



JOHN LOCKE ON COMMERCIAL SOCIETY

Welcome to our September 2021 edition of Liberty Matters. This month Professor Bas van der Vossen of Chapman University has written an essay on [John Locke](#)'s often underappreciated economic thought. Professor van der Vossen notes that Locke's impact on the political thought of liberal societies cannot be overstated, but this often means that few scholars look at Locke's thoughts on labor, property and the importance of markets for free societies. In particular van der Vossen explores the key role that property and property rights play in Locke's thought about maintaining free and prosperous communities of what Locke calls "free and equal" people. Van der Vossen sees Locke as a pivotal figure in the changing perspective of scholars towards markets and prosperity. While many earlier thinkers were skeptical of the fruits of exchange, markets, and wealth, Locke slowly began to see the advantage of being well off and espoused those views, particularly in the later part of [his career](#).

JOHN LOCKE ON COMMERCIAL SOCIETY

by Bas van der Vossen

In terms of influence, few political thinkers equal John Locke. His political writings, particularly his *Second Treatise of Government* and the [Letter Concerning Toleration](#), have had a massive impact on how we conceive of government. [Thomas Jefferson](#) famously said that Locke was one of the three greatest men to ever live. (The other two being Bacon and Newton.) And his ideas have shaped how we now think of government. We follow Locke in considering the government legitimate only if it enjoys the consent of the people. We follow Locke in thinking of the government's role with respect to our private matters (like religion) as protecting people's rights and freedoms (like the freedom of religion).

Perhaps most fundamentally, we follow Locke in thinking of people as *free and equal* beings. Locke wasn't the first or only one to say this, but his version of that idea is one of the most interesting. To Locke, free and equal beings have rights, and these rights do not depend on anyone else: no person, community, institution, or government. The only way others can change our rights

is when we give them that right, through our own free action. And so, the members of a free society give consent to their governments. This grounds those governments' authority and its limits. Ultimately, all authority (or if you prefer, all sovereignty) is popular: it belongs to the people.

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These ideas are well-known. But Locke's vision of society as something that exists between free and equal people also extended to our economic lives. Here, again, being free and equal means we each have rights, rights entitling us to enjoy our possessions, decide how we make a living, and choose with whom we cooperate. This vision is of people living together in a prosperous and harmonious manner. The key element (of course) is private property. And the government's role with respect to the economy is to protect these rights.

This vision has also been influential (although it has more detractors today than Locke's views on politics). It stands

in opposition to other political theories, such as those defended by Immanuel Kant or Jean-Jacques Rousseau. These other views envision a much more active role for government in the economy. Kant and Rousseau saw people's rights over their possessions as ultimately depending on government approval. Instead of *protecting* our rights, they argue, governments in some sense *create* those rights. Locke outright rejected that view.



This essay explores Locke's economic vision. It focuses especially on why Locke thinks property is such an important element for a free and prosperous society. What are property rights *for*? And how does the defense of property connect to the liberal vision of society as an importantly *commercial* place?

Locke and Labor

Locke's views on property are well-known. The basic story goes as follows: individuals can own private property, and they can own it without having to ask permission of other people, the government, or society at large. Our possessions are ours, quite simply.

The reason behind this basic story is well-known, too. We own our possessions because they represent our own labor, Locke argues. This explains both why we own things (because we own the labor they represent) and why we don't need the permission of others to own things (because we don't need anyone's permission to use our labor).

Here is Locke's way of putting it:

[E]very man has a property in his own person: this no body has any right to but himself. The labour of his body, and the work of his hands, we may say, are properly his. Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his property.^[i]

This passage is simultaneously famous and infamous. Let's start with the infamy. This mostly comes from the argument having often been interpreted in a very literal sense. On such a literal reading, Locke is saying that when we work, we are literally mixing something we own (our labor) with something we don't own (stuff like land, natural resources, etc.). The things we produce involve both our labor and the other stuff, and this explains why we come to own the things we produce. Those things have, again quite literally, our labor *in* them, and since we own our labor we own those things.

The infamy is due to this argument being, on this literal reading, almost certainly wrong. One reason is this: it's simply not true that any time we mix something we own with something unowned, we thereby come to own the resulting thing. Sometimes we do, and we acquire the unowned thing. But sometimes we don't, and we lose the owned thing. In Robert Nozick's famous example, if I own a can of tomato juice and mix it with the ocean, which is unowned, I don't acquire an ocean. I lose my juice.^[ii] Nor does it seem right to say that, when we "mix our labor" with things, we are *literally* mixing stuff, like when we mix the ingredients to bake a cake. Labor is an activity, something we do. It's not a substance, something we mix.^[iii]

To say that we mix our labor, then, is more likely something of a metaphor. It is saying (roughly) that we have some ownership-like control over our activities, including our working activities, and that this has consequences for our ownership over the products of those activities. But if it's a metaphor, then we need to know what it's a metaphor *for*. And if we are to believe that our ownership-like control over our (working) activities is to have consequences for our ownership of

the products of those activities, then we need to know *why* that is so. Metaphors aren't arguments.

Worries about Locke's argument are legitimate, therefore. However, it's also important not to lose sight of why Locke's argument is famous. Even if the passage doesn't do much to explain *why* we own the fruits of our labor, it still seems important to say *that* we own the fruits of our labor. And it seems important that the reason we own the fruits of our labor is that it's *our* labor. The passage above captures that truth. The question is: why is it true?

The Importance of Making a Living

Locke's argument rests on the idea that the "labour of his body, and the work of his hands, we may say, are properly his." And that point does seem very plausible. Our activities have to be ours, in the sense that we have ownership-like control over them. No one has the right to force us to live a certain way, or to serve or finance other people's goals or desires. Importantly, that includes our work. We value freedom of occupation, and we value it very highly, because we have the right to decide how we spend our working lives. That's what it means to be free and equal in the economy.

Our work, in other words, is *personal*. It's an important part of ourselves, and what we do is part of who we are. This is true of the time we spend working as much as any other part of life. Locke thinks it obvious that something that is personal should be protected, morally and legally. And the best way to protect it is in an ownership kind of way. We have control over how we spend our time, and what we do when we work. We don't get to decide that others must hire us, buy our products, or whatever. But others don't get to tell us what we must do either.

Saying that, however, isn't quite saying something about property yet. After all, it's one thing to say we have a right to decide what work we do. It's another thing to say we get to keep what we make. And Locke's point is the latter – free people *do* get to keep what they make. We might agree with that point. We might even think it obvious. But Locke is purporting to give us an argument for that point. And so far, we haven't quite seen it yet.



To get to that argument, commentators have long chosen to focus almost exclusively on the passage from section 27, quoted above. (And they've long chosen to focus on the literal interpretation of that passage.) There we find, they say, Locke's argument for property rights. But this focus is odd. That argument really appears only in that section. Immediately thereafter, Locke switches to talking about labor "fixing" a property right in things, or "putting a distinction" between what we own and things left in nature. And when Locke turns to explaining *why* labor is the thing that would fix property in this way, he doesn't revert back to the mixing argument. Instead, he says that we should want to reward *productive activity*. And in his eyes, all productive activity involves labor.

Locke makes this point repeatedly. Here's a characteristic passage:

Nor is it so strange, as perhaps before consideration it may appear, that the *Property of labour* should be able to over-balance the Community of Land. For 'tis *Labour* indeed that *puts the difference of value* on every thing; and let any one consider, what the difference is between an Acre of Land planted with Tobacco or Sugar, sown with Wheat or Barley; and an Acre of the same Land lying in common, without any Husbandry upon it, and he will find, that the improvement of *labour makes* the far greater part of the *value*. I think it will be but a very modest Computation to say, that of the *Products* of the Earth useful to the Life of Man 9/10 are the *effects of labour*. nay, if we will rightly estimate things as they come to our use, and cast up the several Expences about them, what in them is

purely owing to *Nature*, and what to *labour*, we shall find, that in most of them 99/100 are wholly to be put on the account of *labour*. (section 40)

There are, then, two elements to Locke's theory. First, people cannot be legitimately forced to care for others, their desires, goals, etc. (At least, as long as those others can take care of themselves. More on that below.) That's what it means to say they *own themselves*. And second, what makes societies prosper is when people who can work are encouraged to actually do work, and work in productive ways. That's what it means to say that labor "*puts the difference of value* on every thing."



Together, these two elements explain why we own the fruits of our labor. We own what we make because what we make lies at the intersection of the personal and the productive. The things we produce, in other words, are things that are at the same time *ours* (because they're personal) and *for society* (because they add value). Locke's point is that this intersection is worth protecting. And the way you protect it is by recognizing property rights over those products. Giving producers ownership over their products both protects them and encourages socially valuable activity.

It doesn't *have* to be this way. Societies can also be set up so that the actions we encourage come at the expense of others. This happens, Locke argues, when we are permitted to rely on other people and their work. When someone tries to do that, he writes: "'tis plain he desired the benefit of another's Pains, which he had no right to, and not the Ground which God had given him in common with others to labour on."^[iv] A society that allows such things will not be one in which people add

value. It will not be one in which people live harmoniously or, for that matter, one that prospers.

One of the targets of Locke's argument here was the aristocratic society of his day. Aristocratic landholders did not work themselves, but lived off the rents of the lands they had inherited. They were benefiting from the work of others, while often leaving their lands uncared for and unused. To Locke, this wasteful behavior was morally forbidden.^[v] A better society would encourage all people to engage in socially productive work. We do this by giving people strong property rights over themselves and their earnings. Commercial society is the alternative to a society of rentier landowners.

What About the Poor?

Everyone owns their labor. And so everyone has a right to make a living. When you make a living, you get to keep what you make. But what about those who cannot make a living, say because they have physical or mental limitations that prevent them from being productive? And what about those who can make a living, but end up poor nonetheless?

These are two different questions. And the difference is important to Locke's mind. Those who *cannot* make a living have a right to receive support, for example through charity or the works of parishes. No one should starve or suffer due to no fault of their own. And those who cannot provide for themselves cannot be said to do anything wrong when they need to rely on our assistance. We owe them our help, Locke argues. (And Locke himself has been said to be very generous to people who really needed help.^[vi])

However, and by contrast, Locke harshly condemned those who can make a living, but *choose* not to. Such people have no right to charity. Instead: "true and proper relief of the poor ... consists in finding work for them."^[vii] People who can make a living simply don't have a right to take or be given. As he put it in a letter to Molyneux: "I think every one, according to what way Providence has placed him in, is bound to labour for the public good, as far as he is able, or else he has no right to eat."^[viii]

The difference isn't hard to understand in the light of the arguments above. We have rights over ourselves, and whatever we make through our productive labor. But if we are to truly have *rights* over this, it must be that we have *control* over ourselves and the fruits of our labor. Locke is explicit on this, stating: "I truly have no Property in that, which another can by right take from me, when he pleases, against my consent."^[ix] And this is true irrespective of whether some are rich and others poor, as Locke emphasizes: "their properties, be they more or less, are their own, and at their own dispose, and not at his; or else it is no property."^[x] Inequality does not change people's rights.

People who choose to rely on charity, but could work, do wrong therefore because they pretend they have a right to our money when they don't. And if they succeed in convincing us that they have such a right, they will have undercut our rights – making us less secure in something that ought to be protected. Instead of us deciding what happens to our work, they will have decided. And that, to Locke, is simply wrong. Indeed, as Locke writes in the *Essay on the Poor Law*, those who can work but chose to rely on begging can even be punished for this. They take (charity) what belongs to others (needy people who did have a right to charity or the owners).

People who cannot work obviously do no such thing. For them, it's no choice to rely on charity. They simply need help. And Locke is adamant that in those cases it is wrong to refuse them help. Indeed, refusing needy people help is bad enough that it is also punishable: it denies to others what they have a right to receive.

Commercial Society

Call commercial society a society in which: (1) people have ownership-like rights over themselves, (2) people have ownership rights over the fruits of their productive economic activity, and (3) the government's role with respect to these rights is primarily to protect them. Locke's arguments above all offer a compelling defense of such a society. His work strikes a balance between two important moral and political goals: to protect free and equal individuals in their own separate lives, and to foster

a prosperous society in which everyone has the right and freedom to work and contribute.

Commercial societies raise their own sets of questions, of course. Over his lifetime, Locke came to grapple with these more and more, as he developed his thinking on economic matters. For instance, in his early work *Essays on the Law of Nature*, Locke was skeptical about profit – seeing it, in line with standard Thomistic thought, as a sign of an uneven and therefore unfair exchange. In his later thought, most clearly in a short piece called *Venditio*, Locke took on the question of a just price in a much more sophisticated and modern manner. In *Venditio*, Locke considers different scenarios in which market prices might fluctuate, including sudden shortages or cases of severe need. And at least ordinarily, he argues, the just price is simply the market price. (One exception is when one party *puts* another party in need, and then uses that need to jack up the price. That, of course, is not permitted.)

Locke's thinking, then, marks a kind of turning point in our intellectual history. It marks the beginning of a line of thought that sees commercial society as a good thing. And it marks the insight that what commercial societies do is a difficult feat: to strike a balance between protecting what's personal (our labor) and promoting what's good for society. No doubt, commercial society has given rise to questions and problems Locke did not consider. But he did leave us with a framework for considering these questions. That framework is one of a society that genuinely aims to treat everyone as right-holders, something that's required by our natural freedom and equality. That's plainly something we should continue to take seriously.

^[i] Locke, John (1988) *Two Treatises of Government*. P. Laslett (ed.) Cambridge University Press, Second Treatise of government, section 27.

^[ii] Nozick, Robert (1974) *Anarchy, State, and Utopia*. Basic Books, p. 175

^[iii] Waldron, Jeremy (1988) *The Right to Private Property*. Oxford: Clarendon Press, pp. 185-6

^[iv] Second Treatise, section 34

[v] A good historical discussion is Ashcraft, pp. 270-4. The prohibition on waste is often called Locke’s “spoilage proviso.” See Sections 31, 37, 38, 46.

[vi] Lady Masham’s account of Locke’s life describes his conduct towards the poor as matching this conviction. Woolhouse, Roger (2003) “Lady Masham’s account of Locke”, *Locke Studies* 3: 167-193: 190-1.

[vii] Locke, John (1997) “An Essay on the Poor Law.” In: *Political Essays*, Mark Goldie (ed.) Cambridge University Press, pp. 182-98, p. 189.

[viii] Locke, John (1924) *Letter to Molyneux*, 19 Jan.—93-4. In: *The Works of John Locke in Nine Volumes*, London: Rivington, 12th ed. Vol. 8.

[ix] Second Treatise, section 138. See also 140 and 193. Compare also Locke, John. (1975) *An Essay Concerning Human Understanding*. Peter H. Nidditch (ed.) Clarendon Press, Book II, chapter xx, section 7.

[x] Second Treatise, section 194.

RESPONSE TO BAS VAN DER VOSSSEN

by Brian Kogelmann

John Locke’s theory of property is one of the most important—and puzzling—contributions to the liberal philosophical tradition. Locke tells us that persons acquire property rights in unowned resources by mixing their labor with these resources. The view has been subject to numerous criticisms. One worry, for instance, says that the labor-mixing theory of property is committed to a bizarre metaphysics: that there is a substance called “labor” that one literally mixes with an object, in the way that one mixes the ingredients of a cake together.

In his essay for this month’s Liberty Matters, Bas van der Vossen seeks to rehabilitate Locke’s labor-mixing theory of property by putting it on more solid footing. Van der Vossen begins with Locke’s claim that “the *labour* of his body, and the *work* of his hands, we may say, are properly

his.”^[i] This claim, according to Van der Vossen, is grounded in the intuition that our work is *personal*, meaning that “it’s an important part of our selves, and what we do is part of who we are.” This all seems right, but Van der Vossen notes that this claim—that how we choose to apply our labor is a personal decision—is not sufficient to justify the claim that laboring on object *x* generates a property right in *x*. What is needed to justify this further step?



John Locke (circa 1672-1676)

Van der Vossen argues that Locke justifies this further step by appealing to labor’s positive economic impact. Labor, according to Locke, is what “*puts the difference of value* on every thing.”^[ii] Indeed, Locke tells us “that of the *products* of the earth useful to the life of man nine tenths are the *effects of labour*.”^[iii] Since laboring is what creates value, it makes sense to encourage persons to labor as much as they can, so persons produce as much value as possible. Hence, property rights are conferred through labor mixing. By doing so, we incentivize persons to engage in an activity (laboring) that creates value for all.

So, on Van der Vossen’s reading, the labor-mixing theory of property is bolstered by two different considerations: “We own what we make because what we make lies at the intersection of the personal and the productive. The things we produce, in other words, are things that are at

the same time *ours* (because they're personal) and *for society* (because they add value)." There is much to say in favor of Van der Vossen's reconstruction of Locke's labor-mixing theory. In what follows, I will offer some critical remarks. To be clear: I am not going to engage the question of whether Van der Vossen's reconstruction of the labor-mixing theory is a faithful interpretation of Locke's text. Rather, I am going to engage with Van der Vossen's reconstruction of the labor-mixing theory on its own merits.

A key premise of Van der Vossen's labor-mixing theory is that laboring produces value—this is what ultimately justifies the claim that persons acquire property rights in the objects they labor on. As a starting point, it's worth noting that this claim is not always true. Sometimes, laboring on objects can decrease their value. Robert Nozick gives us an example of this: spraying pink enamel paint on a piece of driftwood is an act of laboring, but it does not make the driftwood any more valuable. If anything, it may make the piece of driftwood less valuable.^[iv]

The fact that labor mixing *can* decrease value does not prove much. Nozick's counterexample does not falsify Locke's and Van der Vossen's empirical generalization that laboring on objects *typically* adds value to them. However, we have reason to think that this empirical generalization is false in a wide series of cases. In many cases, conferring property in objects on the basis of labor mixing destroys the value of these objects, at least when compared to what the value of these objects would be were property rights established in them in a different manner.



Relevant here is the work of economists Terry L. Anderson and Peter J. Hill.^[v] Anderson and Hill examine different ways that property rights in land were established in the early United States. First, property in land was sometimes acquired through purchase. The United States government held land in the public domain and sold it off to the highest bidder, typically with a price floor. Second, property in land was sometimes acquired through preemption. Here, private property was once again acquired through purchase, but not an auction system where all persons could freely enter bids. Instead, squatters were given first opportunity to purchase the land they were currently residing on. Third, property in land was sometimes acquired through homesteading. Passed in 1862, the Homestead Act gave away 160 acres of free land to anyone who was willing to reside on and work the land for a period of five years.^[vi]

It is worth noting that there are deep similarities between the homesteading system of property acquisition used throughout the late 1800's and early 1900's in the American West and Locke's labor-mixing system of property.^[vii] Both systems require that land in some sense be cultivated in order to gain a property right in it. In the case of the Homestead Act, "cultivation of the land for a period of at least two years is required, and this must generally consist of actual breaking of the soil, followed by planting, sowing of seed, and tillage for a crop other than native grasses."^[viii] This, it seems, is quite close to what Locke talks about when he says that "*as much land as a man tills, plants, improves, cultivates, and can use the product of, so much is his property.*"^[ix]

Anderson and Hill examine three different systems of property acquisition used in the early United States, but these systems were not equal in their capacity to create value. There were two problems in particular. First, preemption and homesteading required persons to occupy land *too early*. Consider: when occupying land, there is a cost involved. There is the opportunity cost of occupation: settling a piece of land in Montana means you can't work in a factory in New England. There are other costs as well: the cost of building a home, fending off invaders, and so on. Given that there are costs associated with occupying land, it is quite clear that the value of occupying land can, at times, be net negative. That is, the costs of occupying land can be greater than the value extracted from it.

Clearly, if the value of occupying land is net negative, then it would be better—from a value-creation perspective—to not occupy the land, only occupying it later when net positive value can be extracted from it. The problem, though, is that some systems of property acquisition *incentivize* persons to settle land before net positive value can be extracted from it. This is so for the homesteading (i.e., labor-mixing) system.^[x] By conferring property rights on the basis of labor mixing, property rights are allocated on a first-come-first-serve basis. Whoever gets there first and mixes their labor gets the property right. This encourages a rush for rights, which leads some persons to settle land too early, when only net negative value can be extracted from it. As Anderson and Hill put it, “the resulting premature development of the frontier created a drain on national income.”^[xi] In other words, value was destroyed.

There is a second problem with the labor-mixing system of property acquisition. Beyond incentivizing persons to settle land too early, the labor-mixing system also encouraged bad investments in the land. Write Anderson and Hill: “...the [homesteading] acts required unnecessary investments, such as irrigation ditches, that would not otherwise have been built; trees planted where they would not grow; and soil plowed for farming that was better suited for grazing.”^[xii] The worry here is that if labor mixing confers property in unowned resources,

then persons will labor on these resources *even when it is not called for*. Perhaps we don't currently know what the best use of a plot of land will be. Instead of taking the time to figure this out, the labor-mixing system incentivizes persons to start digging ditches and planting crops. Such investments may be unwise. This is the second way that labor mixing can lead to the destruction, rather than creation, of value.

The negative economic impact of the Homestead Act was significant, and is still with us today. In a recent paper, economists Douglass W. Allen and Bryan Leonard compare plots of land that were homesteaded versus ones that were acquired through cash sales. They find “that homesteads are substantially less developed in 2012 — even though the ultimate property rights to the land are identical and, in some cases, so are the settlers.”^[xiii] In other words, land initially acquired through labor mixing is less developed today when compared to similar plots of land that were acquired through a different method of appropriation. This applies, in some cases, even when the *same person* held property in a homesteaded piece of land and a piece of land acquired through cash sales.

This is all just to say that I think a key premise in Van der Vossen's argument is false. Van der Vossen rehabilitates Locke's theory of property on the basis of two claims. First, laboring is a personal act, and second, laboring produces value. I have taken issue with the second claim. Laboring sometimes produces value, but sometimes it does not. What is more concerning, a system that confers property on the basis of labor mixing may *incentivize* persons to labor in unproductive ways. Such a system may incentivize persons to occupy land too early, and to make unwise investments in the land. Though laboring often does produce value, it would be best—by Van der Vossen's own reasoning—to develop a system of property acquisition that encourages persons to *always* labor in a productive manner. The Lockean labor-mixing theory of property acquisition does not do this, however.

^[i] John Locke, *Second Treatise of Government* (Indianapolis: Hackett Publishing), 19.

^[ii] *Ibid.*, 25.

[iii] Ibid., 25

[iv] Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books), 175.

[v] See Terry L. Anderson and Peter J. Hill, “The Race for Property Rights,” *Journal of Law & Economics* 33 (1990): 177-197; Terry L. Anderson and Peter J. Hill, *The Not So Wild, Wild West: Property Rights on the Frontier* (Palo Alto: Stanford University Press).

[vi] Homesteaders had to pay a small registration fee, so the land was not technically free, but rather very low-priced.

[vii] I explore the similarities between Locke’s labor-mixing theory of property and the Homestead Act in Brian Kogelmann, “Lockeans against Labor Mixing,” *Politics, Philosophy & Economics* (forthcoming).

[viii] Department of the Interior, “Suggestions to Homesteaders and Persons Desiring to Make Homestead Entries,” 1926 memo, available at: <https://babel.hathitrust.org/cgi/pt?id=mdp.39015036692385&view=1up&seq=1>.

[ix] Locke, *Second Treatise of Government*, 21.

[x] It is also true for the preemption system.

[xi] Anderson and Hill, “The Race for Property Rights,” 191.

[xii] Ibid., 189-190.

[xiii] Douglass W. Allen and Bryan Leonard, “Property Right Acquisition and Path Dependence: Nineteenth Century Land Policy and Modern Economic Outcomes,” *Economic Journal* (forthcoming). Preprint available:

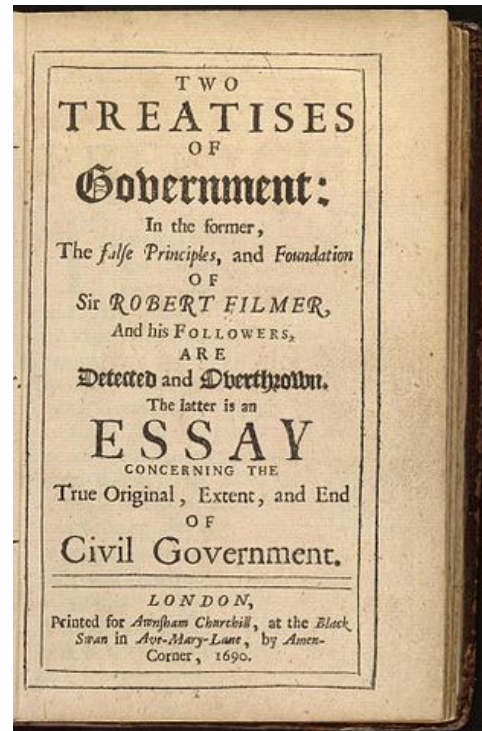
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LOCKE AND LABOUR

by Billy Christmas

Van der Vossen gives a highly appealing elucidation and defence of the normative basis for commercial society

found in John Locke’s notions of freedom and equality. He focuses mostly on Locke’s justification of natural, individual property rights, and how in the context of market-based cooperation, these rights enable each person to “keep what they make” and thereby ensure that the common good is served by the individual good. Property is an essential institution because it enables each person to reap the fruits of her labour.



The role that Locke seems to assign to labour in the initial acquisition of property rights at §27 of the *Second Treatise* is a fraught one. Locke notoriously invoked the idea that resources are originally acquired through their admixture with labour. This has been widely rejected as a conceptual confusion,^[i] and some have argued that Locke used this language to privilege sedentary agricultural land-use over the less sedentary use that was the practice of the indigenous peoples of the Americas so as to stack the deck in favour of the property claims of settlers, and territorial claims of colonies.^[ii] Still others have argued that the Lockean labour theory involves a commitment to an ontologically confused theory of economic value – that the mere application of labour produces value irrespective of whether the result of one’s labour is actually *valued by* anyone.

Van der Vossen acknowledges the notoriety of the remarks in Locke, and argues that if we look past the invocation of admixture, the proper role of labour within the justification of the property rights that are essential to commercial society can be located. Individual property rights are justified not because they have, in the past, come about through a process of labour-mixing, but because they will, in the future, enable individuals to enjoy the fruits of their labour. The role of labour is teleological and not historical. In short, he defends a labour theory of property without labour-mixing.

My first line of enquiry is how far a historical role for labour can be done away with in a labour-based justification for property claims.

All productive activity requires the use and disposition of various resources. Individual rights to the particular resources that are put to productive use (land, tools, fuel, machinery), combined with the right to freely cooperate with others on mutually agreed upon terms (a division of labour and a division of the fruits thereof) is a recipe to ensure each person gets to *omni*, in that metaphorical sense, the *labour of their hands*. Individual property rights and freedom of contract are essential components to commercial society, and commercial society secures to each person the fruits of their labour – *that* is the role labour plays in justifying private property and the individual’s right to use it and transfer it as she wishes. Property and contract constitute the socioeconomic environment in which labour is given its due.

“AN ESSENTIAL “FACTOR” IS THAT
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A core tenet of classical political economy was that, in a marketplace, each factor of production, that is, land, labour, and capital each get a return proportional to their contribution to production,^[iii] generally speaking.^[iv] The scheme of distribution was regarded as just on the basis that land was at root acquired through labouring upon it, and capital was also accumulated

through labour.^[v] Hence, contributing land or capital still constitutes a contribution of labour in the form of *past* labour. And if one acquired the land or capital in exchange rather than through labourious initial acquisition, one would have had to pay the equivalent, which it would have taken labour to earn, and so on. Of course, productive activity seldom involves the passive combination of these factors of production by their distinct owners. An essential “factor” is that which actually *does the combining*: entrepreneurship. Entrepreneurship involves alertness to new opportunities to creatively draw together these otherwise dead factors of production in a way that meets the ever-changing needs of society in the context of ever-changing conditions.^[vi] Indeed, entrepreneurship so understood is something every member of society is engaged in, strictly speaking, whether they are owners of capital or not.^[vii]

The socialists among the classical political economists endorsed the normative power of the idea that everyone should get out what they put in, but they were concerned with the history of the manner in which land, capital, or both came to be owned and concentrated – which is to say, how labour came to be landless and without means of production.^[viii] The worry was that the original accumulation of the means of production that labour would make productive was not a merely economic process involving work and the application of the law of value, but one of political rent-seeking, violence, plunder, and injustice. ^[ix]

One might think that since so little of the value contributed to modern economies comes from the discovery and acquisition of new physical resources, the question of original acquisition is vanishingly irrelevant to distributive justice.^[x] However, if it is important that each individual receive a return proportional to the value they contribute because it is important that each maintain (albeit metaphorical) ownership of their labour, then it is essential that the property each person contributes can be said to represent their labour, and *not* a theft of the labour of someone else.^[xi] If there were no property, and we simply laid down a random assignment of property rights

such that almost all land was given to one small family, and a small amount of property given to everyone else, how could we say that the resultant distribution of wealth, once productive commerce had begun, truly rewarded each person with the fruits of her labour?^[xii]

Therefore, whilst pivoting from an historical to a teleological account of the normative place of labour, is an attractive one, *some* historical place must also be given for it. Whilst the mode of acquisition may not be the only thing that contributes toward the justification of property (granting that much of van der Vossen's teleological account), we still need to know the process by which property comes into being, and as we can see this carries at least some moral import with regard to that ultimate teleological basis.

I now turn to my second line of enquiry.

Van der Vossen plausibly argues that having a right to control how one makes a living is an essential component of freedom and equality. If some other person determines how we make a living then we do not enjoy freedom, nor can we be said to be morally equal to this person, but rather we are their inferior. Our productive life is something so deeply personal that personal freedom must include occupational freedom. So, some kind of system of individual property rights and freedom of contract is required at least to this extent by the values of freedom and equality.

Property and contract as such are multiply realisable institutions; there are an open-ended variety of concrete forms these abstract institutional ideals can take. Presumably, van der Vossen wants to say that we should select the instantiation that best enables people to keep what they make. Now, the sense in which commercial society is said to enable everyone to keep what they make is not in any physicalist sense. When two people decide to cooperate to provide advertising solutions for other firms, they do not keep the advertising campaigns that they make. Indeed, if they did, they could not divide these between themselves in a way that meant each person literally kept the part that they made. Indeed, an important benefit of a division of labour is that they make something irreducible to the mere sum of the inputs! In

order for each individual to keep what they make, they have to transform what they make into something more abstract – they must exchange it for money and then split the money between them. The actual physical work of their hands they quickly alienate on the market for its monetary equivalent so that they can acquire the things they *really* want that they can't directly make with their hands. I do not deny that keeping the monetary or exchange-value based equivalent of what one makes is a morally appropriate application of the general principle of keeping what we make. However, I am curious as to its relationship to the more fundamental values whence this principle is said to be derived – freedom and equality. If every person were denied 25% of the value of their labour (for example, by a tax collector), in what way would their right to control their labour be undermined or violated? They still get to work how they want and with whom they want – how do freedom and equality relate to the number that shows up on one's pay-cheque?



The ideals of freedom and equality are highly deontological and relational, whereas the ideal of keeping what one makes is teleological and utilitarian. How does the monetary value of our labour (something that only emerges in the social context of market institutions) relate to our autonomous control of that labour (something that Robinson Crusoe could enjoy)? In centering property on just economic deserts, do freedom and equality not fade into the background?

[i] David Hume, *A Treatise of Human Nature*, ed. Lewis Amherst Selby-Brigge (Oxford: The Clarendon Press, 1739), sec. III.II.II.VI n; J. P. Day, 'Locke on Property', *The Philosophical Quarterly* 16, no. 64 (1966): 207–20; Jeremy Waldron, 'Two Worries About Mixing One's Labour', *The Philosophical Quarterly* 33 (1983): 37–44;

Jeremy Waldron, *The Right to Private Property* (New York: Oxford University Press, 1988), 184–91. Hillel Steiner boldly attempts to rescue a physical admixture account in his *An Essay on Rights* (Oxford: Blackwell, 1994), 233. Elsewhere I have argued this attempt is unsuccessful (*Property and Justice: A Liberal Theory of Natural Rights* (London: Routledge, 2021), 73–77).

[ii] James Tully, ‘Aboriginal Property and Western Theory: Recovering A Middle Ground’, *Social Philosophy and Policy* 11 (1994): 153–80; Barbara Arneil, *John Locke and America: The Defence of English Colonialism* (Oxford: Oxford University Press, 1996), chap. 6; Andrew Fitzmaurice, *Sovereignty, Property, and Empire, 1500-2000* (Cambridge: Cambridge University Press, 2014).

[iii] See, for example, David Ricardo, *On the Principles of Political Economy and Taxation* (Indianapolis: Liberty Fund, 2004); John Stuart Mill, *Principles of Political Economy with Some of Their Applications to Social Philosophy*, ed. W. J. Ashley (London: Longmans, Green, & Co., 1920).

[iv] Different political economists gave different caveats about what might interfere with the law of value from returning to each the value that they put in: conditions of market entry, availability of land, and reproducibility of certain kinds of goods.

[v] Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* (Oxford: Oxford University Press, 1976), 276–78.

[vi] Israel M. Kirzner, ‘Producer, Entrepreneur, and the Right to Property’, *Reason Papers* 1 (1974): 1–17; Israel M. Kirzner, ‘Entrepreneurial Discovery and the Competitive Market Process: An Austrian Approach’, *Journal of Economic Literature* 35 (1997): 60–85; Israel M. Kirzner, *Competition and Entrepreneurship*, ed. Peter J. Boettke and Frédéric Sautet (Indianapolis: Liberty Fund, 2013); Israel M. Kirzner, *Discovery, Capitalism, and Distributive Justice*, ed. Peter J. Boettke and Frédéric Sautet (Indianapolis: Liberty Fund, 2016).

[vii] Ludwig von Mises *Human Action: A Treatise on Economics*. Ed. Bettina Bien Greaves (Indianapolis: Liberty Fund, 2007), pp. 252-253. Michael C.

Munger, *Tomorrow 3.0: Transaction Costs and the Sharing Economy* (Cambridge: Cambridge University Press, 2018).

[viii] Important historical figures in this vein are Thomas Hodgskin, *The Natural and Artificial Right of Property Contrasted* (London: B. Steil, 1831)., Benjamin R. Tucker, *Instead of A Book, By A Man Too Busy to Write One* (Boston: Benjamin R. Tucker, 1888)., and Henry George, *Progress and Poverty* (New York: Modern Library, 1929).. See Kevin A. Carson, *Studies in Mutualist Political Economy* (Fayetteville: Self-published, 2007). for a contemporary treatment of socialist classical political economy.

[ix] Marx’s critique of these “utopian” or “bourgeois” socialists was that they mistakenly believed that correcting the distribution of property could ensure the law of value operates properly, and everyone gets to keep what they make. Marx believed that the law of value, even (or, especially) when it operate properly, unsure the capitalist appropriates a portion of value that is created by his workers (Karl Marx, ‘Critique of the Gotha Programme’, in *Marx/Engels Selected Works*, vol. 3 (Moscow: Progress Publishers, 1970)). Marx’s version of the labour theory of value was the theory of “surplus value” which was not subscribed to by other classical political economists Karl Marx, *Capital: A Critique of Political Economy* (London: Penguin, 2010), chaps 1–18; Karl Marx, *Value, Price, and Profit* (New York: International Co., 1969); Karl Marx, *Economic and Philosophic Manuscripts of 1844* (Moscow: Progress Publishers, 1932).

[x] Dan Moller, ‘Property and the Creation of Value’, *Economics and Philosophy* 33 (2017): 1–23.

[xi] Christmas, *Property and Justice: A Liberal Theory of Natural Rights*, 3–5.

[xii] Murray N. Rothbard, ‘Justice and Property Rights’, in *Egalitarianism as a Revolt Against Nature and Other Essays*, 2nd ed. (Auburn: The Ludwig von Mises Institute, 2000), 95.

RESPONSE TO BAS VAN DER VOSSSEN

by Mary Jo MacDonald

I'm very grateful for the opportunity to participate in this forum, and especially to Bas van der Vossen for his thought-provoking essay.

Those interested in Locke's work on property have long focused on the passages about labour-mixing. These sections have drawn commentators' attention in part because they are implausible. As van der Vossen points out, it is unclear why mixing one's labour with an unowned resource gives one a right to that resource (we might just be throwing away our labour by mixing it with something we do not already own). Rather than offer another literal interpretation of the labour-mixing passages, van der Vossen instead offers a different approach to understanding Locke's views on property. If we want to understand the content of Lockean property rights, we should try to understand what Locke thinks is the purpose of private property—that is, why he believes it is important to own the fruits of our labour—in the first place.

“FOR LOCKE, THE CONTENT OF ONE'S
RIGHTS, OR OBLIGATIONS, ARE
DETERMINED BY THEIR PURPOSES.”

To my mind, this is a far superior approach to Lockean property rights than one which offers a literal interpretation of the labour-mixing passages. Throughout the *Second Treatise*, virtually all of Locke's arguments about one's rights and obligations take the same form. For Locke, the content of one's rights, or obligations, are determined by their purposes. The purpose of parental rule determines the rights of parents (and the corresponding obligations of children); the purpose of marriage determines the rights and obligations of spouses; and the purpose of political society determines the rights, and importantly the limits, of political power. Given that this is the typical structure

of Locke's arguments, it is surprising that more commentators do not apply this logic to Locke's arguments about property rights. This is partly what I take van der Vossen to be doing. We should pay attention to what Locke says is the purpose of owning private property, the fruit of our labour, because this purpose determines the content and limits of those property rights.

Van der Vossen argues that Locke believes property has two purposes. The first purpose of private property is that it protects us from undue interference in our personal lives. This is intuitive enough. If someone else owns the fruits of our labour, they can then control how we are employed, or who we hire, and what products we buy or sell. Van der Vossen also considers a second purpose of private property. Namely, we have a right to property because it encourages people to labour. By allowing people to own the fruits of their labour, industrious behavior is incentivized.

There is, however, some tension between these two potential purposes of private property—protecting people's personal choices about their labour sits somewhat uneasily with the idea of promoting particular types of productive behavior. Thus, we might expect the content of property rights to look somewhat different depending on which purpose we prioritize. If the purpose of private property is to protect personal choices, then we can expect property rights to be fairly absolute and government interference to be minimal, whereas one's rights might be more limited if the purpose of property is to promote industry. If the purpose of private property is to incentivize labour, then some uses of property might be justifiably restricted. Giving substantial gifts or inheritances, for instance, might dampen one's interest in work and therefore the government might be justified in interfering with these uses of property.

Van der Vossen seems to recognize this tension, and argues that Locke 'strikes a balance' between protecting our personal lives and promoting industry. This is where I disagree. It seems to me that Locke is not really interested in striking a balance at all. Locke's true concerns lie, not with protecting people's personal choices about their labour, but with creating a particular

kind of industrious citizen. That is, he seems content to sacrifice the ‘personal’ if it in any way encourages the citizens to be more industrious.

I think Locke’s *Essay on the Poor Law* provides a clear example. In this essay, Locke offers a set of policy proposals that were meant to overhaul England’s highly localized and parochial system of poverty relief.^[i] In the 1690s, poor relief was largely orchestrated by individual parishes who at once were responsible for tax collection, and served as the first point of contact for alms seekers. Since parishes had significantly different resources, many people traveled from parish to parish in search of aid. The problem, according to Locke, was not that this haphazard system might lead to some poor people falling through the cracks. Rather, Locke was disturbed by the possibility that this haphazard system might be too generous. The undeserving poor—those who are capable of work, but who choose not to—could falsely claim that they couldn’t find employment, while idly traveling from parish to parish to obtain charity. Locke’s aim was to create a more centralized, rigorous system that could prevent this from happening, and set the poor to work.

Locke recommends a variety of policies that he believes will restrain the debauchery of the poor, control their movements, and compel them to work. First, he recommends the “superfluous brandy shops and unnecessary alehouses, especially in country parishes” be shuttered, lest the poor while away their hours there.^[ii] He also recommends that the poor register at their parish and only be permitted to leave with a special exemption or pass. Any man “found begging ... out of their own parish without a pass shall be seized” and forced to do three years hard labour on a naval ship.^[iii] Elderly and disabled men caught without a pass receive a somewhat milder sentence—they should be forced to work several years in a correction house.^[iv] Once the movements of the poor are controlled, the able-bodied can be more easily put to work. Anyone seeking parish relief because he claims to lack employment would be given an offer from the parish minister to work “at a lower rate than is usually given.” If no parishioner agrees to hire him, then the well-off

should be forced to take turns supplying him with work, or paying his wages.^[v] If anyone should refuse an offer of employment, he can be forced to do several years of hard labour on a naval vessel.



Van der Vossen suggests that Locke’s harsh measures in this essay are punitive. The undeserving poor may justly be punished because they threaten the security of our property by taking the charity that rightfully belongs to others. Thus, the government is justified in interfering with their lives in order to protect people’s property. The problem with this interpretation, however, is that it cannot account for all the policies Locke defends. His recommendations go well beyond punishing fraudulent behavior. Locke’s policies also monitor and coerce the ‘worthy’ poor, and even the wealthy in the parish. His policies would dictate where people live, their occupations, and who they can hire, as well as what they can buy and sell. The coercion these people face is not about protecting their property, rather it is clearly about encouraging citizens to develop hard-working characters.

In this response, I have agreed with van der Vossen’s suggestion that we should understand Lockean property rights by considering their purpose. However, if the purpose of private property is to encourage a hard-working personal ethos, then Locke might be less of a champion of free markets than he first appears. In his *Essay on the Poor Law*, Locke expresses his anxiety that a free market may actually corrupt the poor. If people are allowed to choose for themselves those whom they give charity to, employ, or trade with—actions that are typically deemed characteristic of a free market—then people might actually be discouraged from following their divine injunction to labour. At least in his *Essay on*

the Poor Law, Locke does not seem to believe that people have a right to use property in these corrupting ways.

[i] For a good historical overview, see Brundage, Anthony (2002) *The English Poor Laws, 1700-1930*, New York: Palgrave, 2002, pp. 6-8.

[ii] Locke, John (1997) “An Essay on the Poor Law.” In: *Political Essays*, Mark Goldie (ed.) Cambridge University Press, pp. 184.

[iii] Locke, “An Essay on the Poor Law”, 185-186.

[iv] Locke, “An Essay on the Poor Law”, 186.

[v] Locke, “An Essay on the Poor Law”, 188.

certainly true that Locke repeatedly emphasizes the injunction to be productive. He even goes so far, in a letter to Molyneux, as to say that those who do not work for the public good have “no right to eat.” The question is whether this means that Locke would favor an untrammled policy of increasing productivity?

“PEOPLE GET TO OWN THE FRUITS OF THEIR LABOR BECAUSE (A) LABOR IS SOMETHING DEEPLY PERSONAL AND (B) REWARDING LABOR TENDS TO BENEFIT SOCIETY.”

RESPONSE TO THE RESPONSES

by Bas van der Vossen

Mary Jo MacDonald, Brian Kogelmann, and Billy Christmas have written three really interesting and pressing response essays. These responses contain more that merits reply than I can offer. Here, I will address three important points, one by each of the respondents.

Locke’s theory of property, I wrote, strikes a balance between the freedoms of individuals and the interests of communities. People get to own the fruits of their labor because (a) labor is something deeply personal and (b) rewarding labor tends to benefit society. By striking this balance, people can protect their persons in ways that help (instead of coming at the expense of) others around them. And societies can expect contributions from their members without having to assault them.

Mary Jo MacDonald and Brian Kogelman disagree with this reading, albeit from different ends. MacDonald thinks Locke’s view is much more tilted toward the goal of increasing productivity. Kogelmann thinks Locke’s view is not tilted enough toward that goal.

Let’s start with MacDonald’s claim that Locke “seems content to sacrifice the ‘personal’ if it in any way encourages the citizens to be more industrious.” It’s

If he did, Locke might end up with the position Brian Kogelmann seems to think he should have defended. As Kogelmann points out:

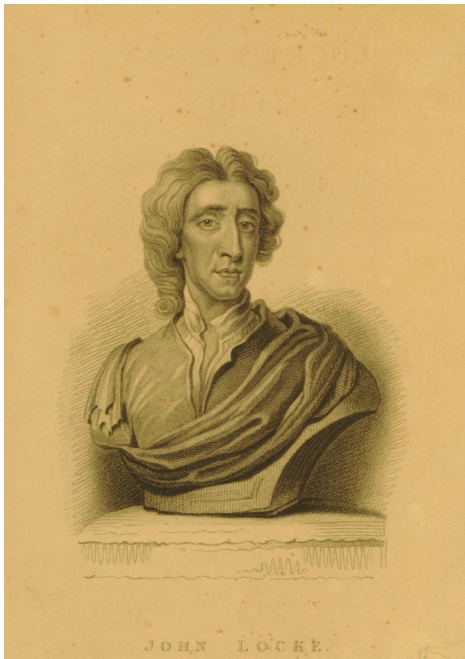
Though laboring often does produce value, it would be best—by Van der Vossen’s own reasoning—to develop a system of property acquisition that encourages persons to always labor in a productive manner.

Both arguments should be rejected, and for the same reason. Consider first Kogelmann’s position that property rights should encourage people to labor in the most productive ways, judged by the long-term effects of different modes of acquisition. There are two problems here. First, a pragmatic problem: this is simply impossible to assess ahead of time. At the time of acquisition, we typically just don’t know what activities will end up having been the most productive. This depends on facts we don’t know, innovations and inventions, and things that happen in the future.

Does this mean we should judge the legitimacy of property rights not before but after the acquisition took place? This is no better. Suppose we say, looking back, that homesteaders should lose their possessions because they weren’t productive enough. This would be a disastrous suggestion of course, including for reasons of productivity. Such a policy would create enormous uncertainty about our rights, and it would discourage investment, labor, risk-taking, and more.

The best we can do, then, is adopt a rule that is *reliably* productivity-enhancing. The Lockean point is about labor being just that.

Or better, *part* of the Lockean point is about labor being just that. The other part is the personal element in Locke's view of labor. And this element seems to be entirely missing from Kogelmann and MacDonald's views. A rule judging property rights *ex post* would not just be disastrous for productivity. It would also be disastrous judged from a personal standpoint. The rule that our rights get undercut if we are not productive enough will end up severing people from the fruits of their (very personal) labor. And that constitutes an assault on the personal that Locke's theory is designed to prevent.



Here is one point where we can see this element missing from Kogelmann's argument. Property acquisition, Locke stresses, can happen *unilaterally*. That is, we can acquire property without asking anyone's permission. This is important because acquiring property is what we do when we make a living in this world. And we need no one's permission to be free to make a living.

So, even if we can achieve higher long-term productivity gains overall by having the government auction off plots of land, such a system would still be unacceptable to the Lockean. It would make our ability to own things

contingent on getting the approval of bureaucrats, politicians, or our neighbors. To Locke, that is unacceptable. No one has such power over us.

Lockean property, therefore, cannot depend on welfare only. Similarly, whatever Locke might have in mind with his (startling) policies proposed in the *Essay on the Poor Law*, he cannot be thought to say that innocent persons should be forced to greater industriousness. That would be a nonstarter.

This prohibition of violating individuals also answers a question Billy Christmas raises. Christmas wonders how the values of freedom and equality support commercial society, once we move beyond the initial stages of property acquisition. He asks:

If every person were denied 25% of the value of their labour (for example, by a tax collector), in what way would their right to control their labour be undermined or violated? They still get to work how they want and with whom they want – how do freedom and equality relate to the number that shows up on one's pay-check?

Note that the exchange Christmas describes does not *establish* but *presupposes* property rights. We can only (justly) exchange what we own in the first place. Only against such a background of ownership does *exchange* come into the picture. (If my paycheck was lying on the sidewalk, not owned by anyone, I wouldn't need to work for it.)

Against that background, the 25% tax is an intrusion on something I own. And, by extension, that's an intrusion on something personal. Just as our labor is personal, so too are our possessions. (Hence the connection between labor and property.) When others take our possessions against our will, they are violating us as free and equal beings. By taking, they show they don't need our consent – that our rights don't mean anything for them. That is not something that happens among equals.

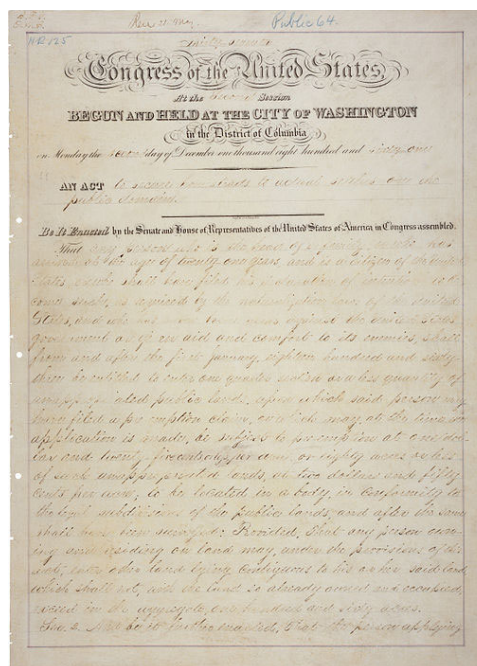
In the end, then, Locke's theory still looks attractive. It's important that property rights serve the community. But it's also important that they protect us as individuals. Even if non-Lockean systems increase our welfare even

more, that doesn't show they are better. The test remains the Lockean one: what system benefits us all without sacrificing any?

UNPRODUCTIVE INCENTIVES

by Brian Kogelmann

Bas van der Vossen's [initial essay](#) offered a defense of Locke's labor-mixing theory of property acquisition by arguing that it was at the intersection of the personal and productive. By mixing our labor with an unowned object, we create something that is *personal* to us, and also something that is *productive* for society. In my response, I pushed back against the latter claim. Mixing our labor with resources is not always productive. In fact, I argued that a system of property acquisition that allocates [property rights](#) according to labor mixing may *incentivize* persons to mix their labor in unproductive ways. Saying "whoever first mixes their labor with x is the owner of x " may encourage persons to occupy land before there is net positive value to doing so; it may also encourage persons to mix their labor with resources in unproductive ways. Some economists believe that this is what happened with the Homestead Act of 1862. The act allocated property through a system of labor mixing. Many believe this was economically inefficient.



First page of the Homestead Act of 1862

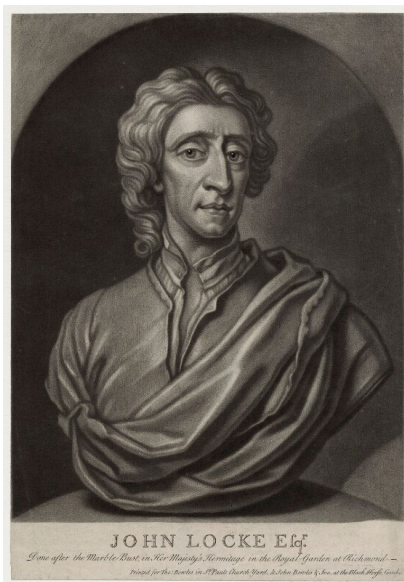
In his reply, Van der Vossen pushes back against my argument. His main concern is that “at the time of acquisition, we typically just don’t know what activities will end up having been the most productive. This depends on facts we don’t know, innovations and inventions, and things that happen in the future.” One way around this problem is to grant property rights *after* someone has acquired a resource and has done something with it. If they have done something sufficiently productive with the resource, then we grant them a right to it. If they have not done something sufficiently productive with the resource, then they do not get a property right. Van der Vossen rejects this approach, as “such a policy would create enormous uncertainty about our rights, it would discourage investment, labor, risk-taking, and more.”

I agree with Van der Vossen that property rights should not be granted *after* persons have acquired resources and done things with them. However, I want to push back against Van der Vossen’s claim that we cannot know, beforehand, which sorts of activities will be productive and which ones will not. Of course, we can never know, with 100 percent certainty, which activities will be productive. However, some may have a better guess than others. If so, then those with a better guess as to what

sorts of activities will be productive should be the ones who set the rules of property acquisition.

Let me propose a method for allocating property rights; after doing so, I will argue that it is superior to the Lockean system in terms of incentivizing productivity.^[1]

In the early days of Westward expansion in the Americas, property rights were defined and enforced by *claim clubs*.^[2] Claim clubs were informal organizations that specified, enforced, and adjudicated the property claims of their members, oftentimes using coercive means to do so, though they were entities that existed outside the formal contours of the state. What is interesting about claim clubs is that they deployed a diversity of methods for allocating property rights. For instance, three claim clubs in Iowa required persons to perform labor on the land in order to gain a property right; the rest of the Iowa claim clubs did not require labor mixing.^[3] So, only *some* claim clubs adhered to the Lockean labor-mixing standard; the others did not. Among those clubs that did require labor mixing, there is still more diversity. In Webster County, claimants had to expend \$10 worth of labor every month after the initial month, while in Poweshiek county claimants had to perform \$30 worth of labor every six months.^[4] In Cherry Creek Valley, Colorado, claimants had to perform \$50 worth of improvements within the first 50 days, and another \$25 worth of improvements during each successive quarter.^[5]



Why so much diversity in terms of appropriation rules among claim clubs? The answer is that “clubs adapted regulations to local conditions.”^[6] There is no general answer to the question: what is the optimal use of resource x ? Answers to this question are highly contingent on time and place. In some times and places, the optimal use of resource x requires that the resource be labored on immediately. In other times and places, the optimal thing to do with x (for reasons given in my prior essay) may be to let persons hold x without laboring on it for the time being. Claim clubs could account for this variation, by specifying appropriation rules that could adapt to local conditions.

Some economists believe that claim clubs produced more efficient appropriation rules than the labor-mixing standard set by Lockean and by the Homestead Act. Why? Because the rules set by claim clubs were formed by residual claimants. To put it another way, those who formed appropriation rules had skin in the game. An appropriation rule adopted by a claim club that destroyed wealth would destroy *their* wealth, so the incentive was to form rules that discouraged unproductive resource use. As economists Terry L. Anderson and Peter J. Hill describe it: “because members of land-claims clubs had a direct stake in the outcome, they had an incentive to develop an orderly process that minimized the expenditure of resources in establishing property rights. Defining and enforcing property rights took some effort, but to the extent possible the effort was focused on productivity.”^[7]

Let us now return to Van der Vossen’s main criticism of my essay. Van der Vossen argues that we cannot know which activities will be productive *ex ante*, so we might as well go with the labor-mixing standard, which is productive enough. I agree that we can never know, with 100 percent certainty, what activities will be productive. But the relevant question here is: *who will have a better guess as to what will be productive*, the Lockean theorist who sets an appropriation rule for all to follow, or those in local communities who have skin in the game? I believe it is the latter, which is why I think local appropriation rules set by local communities would produce a more efficient

allocation of property rights, at least when compared to the Lockean labor-mixing standard applied indiscriminately to all persons in all contexts.

[1] Here I draw on my essay “Lockeans against Labor Mixing,” *Politics, Philosophy & Economics* 20 (2021): 251-272.

[2] For an excellent overview of claim clubs, see Iliia Murtazashvili, *The Political Economy of the American Frontier* (Cambridge: Cambridge University Press, 2013).

[3] Terry L. Anderson and Peter J. Hill, “Privatizing the Commons: An Improvement?” *Southern Economic Journal* 50 (1983): 444-445.

[4] *Ibid.*, 445.

[5] Murtazashvili, *The Political Economy of the American Frontier*, 74.

[6] *Ibid.*, 73.

[7] Terry L. Anderson and Peter J. Hill, *The Not So Wild, Wild West* (Palo Alto: Stanford University Press, 2004): 160.

PROPERTY, PRODUCTIVITY, AND CREATING GOOD CHRISTIANS

by Mary Jo MacDonald

Bas van der Vossen’s [first essay](#) offers two justifications for Locke’s theory of property—first, it protects people’s personal choices and, second, it fosters productive activity that is beneficial for society as a whole. In my response I suggested that, as appealing as this defense of property might be, it is not a completely faithful reading of Locke. Drawing on Locke’s [Essay on the Poor Law](#), I argued that Locke does not appear interested in striking a balance between protecting the personal and promoting the productive—he appears content to sacrifice the personal if it encourages citizens to be more industrious.

Van der Vossen has pushed back against this reading, partly by drawing on Kogelmann’s response. Kogelmann argued that the Lockean view does not promote [productivity](#) enough because it allows people to acquire property merely by labouring (and not all forms of labour are productive). Van der Vossen argued that if my interpretation of Locke is correct, then Locke would actually favour Kogelmann’s policies that would lead to ‘untrammelled productivity’ by rewarding only specific kinds of labour. Van der Vossen argues that Locke clearly does not defend these types of policies, and it must be because he values protecting people’s personal choices.



I would like to clarify that I do not believe Locke favoured policies that will lead to untrammelled productivity. After all, many of his recommendations in the poor law would have *forced* people to labour, but not in maximally productive ways. On my reading, Locke believed that labour should give one a right to property, even if that labour was not particularly productive. However, contrary to van der Vossen’s reading, I don’t think this is because Locke was concerned about protecting personal choices. Rather, Locke valued labour, not only because it benefited society, but also because it benefited the individual’s character—it made the individual a particular kind of person, even if his labouring wasn’t productive.

I agree with van der Vossen that Locke offers two justifications for private property, and his work represents an attempt to strike a balance between these two. I disagree, however, with the idea that Locke’s theory of property is about balancing the good of society with the individual’s personal choices. For Locke, labour isn’t a personal choice—it is a divine injunction and

punishment, which should not be flouted by anyone. Locke’s theory of property, then, is not trying to protect individuals’ personal choices, but instead trying to create better Christians. For Locke, the purpose of property is not just to promote productivity in society, but also to create a certain type of hardworking, labouring Christian. Even if that labouring is not itself productive for society, it does help the individual. Thus, Locke is not particularly concerned with protecting individual choice, but rather with creating certain types of citizens.

account of legitimate possession that itself is reflective and expressive of that status.

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PROPERTY, FREEDOM, AND EQUALITY

by Billy Christmas

Van der Vossen argues that the principle that we should keep what we make is constructive for structuring the system of property and contract that constitute and regulate commercial societies. In my original response essay, I noted that there is (and, not without some intuitive plausibility) slippage between getting to keep physical objects that we make with our own efforts, out of materials no one else has a claim to *ex ante*, and getting to keep the total quantity of money one might happen to get in exchange for it. No doubt, a plausible theory of distributive justice could be constructed to buttress this, but such a theory would surely centre of desert and not on freedom and equality.

Van der Vossen replies that, contrarily, getting to keep the total sum of whatever another person agrees to part with in exchange for that which we have made, is simply our getting to keep our own property. Whatever another person agrees to part with for the sake of what we are offering them just is our property because, in some extended sense, we made it (or at least, its quantitative analogue). For a third party to intervene and take a portion of that payment for themselves would be for them to violate our status “as free and equal beings.” I agree that taking someone else’s legitimate possessions does indeed so violate her, but only because I endorse an

In order to complete his argument, I believe, van der Vossen needs to show why a person is entitled to or naturally owns however much money a person is willing to pay them for the work of their hands on the basis of freedom and equality. To invoke freedom and equality only after the question of property is settled is to not ground property acquisition in freedom and equality, but for freedom and equality to presuppose a property settlement.

If the claim is that, in imposing some tax on exchanges, the parties to the exchange have their control of their labour – and hence, their bodies and their choices – violated, then this would be a promising view. If a right to control oneself implies that one’s exchanges cannot be taxed, then given that a right to control oneself can plausibly be grounded in freedom and equality, then the full-fruits principle is vindicated on those grounds also. However, it is not clear why my right to determine what I do with my hands implies that I have a right to the full amount of what another person estimates its value at, on this view.¹

1. See for example John Christman’s distinction between control rights and income rights John Christman, ‘Self-Ownership, Equality, and the Structure of Property Rights’, *Political Theory* 19, no. 1 (1991): 28–46.)

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