ but fails to see that there is likely to be disutility in the withholding of such supramarginal land from use. As Mill pointed out in 1870, "the self-interest of landlords is far from a sufficient security for their turning the land to the best account, even as to its productive powers."¹⁷

VI

The Limits of Private Property Rights: Nozick

UNLIKE ROTHBARD, NOZICK does not think that there are no limits to the right of private property in land. He is willing to accept what he calls a "Lockean proviso" to the effect that the right of appropriation of unowned objects may extend no further than the point at which such appropriation "worsens the situation of others."¹⁸ This scruple is derived from Locke's statement that one may remove whatever one wants from a common state "at least where there is enough and as good left in common for others."¹⁹

Nozick points out that there is an ambiguity in the proviso: "Someone may be made worse off by another's appropriation in two ways: first, by losing the opportunity to improve his situation by a particular appropriation or any one; and second, by no longer being able to use freely (without appropriation) what he previously could."²⁰ Since there is a sense in which if one wishes to improve one's situation by an appropriation of land, one is always made worse off by the prior appropriation of any land (it is not a reproducible commodity), Nozick opts for the weaker interpretation of the proviso. That is, individuals have a right to appropriate unowned land so long as it is not the case that, in toto, the situation of others is worsened by both the inability to appropriate and the inability to use land. According to Nozick, such worsening rarely occurs as a result of private land ownership.

Is the situation of persons who are unable to appropriate (there being no more accessible and useful unowned objects) worsened by a system allowing appropriation and permanent property? Here enter the various familiar social considerations favoring private property: it increases the social product by putting means of production in the hands of those who can use them most efficiently (profitably); experimentation is encouraged, because with separate persons controlling resources, there is no one person or small group whom someone with a new idea must convince to try it out; private property enables people to decide on the pattern and types of risk bearing; private property protects future persons by leading some to hold back resources from current consumption for future markets; it provides alternate sources of employment for unpopular persons who don't have to convince any one person or small group to hire them, and so on.²¹

These considerations are not adduced by Nozick to provide a utilitarian justification for private property; he has already used the claim that one has a right to something whose value one has produced as his argument for private ownership. The great utility of private ownership is pointed out for the sole purpose of showing that the Lockean proviso, at least on Nozick's interpretation of it, will not interfere with the great majority of private holdings.

Nozick's natural-right rationale for private ownership of land has been criticized above, but what about these utilitarian considerations? Could they, perhaps, be used by themselves to justify private property in land? I think the answer to this is: Yes and No. There are certainly great benefits bestowed by the private superintendence of land. These benefits, however, would not be lessened by a compensatory payment by the landholder to those whose ability to move about, hunt, fish, farm and so on (without paying for the privilege) has been restricted. Furthermore, the very requirement of compensatory payments for landholding would—if such payments were high enough—greatly discourage the withholding of valuable land from productive use for the purpose of speculation. The disutility (Rothbard notwithstanding) of such withholding is quite clear: the production of the aggregate labor of the community, forced to work on less favorable sites, is diminished, and since such withholding causes rent to be created at what was previously the margin (or simply increased everywhere in communities where there is no no-rent margin) the return for labor is decreased. It would, therefore, seem that considerations of utility lead us in the direction of allowing private appropriation of land only where compensation is paid for such appropriation. In this way, we may enjoy the benefits of private ownership enumerated by Nozick, without any fear that the land that has been appropriated will be available neither for appropriation nor for use. More will be said about this below.

Nozick thinks that a theory adequate to the concept of private property must contain a Lockean proviso to handle cases in which *e.g.*, a single individual

appropriates all the available drinking water in a given area and charges prices for it that few can afford. (One wonders how one might “create the value” of a pool of clean water in a desert.) “A theory of appropriation incorporating this Lockean proviso will handle correctly the cases . . . where someone appropriates the total supply of something necessary for life.”²² Nozick explicitly denies that property rights are limited by any supposed right to life, since he believes that one would have to derive this latter from a theory of property rights.²³ Apparently, then, his worry over the appropriation of the total supply of some item necessary for life is simply that it would create such disutility that the Lockean proviso would be violated. That is, there need be no violation (or the danger of a violation) of any supposed right to life in order for Nozick’s version of the Lockean proviso to bar the legitimacy of private ownership of some item or items; it must simply be the case that the net situation of some others would be worsened by the appropriation.

Given this interpretation of Nozick’s theory of property, it is quite remarkable that he asserts that “the free operation of a market system will not actually run afoul of the Lockean proviso.”²⁴ It is remarkable because, as we have seen, it is quite commonplace for the situation of all those but landholders to be worsened by the holding of a parcel of land out of production for speculative purposes. If we agree with Nozick that “someone whose appropriation otherwise would violate the proviso still may appropriate provided he compensates the others so that their situation is not thereby worsened,”²⁵ we will certainly insist on compensation for the private title to land.

VII

Common Stock and Unearned Increment: Rothbard

ACCORDING TO ROTHBARD, there could be no better claim to title of land than the first bringing of it into the sphere of production. In his view, the first user “takes a factor that was previously unowned and unused, and therefore worthless to everyone, and converts it into a tool for production of capital and consumers’ goods.”²⁶

It is not clear what Rothbard here means when he says that any piece of unowned and unused land must be worthless. The idea, of course, is that if it had worth to anyone, it would be appropriated and removed from the list of the unowned. But is it always the case that what has worth is appropriated? It may be the case that the land has not been noticed, or has been noticed and is believed to be already owned. Again, we can imagine cases in which those who own land find means (in order to retain their own rental income) to prevent the landless from appropriating some section of a commons.

It is quite paradoxical to hold that an unowned oasis lacks value to those who have spotted it before they have reached it and can use (or “improve”) it. It is true that those who are heading for the oasis would *like* to use it, but that only shows that it is wrong to confuse value with actual use or ownership.

Rothbard illustrates his position with regard to the right of appropriation by analogy with the right to take and domesticate an animal one finds in a commons.²⁷ He doubts that anyone would deny ownership of a cow to the person who finds and domesticates her. It seems to me, however, that there are quite a number of cases in which we would want to deny title to hitherto unowned cow to whoever first comes across it.

If there would be no appreciable decline in the stock of cows as a result of someone dragging one away, there could be no legitimate complaint on the part of other would-be appropriators. On the contrary, these others might be better off as a result of the capture and domestication since the supply of milk on the market might go up. If, however, there is but one cow in the area, others who might have taken the cow could rightly demand payment for what might be called the “unimproved value” of the cow—what it would be worth undomesticated, minus the cost of its capture. Of course, if no one may domesticate the cow, the community will be worse off than if it had allowed appropriation without compensation. Fortunately, we do not have to choose between these two evils. The best expedient is to allow appropriation of valuable goods so long as compensation is paid. In this way, we obtain the benefits of private ownership without suffering from this defect of monopoly ownership.

Many writers on this subject consider items like acorns (Nozick considers the appropriation of a grain of sand from Coney Island) when discussing the appropriation of movable goods from a commons. Surely one does not leave anyone else in a worse position by the removal of an acorn or two from a large forest. Locke thought that it would be immoral to appropriate more than one could use before spoliation began, even where there remains enough and as good as there was before this appropriation.

I suggest we take a more latitudinarian position than did Locke and allow that anyone may take as much of anything as he wants, so long as the net situation of no one else is worsened. If enough and as good remains and there have been no harmful effects on any of the other stock of common goods (including the purity of the water, the natural beauty, etc.) there seems no good reason for demanding compensation for the appropriation—even if much more has been taken than can ever be used.

Once the situation of others *has* been worsened, however, there seems every reason to demand payment from the individual who has appropriated goods

to those who have suffered for it. Perhaps, if the ultimate goal is to talk of landownership, we might better speak of geese that lay golden eggs than of acorns, grains of sand or wild cows.

Rothbard holds that it is quite important to the consideration of the legitimacy of title to land that "land always embodies past labor."²⁸ In fact, there is a sense in which we are all "free riders on the past," since "the great modern accumulation of capital goods is an inheritance from all the net savings of our ancestors." Nor is this all. "We are also free riders on the present, because we benefit from the continuing investment of our fellow men and from their specialized skills on the market."²⁹ Rothbard uses these considerations as a *reductio ad absurdum* of the position that one ought to confiscate the "unearned increment" of landowners and distribute it to the rest of the community.

I think Rothbard is right about this. From the fact that Jones has received a benefit without doing anything to earn it, it does not follow that he ought to be deprived of this benefit. So many of our riches are unearned that it makes absolutely no sense to single out those resulting from landownership as those that must be remitted. It is not even clear to whom one might remit these unearned increments. What special claim do members of the community have? Suppose the benefits result from good weather or beautiful beaches. Should we be required to make a payment to Demeter, the goddess of harvests (or perhaps Apollo, the god of prophecy), if there was a speculative windfall?

Rothbard is wrong, however, if he believes that the fact that ground rent is unearned is of no importance at all in this context. For if rent were earned, and if, as I have claimed, compensation ought to be paid for the value of land, there would be a conflict of principles. Landlords could use the labor theory of ownership to attack any arguments intended to show that compensatory payments should be made by landowners. If, however, as Rothbard readily admits, the landowner is a "free rider," no appeal can plausibly be made to any intrinsic injustice in such a payment; the landlord has not toiled for his rent. It is not that compensation ought to be paid because ground rent is an "unearned increment," but rather that if there are good reasons to demand compensation for land value, since rent is unearned, the demand for such payments is not malevolent.

Notes

1. Murray N. Rothbard, *Man, Economy, and State* (Princeton, N.J.: D. Van Nostrand Co., 1962), p. 147. All quotations of Rothbard are from this work.

2. Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), p. 178. All quotations of Nozick are from this work.
3. Rothbard, p. 147.
4. John Locke, *Second Treatise of Government*, sec. 27.
5. Lawrence C. Becker, "The Labor Theory of Property Acquisition," *Journal of Philosophy*, 73 (1976), pp. 658–59.
6. Rothbard, p. 147.
7. Locke, *loc. cit.*
8. *Ibid.*, sec. 32.
9. Karl Olivecrona, "Locke's Theory of Appropriation," *Philosophical Quarterly*, 24 (1974), p. 225.
10. Quoted in Rothbard, p. 148.
11. Nozick, pp. 174–75.
12. Nozick, p. 175.
13. *Ibid.*
14. Rothbard, pp. 147–48.
15. Rothbard, p. 512.
16. Rothbard, p. 514.
17. John Stuart Mill, "Leslie on the Land Question."
18. Nozick, p. 178.
19. Locke, *op. cit.*, sec. 27.
20. Nozick, p. 176.
21. Nozick, p. 177.
22. Nozick, pp. 178–79.
23. Nozick, p. 179 fn.
24. Nozick, p. 182.
25. Nozick, p. 178.
26. Rothbard, p. 149.
27. Rothbard, p. 149.
28. Rothbard, p. 149.
29. Rothbard, p. 888.

The Pacific's Marine Economy

ABSTRACT. The crucial role of marine resources in the economic development of the Pacific Basin is beginning to engage the serious attention of planners, policymakers, and administrators as well as educators and scholars. This book,¹ edited by Chennat Gopalakrishnan,² represents a first effort to bring together a multidisciplinary team of marine scientists, resource planners, and policy analysts to examine a broad array of problems involved in tapping the economic potential of the region's ocean. Some of the key issues discussed in the volume are fuel from ocean thermal energy conversion; economics, technology, and