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Contract Feudalism: Reply to a Reply

Kevin Carson

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...we... know... that Carson and co would be denouncing contract feudalism... regardless of whether there was a government subsidy for the company or not.

And again:

If the land could be proved to have been passed down (or sold) from the first occupiers... [sic] Mr. Carson and co would still find some reason to attack business enterprises over the “wage system”.

I am tempted, in similar spirit, to speculate on Mr Marks’ motivation. I am tempted to speculate that he is constantly on the lookout for “excuses” to defend the justice of property titles held by the existing propertied classes, to defend their profits as the result of superior productivity in the competitive marketplace, and to defend their wealth as the result of past superior virtue. I am tempted to speculate that he would “find some reason” to do so regardless of the facts of the case. That would be a reasonable assumption, given that one of the major constituencies of the Tory Party he has been elected to represent⁷ is the several thousand people who own most of the land of Great Britain. It’s tempting to suspect that he would “find some reason” to wax eloquent over the sanctity of “private property rights” even if the current landlords could be shown to have inherited the land in unbroken succession from one of William the Conqueror’s barons, and that their tenants could trace an unbroken ancestral line to the peasants who worked the land at the time of the Conquest. I could engage in such speculation – but, as Richard Nixon would say, that would be wrong.

⁷ ‘Councillor Paul Marks’, Kettering Borough Council website, 2008, retrieved 8th March 2008,

The Libertarian Alliance was kind enough, in 2006, to publish my pamphlet *Contract Feudalism: A Critique of Employer Power over Employees*.¹ Since then, Paul Marks, a Conservative councillor on Kettering Borough Council, has taken the trouble to reply to it with a pamphlet of his own: *A Critique of a Critique: An Examination of Kevin Carson’s Contract Feudalism*.²

As grateful as I am for the attention, I hesitate to undertake a response. Mr. Marks’ effort has been lionized in the libertarian blogosphere. For example, Stephan Kinsella of Mises Blog calls it “a brilliant, solid, and interesting analysis” of my pamphlet,³ and Perry De Havilland of Samizdata praises Mr. Marks for being “in splendid and splenic form.”⁴ One of the commenters at Samizdata dismisses me as a “yapping Pomeranian” in comparison to Mr. Marks’ “English mastiff.” Nevertheless, even though I take my life into my own hands in confronting this formidable mastiff, I feel I owe him some sort of response as a matter of courtesy.

Contract Feudalism Restated

Toward the beginning of his critique (I say *toward* the beginning because it’s the first substantive comment following a rambling dissertation on assorted topics like the semiotics of the Voluntary Cooperation Movement emblem), he asks just what “contract feudalism” is supposed to mean (followed by another

¹ Kevin Carson, *Contract Feudalism: A Critique of Employer Power over Employees*, Economic Notes No. 105, London, Libertarian Alliance, 2006.

² Paul Marks, *A Critique of a Critique: An Examination of Kevin Carson’s ‘Contract Feudalism’*, Economic Notes No. 108, London, Libertarian Alliance, 2007.

³ Stephan Kinsella, ‘A Critique of Kevin Carson’s Contract Feudalism’, Mises Blog, 21st June 2007, retrieved 25th February 2008, <http://blog.mises.org/archives/006766.asp>.

⁴ Perry de Havilland, ‘A critique of a critique’, Samizdata, 21st June 2007, retrieved 25th February 2008, http://www.samizdata.net/blog/archives/2007/06/a_critique_of_a.html.

rambling tangent on the historical meaning of the term “feudalism”.) Contract feudalism,” put simply, refers to the persistence of superior-subordinate relations reminiscent in substance to those under previous regimes of status, but under the guise of a *de jure* regime of contract. Lysander Spooner put it pretty well in *Natural Law*:

“In process of time, the robber, or slaveholding, class – who had seized all the lands, and held all the means of creating wealth – began to discover that the easiest mode of managing their slaves, and making them profitable, was not for each slaveholder to hold his specified number of slaves, as he had done before, and as he would hold so many cattle, but to give them so much liberty as would throw upon themselves (the slaves) the responsibility of their own subsistence, and yet compel them to sell their labor to the land-holding class – their former owners – for just what the latter might choose to give them. Of course, these liberated slaves, as some have erroneously called them, having no lands, or other property, and no means of obtaining an independent subsistence, had no alternative – to save themselves from starvation – but to sell their labor to the landholders, in exchange only for the coarsest necessities of life; not always for so much even as that.

These liberated slaves, as they were called, were now scarcely less slaves than they were before. Their means of subsistence were perhaps even more precarious than when each had his own owner, who had an interest to preserve his life. They were liable, at the caprice or interest of the landholders, to be thrown

wasn't that exactly what privatization amounted to: action against the (state) owners of the means of production? If Mr Marks means to say that a just basis for property rights is no better, in its effects, than an unjust basis, then that's a remarkable assertion indeed.

Rothbard himself, whom Mr. Marks is so fond of quoting, took in contrast something of a *ruat coelum* approach – “Let justice be done, though the heavens fall” – to “action against the owners of the means of production,” when those owners' titles were illegitimate.

But in fact, in the majority of cases, I favor no action against the existing owners of capital. I prefer simply to open up the capital markets to free and full competition, and eliminate the scarcity rents accruing to the present owners' property. The result will be that the portion of current profits which are a rent on artificial scarcity will evaporate; and the portion of their assets' present value, which is the capitalized future earnings from such rents on privilege, will simply drop through the floor. When they are thus cut off from monopoly profits and from direct infusions of cash from the government teat, and the value of their assets falls to reflect the loss of their monopoly returns, it is they who will be selling off those assets.

Excuses, excuses

I'm not surprised at Mr. Marks' reflexive defense of all *de jure* property titles, without regard to their justice. In numerous online venues, following the publication of his “critique,” he ventured gratuitous assessments of my motives, speculating that whatever changes were made in the current state of affairs, I would still be looking for excuses to blame the wealthy for the plight of the poor. For example, he writes in the commend thread to de Havilland's Samizdata post,

the time who carried out and directly benefited from the Enclosures. The propertied classes clearly believed that they were robbing the peasantry in order to make them work harder, while paying them less.

Legitimate and Illegitimate Ownership

Mr. Marks also concedes, half-heartedly, that some “taxes and regulations” might act as partial barriers to self-employment (although he denies in the next breath that “it is just these taxes and regulations that lead to most people working for wages”). But he asks, rhetorically, how employment regulations could be the fault of the employer, when such regulations are all the work of tree-hugging hippie types who “are under the delusion that there is or should be something called a ‘balance of power’ between the buyer and seller of a good or service, and that if there is not a contract is ‘unfair.’” I wonder if Mr. Marks is familiar with Adam Smith’s dictum that “[w]henver the legislature attempts to regulate the differences between the masters and their workmen, its counselors are always the masters.” Those tree-hugging hippies merely illustrate the “Baptist” side of the classical “Baptists and bootleggers” paradigm; or as Roy Childs put it, liberal intellectuals are the running dogs of big business.

Mr. Marks also asserts that “action against the owners of the means of production [would] make life even more shit than it is now.” Apparently Mr. Marks is either assuming the justice of those owners’ property, or simply glossing over the whole question of justice in ownership. As Karl Hess pointed out almost forty years ago, libertarianism does not defend property as such.

If Mr. Marks’ policy is the reflexive defense of all property titles without regard to questions of justice in acquisition, then he might just as well have made the same argument in the context of the state-owned means of production in the old USSR. After all,

out of home, employment, and the opportunity of even earning a subsistence by their labor”.⁵

Although Spooner’s primary focus was on agricultural wage labor, rather than the industrial and service kinds that predominate in our economy, the basic principle of labor’s dependency when it has been separated from the means of production and subsistence is essentially the same. A worker who is utterly dependent on employment, in a market where those in search of employment outnumber the available openings, is dependent on the whims of an employer for his food and shelter. The greater his dependence, the greater the degree of his subjection to his employer’s whims, both on and off the job.

At one point in his critique, Mr. Marks sums up my article in these words (p. 4):

“Some employers even demand that their employees do not express opinions that they do not like – otherwise they fire you and you have to go and work for less money”. Err yes, and Mr Carson’s point is?”

My *point*, the central theme of my original pamphlet, was to examine the *reasons* that employers are *in a position* to make such demands in the first place. My point was that the state intervenes in the market to make the means of production artificially scarce and expensive compared to labor, so that workers are competing for jobs rather than the reverse, and employers rather than workers have the primary weight in setting the conditions of the employment relationship.

Mr. Marks goes on, in the following passage, to betray even further his almost total incomprehension of what he has chosen to “critique” (p. 4):

⁵ Lysander Spooner, *Natural Law*, 1892, retrieved 25th February 2008, <http://jim.com/spooner.htm>

“...[Life] sucks.... It even “sucks” for Prince Charles and other people of great inherited wealth—they still age... and go through all the pain and humiliation that this means. And if they live long enough they get to see all their closest friends (as well as their parents and other relatives—sometimes even their own children) die.

As for people who are born without wealth and can think of no way of making a lot of money, their lives tend to be even worse than the lives of people who are neither born with a lot of money or who think of way [sic] of earning a lot.”

Calling it “irrelevant” begs the precise point at issue. But this is hardly cause for surprise, since Mr. Marks shows an almost total unawareness, anywhere in his “critique,” of the actual points made in the paper he is critiquing. His reference to “irrelevance” is in fact quite ironic, given that most of his own paper is completely irrelevant to any of the points made in mine.

On the latter point, the utter irrelevance of his “critique” to any actual arguments in my pamphlet, he spends almost an entire column – in a pamphlet of three two-column pages—analyzing the hidden meaning of the Voluntary Cooperation Movement’s logo. He devotes an even larger number of column inches to an amateur diagnosis of the temperamental or psychiatric causes behind my views – most of them, apparently, boiling down to a feeling on my part that “life sucks,” or a Gnostic predilection for assuming that, behind any unpleasant state of affairs, there lurks an injustice. My alleged response to all the thousand natural shocks that flesh is heir to, to the impossibility of our both eating and having our cake, is the spoiled child’s lament that “life isn’t fair,” that therefore “it must be someone’s fault” – and my solution is to “plot against the owners of the means of production.”

days”. [“Essay on Trade and Commerce” (1770)]

“[E]very one but an idiot knows that the lower classes must be kept poor, or they will never be industrious.” [Arthur Young]

“...the use of common land by labourers operates upon the mind as a sort of independence.” [The Board of Agriculture report in Shropshire (1794)]

“[Leaving the laborer] possessed of more land than his family can cultivate in the evenings [means that] the farmer can no longer depend on him for constant work. [Commercial and Agricultural Magazine” (1800)]

“[Among] the greatest of evils to agriculture would be to place the labourer in a state of independence”. [Gloucestershire Survey (1807)]

According to other commentary in the Board of Agriculture reports of the time, Enclosures would force laborers “to work every day in the year,” and cause children to “be put out to labour early”; the “subordination of the lower ranks of society... would be thereby considerably secured.”⁶

Those are all pretty frank admissions of purpose. In a Scooby Doo cartoon, this is about where the villain would add: “...and it would have worked, if it wasn’t for you meddling kids.” This commentary came, I stress once again, not from followers of John Ball and Wat Tyler, not from True Levelers, not from the partisans of Thomas Paine, but from the propertied and employing classes of

⁶ Carson, *ibid.*, ch. 4.

and yet continually spend what they get... Those that get their living by their daily labour... have nothing to stir them up to be serviceable but their wants which it is prudence to relieve, but folly to cure... To make the society happy and people easier under the meanest circumstances, it is requisite that great numbers of them should be ignorant as well as poor...". [Mandeville, *Fable of the Bees*]

"... to lay them under the necessity of labouring all the time they can spare from rest and sleep, in order to procure the common necessities of life." [1739 pamphlet]

"That mankind in general, are naturally inclined to ease and indolence, we fatally experience to be true, from the conduct of our manufacturing populace, who do not labour, upon an average, above four days in a week, unless provisions happen to be very dear... I hope I have said enough to make it appear that the moderate labour of six days in a week is no slavery... But our populace have adopted a notion, that as Englishmen they enjoy a birthright privilege of being more free and independent than in any country in Europe. Now this idea, as far as it may affect the bravery of our troops, may be of some use; but the less the manufacturing poor have of it, certainly the better for themselves and for the State. The labouring people should never think themselves independent of their superiors... It is extremely dangerous to encourage mobs in a commercial state like ours, where, perhaps, seven parts out of eight of the whole, are people with little or no property. The cure will not be perfect, till our manufacturing poor are contented to labour six days for the same sum which they now earn in four

So what is the central point of my original article? Let's go back to Mr. Marks' concession in the quote above, that even if life sucks for everybody (p. 4):

As for people who are born without wealth and can think of no way of making a lot of money, their lives tend to be even worse than the lives of people who are neither born with a lot of money or who think of way of earning a lot."

The point of my original article was precisely why this state of affairs is relevant – which relevance Mr. Marks simply denies, with almost nothing in the way of substantive argument to support his bare assertion.

Whether the fact of being born without wealth, or the scarcity of means of making money, is "relevant" (although Mr. Marks uses the term without an object, I assume he means "relevant to questions of justice"), depends on the cause of that state of affairs. Most of my original article was taken up, not with mere assertions that life sucks worse for the non-wealthy, but with substantive arguments as to *how* most people came to be born with little wealth, and *why* they face limited opportunities for obtaining it, and the injustice of the process by which their lives were thereby caused to "suck." I'm amazed that Mr. Marks would take it upon himself to write a "critique" of an article whose central arguments he made such manifestly little effort to understand.

Libertarianism and Scarcity

The reason that things "suck" (as Mr. Marks puts it) for the average person even more than for the wealthy, I argued, is that the state intervenes in the economy on behalf of the owners of land and capital, to make land and capital artificially scarce and thereby to enable their owners to charge artificial scarcity rents for access

to them. I did not simply assert this, but devoted some space to detailed arguments in support of my thesis.

Mr Marks' entire response to this argument, on the other hand, amounts to little more than a simple gainsaying, coupled with a straw man characterization of my position (p. 2):

“Neither land nor capital are [sic] “artificially scarce” – they are just scarce (period). There are billions of people and only a certain amount of land and machinery. [T]he idea that land and capital are *only* scarce [emphasis mine] compared to the billions of people on Earth because of either wicked governments or wicked employers (or both) is false.”

First, simply to get the second part of Mr. Marks' statement out of the way, I nowhere asserted that *all* scarcity of land and capital is artificial. I argued only that they were more scarce, as a result of state-enforced privilege, than they would otherwise be, and that returns on land and capital were therefore higher than their free market values. In any case, as Franz Oppenheimer observed, most of the scarcity of arable land comes not from natural appropriation, but from political appropriation. And the natural scarcity of capital, a good which is in elastic supply and which can be produced by applying human labor to the land, results entirely from the need for human labor for its creation; there is no fixed limit to the amount available.

But getting to his main point, that land and capital are not artificially scarce, I'm not sure Mr. Marks is even aware of his sheer audacity. In making this assertion, he flies in the face of a remarkable amount of received libertarian wisdom, from eminences as great as Mises and Rothbard. As a contrarian myself, I take my hat off to him.

Still, I wonder if he ever made the effort to grasp the libertarian arguments, made by Rothbard *et al*, that he so blithely dismisses.

land in England was stolen from the peasants.” While conceding that it “may be true,” he challenges its relevance on the basis of the Norwegian example. Nothing like Enclosures or other abrogations of traditional peasant land tenure occurred in Norway, he says, and yet wage labor came to predominate there.

I can't speak to that specific example, not being sufficiently familiar with Norwegian history to comment on issues of land tenure in that country. I will point out, though, that one swallow does not a summer make. And I did not argue that land expropriation was the sole cause of the wage system's predominance. In denying that land expropriation alone was responsible for the wage system, Mr Marks resembles Lincoln's Jesuit who, accused of murdering twelve men and a dog, triumphantly produced the dog in court.

In any case, even if I can't competently address the Norwegian example, I do at least know something about the history of land tenure in Great Britain – the original seat of the Industrial Revolution from which industrialism spread to other countries (including Norway). And in that country, the predominant sentiment of the propertied classes of the time (the “owners of the means of production”) was clearly in favor of land expropriation as a way to extract more effort from the peasantry on terms more favorable to the owning classes.

The contemporary literature of the propertied classes' was full of explicit commentary to that effect.

“It would be easier, where property is well secured, to live without money than without poor; for who would do the work? ... As they ought to be kept from starving, so they should receive nothing worth saving. If here and there one of the lowest class by uncommon industry, and pinching his belly, lifts himself above the condition he was brought up in, nobody ought to hinder him; ...but it is the interest of all rich nations, that the greatest part of the poor should almost never be idle,

of Undershot would give them, because they had no choice but to beg, steal or starve. Their misery and degradation did not lie at the door of individualism; they lay nowhere but at the door of the State. Adam Smith's economics are not the economics of individualism; they are the economics of landowners and mill-owners. Our zealots of positive intervention would do well to read the history of the Enclosures Acts and the work of the Hammonds, and see what they can make of them."

Here's what Mr Marks (p. 2) gets from it:

"Mr. Nock does not mention any real industrialists (at least not in the quote given) there is no mention of (say) Mr Wedgewood or Mr Arkwright, instead Mr. Nock mentions Mr. Bounderby, Mr. Gradgrind and Mr Plugson – all of whom were characters from Dickens (not real people). I suppose this is done to generate hatred of factory owners and their "starvation wages..."

Surely anyone with a normal capacity for reading comprehension would infer that Nock intended this paragraph as a *critique* of Dickens. The evils of the factory system, and of the colorfully named characters associated with it in Dickens' fiction, were not the result of "laissez-faire," or of "rugged individualism," or of the political economy that Dickens so despised. After all: where, as Nock asked, did those things even exist in England? Even the factory owners, Nock argued, were guilty only of taking advantage of a pre-existing situation: the creation of a propertyless class of wage laborers by assorted land expropriations of early modern times.

The closest Mr. Marks gets to directly addressing my arguments in a substantive way is in a brief allusion to my discussion of primitive accumulation, the process by which (among other things) "the

Is he even aware of the logical difficulties entailed in repudiating them? Does he deny that state enforcement of titles to land that is both vacant and unimproved reduces the amount available for homesteading? Does he deny that the reduced availability of something relative to demand is the very definition of "scarcity," or that the reduction of supply relative to demand leads to increased price? Or is his argument rather with Rothbard's moral premises themselves, rather than the logical process by which he makes deductions from them? I.e., does he deny that property in unimproved and vacant land is an invalid grant of privilege by the state, and thereby repudiate Locke's principle of just acquisition?

It seems unlikely, on the face of things, that Mr. Marks would expressly repudiate Mises and Rothbard on these points. After all, elsewhere in his critique he cites *Human Action* and *Man, Economy and State* as authorities. Perhaps he just blanked out on the portions of their work that weren't useful for his apologetic purposes.

In any case, if he does not repudiate either Rothbard's premises or his reasoning, Mr. Marks has dug himself into a deep hole. For by Rothbard's Lockean premises, not only the state's own property in land, but "private" titles to vacant and unimproved land, are illegitimate. Likewise, titles derived from state grants are illegitimate when they enable the spurious "owner" to collect rent from the rightful owner – the person who first mixed his labor with the land, his heirs and assigns. And the artificial scarcity of land resulting from such illegitimate property titles raises the marginal price of land relative to that of labor, and forces labor to pay an artificially high share of its wages for the rent or purchase of land.

Time Preference and Capital

Likewise, in the case of capital, Mr. Marks asserts that interest rates, "[i]n reality... are determined by time preference" (or, he adds, by risk premium). In stronger terms, he characterizes as "bull-

shit” the argument that interest rates, absent the licensing of banks, would fall to a “very low level.” (I can’t resist pointing out, by the way, that Mr. Marks conflates time preference with abstinence and sacrifice in a way that surely has Bohm-Bawerk spinning in his grave).

Now, in the past I have specifically acknowledged the existence of time preference as a component of gross interest.⁶ But time preference is a dependent variable, depending on the wealth, and the economic security and independence, of the individual. The person who owns his own home and means of livelihood free and clear, and possesses sufficient savings as a cushion against economic uncertainty or temporary unemployment, will have a time preference far less steep than that of another person who owns no property, has no savings, and will be homeless and hungry if he misses next week’s pay check and is unable to pay rent and buy groceries. Thus, the distribution or concentration of property ownership will affect the prevailing time preference among laborers, and with it the ordinary rate of interest. Any state policy that affects the distribution of property, therefore, will affect the level of time preference. And it is my belief that in a society of widely distributed property ownership, with high rates of free and clear home ownership, and with high rates of self-employment or cooperative enterprise ownership, the steepness of the average worker’s time preference would be much, much lower.

But even aside from the steepness of time preference itself, on what grounds can Mr. Marks deny that the gross interest rate includes, in addition to time preference, monopoly premiums resulting from state-enforced entry barriers in the credit industry? Such a denial is – what’s the word? ah, yes – bullshit.

Murray Rothbard himself pointed to exactly that kind of monopoly premium, resulting from precisely analogous entry barriers, in the life insurance industry. By mandating levels of capitalization beyond those required by purely actuarial considerations, the state reduced the number of firms competing to supply

life insurance and enabled them to charge a monopoly price for the service. That’s exactly what Benjamin Tucker described the effect of state banking law: by mandating capitalization requirements for institutions in the business of making secured loans, over and above the collateral provided as security of individual loans, the state enabled banks to charge a monopoly rate of interest for secured loans. That seems fairly straightforward and simple to understand – but perhaps not.

The Historical Record in Fact and Fiction

In some cases, Mr. Marks displays an almost preternaturally poor level of reading comprehension. For example, my original article (p. 4) included this quote from Albert Nock:

“The horrors of England’s industrial life in the last century furnish a standing brief for addicts of positive intervention. Child-labour and woman-labour in the mills and mines; Coketown and Mr Bounderby; starvation wages; killing hours; vile and hazardous conditions of labour; coffin ships officered by ruffians – all these are glibly charged off by reformers and publicists to a regime of rugged individualism, unrestrained competition, and laissez-faire. This is an absurdity on its face, for no such regime ever existed in England. They were due to the State’s primary intervention whereby the population of England was expropriated from the land; due to the State’s removal of the land from competition with industry for labour. Nor did the factory system and the “industrial revolution” have the least thing to do with creating those hordes of miserable beings. When the factory system came in, those hordes were already there, expropriated, and they went into the mills for whatever Mr Grad grind and Mr Plug son