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Libertarian Property and Privatization

An Alternative Paradigm

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Contents

Alternative Means of “Privatizing” State Property	8
Privatization in Post-Communist Societies . . .	11
Practical Difficulties of Corporate Capitalist Privatization of State Property	13
Expropriation of “Private” Property of Statist Ruling Class	14
Landlordism and the State	17
Conclusion	19

room for the vision of, say, Colin Ward and Ivan Illich, instead of just Uncle Milty and John Galt, would be a lot more humanly tolerable.

Among non-libertarians, libertarianism is often perceived as just a form of Republicanism that's soft on drug laws. In many cases, this is unjust. The libertarian movement includes a very large petty bourgeois, populist strand that goes back to Warren and Tucker and the other individualists, and has been passed down through the hands of Nock and Mencken. And most Rothbardians adhere to principles that would mean the destruction of most big business as it exists today.

But in too many cases, the perception is unfortunately quite just. A large segment of the libertarian movement is a glorified apology for those currently on top: for big business against small business, consumers and labor; corporate agribusiness against organic farmers; for oil, timber and mining companies who want access to government land with politically determined leases; and for the settlers in Third World pariah states or former pariah states like Israel and Zimbabwe at the expense of the native dispossessed. Or in the words of Cool Hand Luke, "Yeah, them pore ole bosses need all the help they can get."

If libertarianism continues to be perceived in this way, as an elaborate justification of sympathy for the haves against the have-nots, we don't stand a snowball's chance in hell of ever achieving victory. But if we act on the principles of non-aggression and non-coercion, even when those principles are harmful to big business, we will have the basis for a genuinely libertarian coalition of left and right that can storm the citadel of the State. I hope I have provided some concrete examples of how these principles can be applied in response to current issues.

Carlton Hobbs recently challenged the tendency of mainstream libertarians, free marketers and anarcho-capitalists to favor the capitalist corporation as the primary model of ownership and economic activity, and to assume that any future free market society will be organized on the pattern of corporate capitalism. As one alternative to such forms of organization, Hobbs proposed "*stateless common property*," with usufructory right possessed by the inhabitants of a given area, coming about "*without any prior formal agreements incorporating a potentially imprecise owning group*." He gave, as historical examples of such kinds of ownership, public rights of way, or villagers' rights of commons in a field, well or wood.¹ The questions he raised are applicable on a much broader scale.

Libertarians and anarcho-capitalists, in calling for the abolition of state property and services, typically call for a process of "privatization" that relies heavily on the corporate capitalist model of ownership. The property of the State should be auctioned off and its services performed by, say, GiantGlobalCorp LLC. And the picture of the future market economy, so far as business enterprise is concerned, is simply the present corporate economy minus the regulatory and welfare state—an idealized version of Nineteenth Century "robber baron capitalism." The former tendency ignores other alternatives, equally valid from a free market anarchist perspective, such as placing government services like schools and police under the cooperative control of their former clientele at the town or neighborhood level. And the latter tendency ignores the issue of state capitalism, of the extent to which the giant corporations that have received the lion's share of their profits from the State can be regarded either as legitimate private property or the result of theft.

¹ "Common Property in Free Market Anarchism: A Missing Link" www.anti-state.com>)

In challenging this aesthetic affinity for the corporation as the dominant form of economic organization, Karl Hess denounced those who simply identified libertarianism “with those who want to create a society in which super capitalists are free to amass vast holdings...” Writing in *The Libertarian Forum* in 1969, Hess argued instead that

Libertarianism is a people's movement and a liberation movement. It seeks the sort of open, non-coercive society in which the people, the living, free, distinct people, may voluntarily associate, dis-associate, and, as they see fit, participate in the decisions affecting their lives. This means a truly free market in everything from ideas to idiosyncracies. It means people free collectively to organize the resources of their immediate community or individualistically to organize them; it means the freedom to have a community-based and supported judiciary where wanted, none where not, or private arbitration services where that is seen as most desirable. The same with police. The same with schools, hospitals, factories, farms, laboratories, parks, and pensions. Liberty means the right to shape your own institutions. It opposes the right of those institutions to shape you simply because of accreted power or gerontological status.²

Hess decried the cultural tendency of too many libertarians to defend existing rights of private property, regardless of how it was acquired, and to assume that those presently on top in the state capitalist economy were simply collecting the rewards of “past virtue.”

² “Letter From Washington: Where Are The Specifics?” *The Libertarian Forum* June 15, 1969 p. 2

acted through the State to turn its “ownership” in mere feudal legal theory into a modern right of absolute ownership, and in the process robbed the peasants who had occupied and tilled the land from time out of mind of their very real traditional rights in the land. This process was followed by rack-rents or by mass eviction and enclosure. In the New World, the state acted to preempt access to empty or nearly empty land, by claiming it for the “public” domain. This was followed by restrictions on access by individual homesteaders, coupled with massive land grants to land speculators, railroads, mining and logging companies, and other favored classes. The result was to limit the average producer’s independent access to the land as a means of livelihood, to thereby restrict his range of independent alternatives in seeking a livelihood, and thus force him to sell his labor in a buyer’s market.

In virtually every society in the world where a few giant landlords coexist with a peasantry that pay rent on the land they work, the situation has its roots in some act of past robbery by the State. The phenomenon goes all the way back to the Roman Republic, as recounted by both Livy and Henry George, in which the patricians used their access to the State to appropriate the common lands and reduce the plebians to tenancy and debt slavery. As Albert Nock wrote, “*economic exploitation is impracticable until expropriation from the land has taken place.*”¹⁴

Conclusion

There is no need for the libertarian right to be so closely wedded to the corporation as an ideal organizational form. A corporate economy on anything like the current pattern does not by any means logically follow from the principles of non-coercion and free market exchange. A free market society that makes

¹⁴ Chapter 2, *Our Enemy, the State* www.barefootworld.net>

In those days the upper classes, from the king to all his cronies, routinely engaged in extortion. They disguised this, however, with the phony claim that everything belongs to the king and his cronies. Yes, monarchs and those who rationalized monarchy spun this fantasy and managed to sell it to the people that they were the rightful owners “of the realm,” that they had a “divine right” to rule us. This way when the bulk of the country went to work on the farm or wherever, they had to pay “rent” to the monarch and his cronies.

Of course, if I live in your apartment, I pay you rent. It is your apartment, after all, so you have it coming to you. But what if you got your apartment by conquest, by robbing a bunch of people of what belongs to them? That is mostly how the monarchs got to rule the realm, by conquest. By all rights it is the folks who were working in the realm — on the land and elsewhere — who actually owned that realm, the monarchs being the phony, pretend owners, nothing better. But since they managed to bamboozle a great many powerless folks into believing that they did own the realm, the “rent” had to be paid.¹³

Although there are significant and fundamental differences between mutualist and Lockean (and Geost, for that matter) theories of land ownership, the issue is beyond our scope here. What is really important to note is the extent of agreement between these rival theories as to the illegitimacy of much of present nominally “private” landlord property. The vast tracts of land claimed by present-day land barons are illegitimate by any plausible libertarian standard, including the Lockean rule of appropriation. In early modern Europe, the landlord class

¹³ Tibor R. Machan, “What’s Wrong with Taxation?” www.mises.org>

Because so many of its [the libertarian movement’s] people... have come from the right there remains about it at least an aura or, perhaps, miasma of defensiveness, as though its interests really center in, for instance, defending private property. The truth, of course, is that libertarianism wants to advance principles of property but that it in no way wishes to defend, willy nilly, all property which now is called private.

Much of that property is stolen. Much is of dubious title. All of it is deeply intertwined with an immoral, coercive state system which has condoned, built on, and profited from slavery; has expanded through and exploited a brutal and aggressive imperial and colonial foreign policy, and continues to hold the people in a roughly serf-master relationship to political-economic power concentrations.

Given this situation, Hess called for creative libertarian analysis, confronting issues of “the revolutionary treatment of stolen “private” and “public” property in libertarian, radical, and revolutionary terms” (including, for example): “*Land ownership and/or usage in a situation of declining state power*”; “*Worker, share-owner, community roles or rights in productive facilities... What, for example, should happen to General Motors in a liberated society?*”; and the injustice of freeing slaves and serf without addressing their property rights in the land of their former owners (i.e. “forty acres and a mule”).

In the spirit of Hess’s comments, I will examine alternative libertarian models for “privatizing” government property and services, and attempt to apply the same principles by analogy to the issue of how to deal with current “private” beneficiaries of state capitalism in a future free market society. In so doing, I should first make clear that I am not an anarcho-capitalist, as are most of the regular visitors to ASC, but an individualist anarchist influenced mainly by Tucker.

Alternative Means of “Privatizing” State Property

The anarchist caucus of the Young Americans for Freedom, in their 1969 manifesto The “Tranquil” Statement (its authors included Karl Hess), expressed sympathy with radical students who had occupied their college campuses. In response to right-wing denunciations of such crimes against “private property,” the Statement remarked that

the issue of private property does not belong in a discussion of American universities. Even those universities that pass as private institutions are, in fact, either heavily subsidized by federal grants, or, as in many cases, supported by federal research funds. Columbia University is an excellent example. Nearly two thirds of Columbia’s income comes from governmental rather than private sources. How, then, can anyone reasonably or morally consider Columbia University to be private [?]... And in so far as it is public (government owned) property (that is, stolen property), the radical libertarian is justified in seizing that property and returning it to private or communal control. This, of course, applies to every institution of learning that is either subsidized by the government or in any way aiding the government in its usurpation of man’s basic rights.³

Private corporations “in any way” receiving government subsidies, of course, might be excused for seeing ominous potential in this principle.

³ In Henry J. Silverman, ed., *American Radical Thought: The Libertarian Tradition* (Lexington, Mass.: D.C. Heath and Co., 1970), p. 268.

Landlordism and the State

Jerome Tuccille once contrasted legitimate libertarian principles of land ownership with “anarcho-land grabbism”:

Free market anarchists base their theories of private property rights on the homestead principle: a person has the right to a private piece of real estate provided he mixes his labor with it and alters it in some way. Anarcho-land grabbers recognize no such restrictions. Simply climb to the highest mountain peak and claim all you can see. It then becomes morally and sacredly your own and no one else can so much as step on it.¹²

Of course, this Lockean labor standard of appropriation raises all kinds of complicating issues. Just how much “labor” is necessary to appropriate a given piece of land? Does it require direct occupancy and cultivation, or is simply circumscribing it (on foot? in an SUV?) and marking it off sufficient admixture of labor? If the latter, is there a time limit? Where do we stop short of recognizing the right of a pope to draw a line across the map of South America and apportion it between Spain and Portugal? On the other hand, if some tangible act of working or altering the land is required, it would seem that the amount of land an individual could appropriate would bear some definite relation to the amount he could personally cultivate. In this latter case we are approaching something like the mutualist “occupancy and use” standard for appropriation, which is merely an alternative, non-Lockean system of private property rules (and one to which this author holds).

Tibor Machan inadvertently pointed to the close parallel between the State’s robbery by taxation, and the robbery involved in much of what is called “rent”:

¹² “Bits and Pieces,” *The Libertarian Forum* November 1, 1970, p. 3

during WWII, mostly at taxpayer expense. The electronics industry was built largely from Pentagon R&D money through the 1960s; and had not the first supercomputers been bought by the U.S. government, it is unlikely that the industry would have been able to reach the takeoff point for reducing costs to make mainframe computers economical for the private sector. And don't forget the role of the Pentagon in creating the infrastructure of the worldwide web...

But what of non-monetary benefits from the state, like the ability to charge monopoly prices thanks to State-enforced patents? Much of the cartelization of industry in the late nineteenth and early twentieth century was achieved by exchange of patent rights (e.g. between GE and Westinghouse). The U.S. chemical industry achieved world prominence only after the U.S. government seized German patents during WWI and gave them away to the leading chemical firms. And what of the total effects on the rate of accumulation owing to the State's intervention in the labor market? (This latter would include restrictions on the right to organize like the Railroad Labor Relations Act or Taft-Hartley; restrictions on free banking that keep interest rates artificially high, limit working class access to credit, and maintain debt as an instrument of discipline.) And then there's the collective benefit of primitive accumulation in the early modern period (by which peasants were robbed of their traditional property rights in the land and turned into tenants at will by the state), the role of mercantilist force in creating the "world market," the near-totalitarian controls on the population during the British Industrial Revolution, the massive subsidies to internal improvements, etc.

Taking these things together, it requires no stretch of the imagination to treat virtually the entire large manufacturing sector as a creation of the corporate state.

Murray Rothbard, taking the same position in an editorial in *The Libertarian*, ridiculed the "grotesque" Randian argument that Columbia was "private property," and that the students therefore were in violation of these "sacred rights":

Apart from the various specific tie-ins with the State which the Columbia rebels were pinpointing..., nearly two-thirds of Columbia's income comes from governmental rather than private sources. How in the world can we continue to call it a private institution?...

To defend the "private-property" rights of "frankly state-owned" universities was, self evidently, absurd. In such cases,

government property is always and everywhere fair game for the libertarian; for the libertarian must rejoice every time any piece of governmental, and therefore stolen, property is returned by any means necessary to the private sector... Therefore, the libertarian must cheer any attempt to return stolen, governmental property to the private sector: whether it be in the cry, "The streets belong to the people", or "the parks belong to the people", or the schools belong to those who use them, i.e. the students and faculty. The libertarian believes that things not properly owned revert to the first person who uses and possesses them, e.g. the homesteader who first clears and uses virgin land; similarly, the libertarian must support any attempt by campus "homesteaders" the students and faculty, to seize power in the universities from the governmental or quasi-governmental bureaucracy.⁴

⁴ "The Student Revolution," *The Libertarian* (soon renamed *The Libertarian Forum*) May 1, 1969, p. 2.

Rothbard argued that “the most practical method de-statizing is simply to grant the moral right of ownership on the person or group who seizes the property from the State.” This would entail, in most cases, treating the State’s property as vacant or unowned, and recognizing the homestead rights of those actually using it. In the case of “public” universities,

the proper owners of this university are the “homesteaders”, those who have already been using and therefore “mixing their labor” with the facilities... This means student and/or faculty ownership of the universities.⁵

This principle of homesteading State property by workers or clients is amenable to wide application. Larry Gambone has proposed “mutualizing” public services as an alternative to corporate privatization. This means decentralizing control of, say, schools, police, hospitals, etc., to the smallest feasible local unit (the neighborhood or community) and then placing them under the democratic control of their clientele. For example, the people of a town might abolish the city-wide school board, and place each school under a board of selectmen responsible to the pupils’ parents. Ultimately, compulsory taxation would be ended and the schools run on user fees. In practical terms, mutualizing is more or less equivalent to reorganizing all the State’s activities as consumer cooperatives.⁶

⁵ “Confiscation and the Homestead Principle,” The Libertarian Forum June 15, 1969 p. 3

⁶ www.geocities.com>

with profits derived predominantly through state intervention. In the comments above by Rothbard and Hess on occupations by student demonstrators, the property claims of ostensibly “private” universities funded mainly by the state were treated as deserving of contempt. They were as liable as outright state property to being treated as “unowned” and opened to “homesteading” by the occupiers, the students and/or faculty.

Rothbard applied the same principle to private corporations that derived most of their revenues from the State. Nominally private universities like Columbia that got most of their funds from the taxpayer, private “only... in the most ironic sense,” were as deserving of confiscation and homesteading as those owned by the State.

But if Columbia University, what of General Dynamics? What of the myriad of corporations which are integral parts of the military-industrial complex, which not only get over half or sometimes virtually all their revenue from the government but also participate in mass murder? What are their credentials to private property? Surely less than zero. As eager lobbyists for these contracts and subsidies, as co-founders of the garrison state, they deserve confiscation and reversion of their property to the genuine private sector as rapidly as possible.¹¹

To treat gross revenue as the main criterion, as Rothbard did, is probably too simple. The percentage of a firm’s profit margin that has come from the state in past years is a more relevant standard, since the present size and equity of a corporation is a result of its past accumulation. In the case of the United States, the highway-automobile complex and the civil aviation system were vital creations of the State. Large civilian jet airliners were possible only because of federal spending on heavy bombers. C. Wright Mills pointed out in *The Power Elite* that the value of plant and equipment expanded by roughly two-thirds

¹¹ “Confiscation” p.3

Is he not aware that, subsequent to the collapse, these latter-day Reconstructionists must be allowed to swoop and to buy controlling ownership stakes in resources and productive capital made ludicrously cheap by devaluation, or outright monetary collapse?

Does he not understand that he must simultaneously coerce the target nation into sweating its people to churn out export goods in order to service the newly refinanced debt, in addition to piling up excess dollar reserves as a supposed bulwark against future speculative attacks (usually financed by the same Western banks lending to their Special Forces colleagues at the macro hedge funds) — thus ensuring the reverse mercantilism of Rubinomics is maintained?¹⁰

Privatization also commonly involves a phenomenon known as “tunnelling,” in which politically connected elites have an advantage in acquiring rights to the former state property. For example, besides Western capital, the other group that had funds available for buying up former Soviet enterprises was the Party nomenklatura, which had accumulated ill gotten gains from decades of graft and corruption. (Sort of like the good ol’ boy sheriff who uses labor from the county work farm to staff his plantation, but on a much larger scale.)

Expropriation of “Private” Property of Statist Ruling Class

But the line of argument so far applies not only to property currently under formal state ownership, but to nominally “private” property acquired through statist means, or to enterprises built

¹⁰ “You Can’t Say That!” August 6, 2002. www.lewrockwell.com>

Privatization in Post-Communist Societies

Murray Rothbard and Hans Herman Hoppe have attempted to apply the same homestead principle to state property in post-communist societies.

Although Rothbard’s assessment of the libertarian potential of Yugoslavia’s combination of worker self-management and market socialism was over-optimistic and naive, his statement of principle for post-Communist societies was quite sound: “*land to the peasants and the factories to the workers, thereby getting the property out of the hands of the State and into private, homesteading hands.*”⁷

The fall of the Soviet empire and its satrapies in 1989–91 transformed this from a theoretical to a very practical issue. The course generally followed in the ensuing period involved issuing equal, marketable shares in State enterprises to all citizens, and then allowing subsequent ownership to develop through the buying and selling of such shares. Rothbard proposed, instead, a “syndicalist” solution:

It would be far better to enshrine the venerable homesteading principle at the base of the new desocialized property system. Or, to revive the old Marxist slogan: “all land to the peasants, all factories to the workers!” This would establish the basic Lockean principle that ownership of owned property is to be acquired by “mixing one’s labor with the soil” or with other unowned resources. Desocialization is a process of depriving the government of its existing “ownership” or control, and devolving it upon private individuals. In a sense, abolishing government ownership of assets puts them immediately and implicitly into an unowned status, out of which previous

⁷ “Confiscation” p. 38. “How and How Not to Desocialize,” *The Review of Austrian Economics* 6:1 (1992) 65–77

homesteading can quickly convert them into private ownership. [8]

Hoppe made a similar proposal specifically regarding East Germany, albeit more hesitantly and with more qualifications.⁸

Of course, the term “syndicalist” was used mainly for color, since Rothbard and Hoppe were both adamant that such “syndicalist” property be devolved to individual workers and peasants as marketable shares, and not to the members of production units collectively. The ideal, as Hoppe expressed it, would be for share-ownership and labor to become separated as quickly as possible. But there is no reason in principle, as Carlton Hobbs showed in regard to the commons, that such production units should not remain the joint and indivisible property of their labor force, with a usufructory right in the wages and pensions derived from it. Such a system would by no means necessarily prevent a market in factors of production. Workers’ collectives would buy new capital equipment on the market; but their property claims to any industrial production unit would be collective so long as the enterprise maintained organizational and spatial continuity.

Although Rothbard made no such qualification in his 1969 statement (written, after all, at the height of his attempt at a coalition with the New Left), he and Hoppe agreed two decades later that an attempt should be made to restore state property to its original legitimate owner before confiscation, if records of ownership still existed. Hoppe attached similar caveats to “syndicalist” privatization of post-communist state industry in *Democracy: The God that Failed*.⁹ Rothbard and Hoppe agreed that such restoration would be easier in the case of land, and would be easier in the case of Eastern Europe (where the expro-

⁸ “De-Socialization in a United Germany” *The Review of Austrian Economics* 5:2 (1991) 77–104

⁹ *Democracy, the God that Failed* (New Brunswick and London: Transaction Publishers, 2002) pp. 124–31

priation had taken place only forty years earlier) than in the Soviet Union. Rothbard stressed, however, that such a restoration would be virtually impossible in the case of manufacturing and capital goods, since most of the industrial economy had been developed under state ownership. So industry was best placed under the control of workers.

Practical Difficulties of Corporate Capitalist Privatization of State Property

Privatization of state property, as it is actually carried out is just another form of state capitalist subsidy. In the first state, transnational capital promotes infrastructure projects in Third World countries that are essential to returns on Western capital in those countries, as a way of subsidizing foreign investment there at the expense of native taxpayers. Next, the resulting debt load is used to discipline the country’s government into carrying out policies favorable to Western capital. And finally, under the “structural adjustment” regime imposed by the IMF and World Bank, the country is forced to sell assets (previously paid for in the sweat of the native producing classes) to Western capital at pennies on the dollar. Sean Corrigan ably described the phenomenon in an article for LewRockwell.com:

Does he not know that the whole IMF-US Treasury carpet-bagging strategy of full-spectrum dominance is based on promoting unproductive government-led indebtedness abroad, at increasingly usurious rates of interest, and then — either before or, more often these days, after, the point of default — bailing out the Western banks who have been the agents provocateurs of this financial Operation Overlord, with newly-minted dollars, to the detriment of the citizenry at home?