Chapter Eleven
Structural Changes: The Abolition of Privilege

A. Reciprocity

The norm of reciprocity seems to be very deeply and universally ingrained in human nature.[1] Alvin Gouldner, in the specific context of taboos against incest as a form of sexual exploitation, identifies the universal concept of exploitation with deviation from reciprocity. Human relations normally involve the mutual conferring of benefits, with both parties participating in a relationship because they see them as beneficial. Exploitation results from the intrusion of power relations, so that the party with superior power is able to derive a lopsided benefit from the relationship, receiving benefits from the other party while providing a smaller quantity of benefits in return. Exploitation, as a general phenomenon, is unequal exchange resulting from an inequality of power. Gouldner even suggests "reciprocity imbalance" as a less emotionally charged alternative to "exploitation."[2]

Reciprocity was at the heart of the medieval idea of the just price. And contrary to condescending dismissals by modern economists who treat the just price as a quaint notion akin to the number of angels on the head of a pin, in fact it was rooted in a common sense understanding of human nature. It was, precisely, the considerations of reciprocity mentioned above, that underpinned the popular understanding of equity in exchange, reflected in the medieval concept of the "just price." Aquinas stated the basis of just price theory in reciprocity:

> ....[B]uying and selling seems to have been entered into for the common advantage of both parties, since, indeed, one lacks what the other has, and the reverse.... But what is entered into for common advantage ought not to be more burdensome to one party concerned than to the other. Therefore an agreement ought to be arranged between them in accordance with an equality of advantage.[3]

The concept of "just price" as conceived by Church authorities was based on reciprocity of cost and effort, with cost of production including a remuneration for labor consistent with one's station.

> ....[Albertus Magnus] held that two commodities were equal in value, and their

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[1] See, for example, Alvin Gouldner, "The Norm of Reciprocity," *American Sociological Review*," 25 (May 1961): 161-179.   See also Michael Shermer's extensive discussions of the evolutionary roots of reciprocity, in *The Mind of the Market: Compassionate Apes, Competitive Humans, and Other Tales from Evolutionary Economics* (New York: Henry Holt and Company, 2008).
[2] Gouldner, pp. 165-167.
[3] Hannah Robie Sewall, *The Theory of Value Before Adam Smith*. *Publications of the American Economic Association*, vol. II, no. 3 (August, 1901), p. 14.

exchange therefore just, if their production represented equal amounts of labour and expense.... This doctrine was adopted almost word for word by Thomas d'Aquinas, and having thus been expounded by the two leading authorities, remained supreme throughout the Scholastic period.[4]

....No man must ask more than the price fixed, either by public authorities, or, failing that, by common estimation. True, prices even so will vary with scarcity, for, with all their rigor, theologians are not so impracticbale as to rule out the effect of changing supplies. But they will not vary with individual necessity or individual opportunity. The bugbear is the man who uses, or even creates, a temporary shortage....

....The dominant conception of Aquinas [was] that prices, though they will vary with the varying conditions of different markets, should correspond with the labor and costs of the producer, as the proper basis of the *communis estimatio*....[5]

The basis of the just price was also transparent, tending as it did to coincide with a community's "common estimation" of a reasonable price to recoup production cost and make a living, and reflecting the common understanding of justice in exchange in a society where, as Ronald Meek argues, commodity exchange between self-employed producers predominated:

...[F]or the major part of the period of commodity production as a whole, *supply prices* have... been directly or indirectly determined by "values" in Marx's sense. And these supply prices are by no means hypothetical: for most of the period of commodity production they have been firmly rooted in the consciousness of the producers themselves. Even in primitive societies one can see the beginnings of the idea that the exchange of commodities "at their values" in the Marxian sense is "the rational way, the natural law of their equilibrium". In quite a few cases, apparently, the prices asked and received for commodities in primitive markets are based on production costs. The introduction of money, which "materially simplifies the determination of equivalence", and the gradual extension of commodity production and exchange within the community, contribute substantially to the growth of this idea in the consciousness of the producers. After a while, the producers of commodities come quite naturally to think of the actual price they happen to receive for their commodity in terms of the extent to which this price deviates from the supply price--i.e., roughly, from the *value* of the commodity in Marx's sense. The value of the commodity, although the market price may not often "tend" to conform to it at any particular stage of development owing to the existence of certain specific forms of monopoly, state interference, etc., characteristic of that stage, is regarded by the producers themselves as a sort of basis from which the deviations caused by these factors may legitimately be measured.

The idea that the exchange of commodities "at their values" represents the "natural" way

[4] Rudolf Kaulla, *Theory of the Just Price: A Historical and Critical Study of the Problem of Economic Value*. Translated by Robert D. Hogg (London: George Allen and Unwin Ltd, 1940), pp. 37-38.
[5] R. H. Tawney, *Religion and the Rise of Capitalism* (New York: Mentor Books, 1926, 1954), p. 42.

of exchanging them was of course often expressed in ethical terms. In other words, it often took the form of an idea concerning the manner in which exchanges *ought* to be conducted if justice was to be done. But ideas as to what constitutes a "fair" exchange come into men's minds in the first instance from earth and not from heaven. When the small capitalist who is faced with the competition of a powerful monopolist says that he has the right to receive a "fair" profit on his capital, or when the peasant who exchanges his produce for that of a guildsman on disadvantageous terms says that he has a right to receive a "fair" return for his labour, the standard of "fairness" erected by each of the complainants actually has reference to the way in which exchanges *would in fact be conducted in the real world* if the particular form of monopoly to which he is objecting did not exist. In pre-capitalist times, there must always have been some commodities which were exchanged more or less at their values, and some times and localities in which deviations of price from value were relatively small, so that the "natural" method of exchanging commodities could actually be seen in operation. For obvious reasons, this "natural" method was regarded as the only really "fair" one. Thus the persistence of the concept of a "just price" throughout the major part of the precapitalist period...[6]

As Meek's discussion of supply prices suggests, there is a great deal of overlap between the medieval conception of the just price and the "natural price" of the political economists (the latter being the normal value toward which the prices of reproducible goods gravitate "in a regime of free competition"). The common estimation of the "just price" was based on "the prices actually paid over a period of time when there was no disturbing cause."[7]

And as Meek also suggests, there is good reason for that overlap: both conceptions are rooted in the same common-sense understanding of human nature. This understanding underlay Adam Smith's idea of a "natural value" toward which price normally fluctuated in a competitive market, exemplified by his famous illustration of the exchange of deer and beaver, at the ratio of their embodied labor. As James Buchanan argued, it was based on an implicit understanding of man as a rational utility-maximizer.

Even in so simple a model, why should relative costs determine normal exchange values? They do so because hunters are assumed to be rational utility-maximizing individuals *and* because the positively valued "goods" and the negatively valued "bads" in their utility functions can be identified. If, for any reason, exchange values should settle in some ratio different from that of cost values, behavior will be modified. If the individual hunter knows that he is able, on an outlay of one day's labor, to kill two deer or one beaver, he will not choose to kill deer if the price of a beaver is three deer, even should he be a demander or final purchaser of deer alone. He can "produce" deer more cheaply through exchange under these circumstances.... Since all hunters can be expected to behave in the same way, no deer

[6] Ronald L. Meek, *Studies in the Labor Theory of Value* (New York and London: Monthly Review Press, 1956), pp. 294-296. (As we shall see in the next section, the medieval concept of usury was in fact closely associated with the idea of unequal exchange resulting from extra-economic power, in exactly the way Meek describes here.)
[7] W. Cunningham, *The Growth of English Industry and Commerce*. Vol. 1 (The Early Middle Ages) . Fourth Edition (Cambridge: Cambridge University Press, 1905), p. 253.

will be produced until and unless the expected exchange value returns to equality with the cost ratio. Any divergence between *expected* exchange value and *expected* cost value in this model would reflect irrational behavior on the part of the hunters.

> In this interpretation, the classical theory embodies the notion of opportunity cost. To the hunter at the point of an allocative decision, the cost of a beaver is two deer and the cost of a deer is one-half a beaver. At an expected exchange ratio of one for two, each prospective hunter must be on the margin of indifference. Physical production and production-through-exchange yield identical results. Labor time, the standard for measurement, is the common denominator in which the opportunity costs are computed.[8]

Proudhon put it in similar terms, and likewise framed it in terms of the common sense understanding of the producers actually engaged in the transaction:

> How many nails is a pair of shoes worth? If we can solve this appalling problem,, we shall have the key to social system which humanity has sought for six thousand years. Facing this problem, the economist is confused and retreats; the peasant who can neither read nor write replies without hesitation: "As many as can be made in the same time and with the same expense."[9]

When the market is free from obstructions and privilege, the tendency is for embodied labor-time (or in more sophisticated terms, embodied effort) to equalize itself through the free movement of labor into those occupations that command the highest returns in terms of others' labor--the same mechanism described by Buchanan, above. That is, by what both Smith and his radical disciple Hodgskin called the "the higgling of the market":

> Smith: It is often difficult to ascertain the proportion between two different quantities of labour. The time spent in two different sorts of work will not always alone determine this proportion. The different degrees of hardship endured, and of ingenuity exercised, must likewise be taken into account. There may be more labour in an hour's hard work than in two hour's easy business; or in an hour's application to a trade which it cost ten years' labour to learn, than in a month's industry at an ordinary and obvious employment. But it is not easy to find any accurate measure either of hardship or ingenuity. In exchanging, indeed, the different productions of different sorts of labour for one another, some allowance is commonly made for both. It is adjusted, however, not by any accurate measure, but by the higgling and bargaining of the market, according to that sort of rough equality which, though not exact, is sufficient to carry on the business of common life.[10]

> Hodgskin: ....There is no principle or rule, as far as I know, for dividing the produce of joint labour among the different individuals who concur in production, but the judgment of

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[8] James Buchanan, *Cost and Choice: An Inquiry in Economic Theory*, vol. 6 of *Collected Works* (Indianapolis: Liberty Fund, 1999) 4.
[9] Pierre-Joseph Proudhon, *What is Property?* Edited and translated by Donald R. Kelley and Bonnie G. Smith (Cambridge and New York: Cambridge University Press, 1994), p. 106.
[10] Adam Smith, *An Inquiry Into the Nature and Causes of the Wealth of Nations* (Chicago, London, Toronto: Encyclopedia Britannica, Inc., 1952), p. 13.

the individuals themselves....

> ....If all kinds of labour were perfectly free..., there would be no difficulty on this point, and the wages of individual labour would be justly settled by what Dr Smith calls the "higgling of the market."[11]

Franz Oppenheimer expounded, at greater length, on the actual process by which this would be done: under the inducements of a truly free labor market, labor would distribute itself among employments until incomes became "equal"--in our terms, equal in relation to given quantities of subjectively perceived effort.[12] Oppenheimer, in "A Post-Mortem on Cambridge Economics," quoted with approval Adam Smith's claim that "[t]he whole of the advantages and disadvantages of the different employments of labour and stock must, in the same neighbourhood, be either perfectly equal or continually tending to equality." He also quoted, with like approval, Johann Henirich von Thuenen's posited equilibrium at which "labor of equal quality is equally rewarded in all branches of production...."[13]

Reciprocity (or mutuality, or commutative justice) was central to Proudhon's economic thought. In a passage in Volume II of *System of Economical Contradictions* (with a phrase at the end that ought to be good for a yelp from the Randroids), he wrote

> The theory of *mutuality*, or *mutuum*, that is to say exchange in kind, of which the simplest form is the loan for consumption, where the collective body is concerned, is the synthesis of the notions of private property and collective ownership. This synthesis is as old as its constituent parts since it merely means that society is returning through a maze of inventions and systems, to its primitive practices as a result of a six-thousand-year-long meditation on the fundamental proposition that A=A.[14]

And in *Political Capacity of the Working Class*:

> ....[The mutualist principle] is service for service, product for product, loan for loan, insurance for insurance, credit for credit, security for security, guarantee for guarantee. It is the ancient law of retaliation, *an eye for an eye, a tooth for a tooth, a life for a life*, as it were turned upside down and transferred from criminal law and the vile practices of the vendetta

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[11] Thomas Hodgskin, *Labour Defended Against the Claims of Capital* (New York: Augustus M. Kelley, 1963 (1823)), pp. 83-86.

[12] Eduard Heimann, "Franz Oppenheimer's Economic Ideas," *Social Research* (February 1949), p. 34.

[13] Franz Oppenheimer, "A Post Mortem on Cambridge Economics (Part I)," *The American Journal of Economics and Sociology* 1942/43 pp. 373-374.

[14] *System of Economical Contradictions*, vol. II, quoted in Stewart Edwards, ed., *Selected Writings of P.J. Proudhon* (Garden City, N.Y.: Anchor Books, 1969), pp. 57-59. Edwards mistakenly attributes it to the first volume; but it is, in fact, from the second. Although vol. II was never translated in its entirety, the passage appeared, in English translation, in *The Spirit of the Age* I, 7 (August 18, 1849). The translation here is a different one; like most of the material in Edwards' collection, it was translated by Elizabeth Frazer. The version that appeared in *Spirit of the* Age, in its entirety, can be found at Shawn Wilbur's *In the Libertarian Labyrinth* archive site (I'm indebted for his help in clearing up the source of the material) <http://libertarian-labyrinth.blogspot.com/2007/03/proudhon-coming-era-of-mutualism.html>.

to economic law, to the tasks of labor and to the good offices of free fraternity. On it depend all the mutualist institutions: mutual insurance, mutual credit, mutual aid, mutual education; reciprocal guarantees of openings, exchanges and labor for good quality and fairly priced goods, etc.[15]

The "synthesis... of private property and collective ownership" anticipates Tucker's argument that market competition, in the absence of privilege and artificial scarcity, causes the benefits of private property to be socialized. As Stephen Pearl Andrews commented:

> One side of the truth of the subject, the individualistic side, Warren, more fortunate than Proudhon, did discover and formulate; the other side, the opposite and counterparting side, is communism, best represented as yet, on any large scale, by the Oneida Perfectionists. These two opposite ideas and types of life are to be reconciled and united, not merely despite of their appositeness, but *because of their oppositeness*. Everything that approximates perfection is made up, primarily, of two opposite factors.[16]

The perfect expression of mutuality was the contract between equals, both "synallagmatic" (bilateral) and "commutative" (reciprocal, based on an exchange of equal values).[17]

For Proudhon, unequal exchange was the defining characteristic of exploitation:

> ...If... the tailor, for rendering the value of a day's work, consumes ten times the product of the day's work of the weaver, it is as if the weaver gave ten days of his life for one day of the tailor's. This is exactly what happens when a peasant pays twelve francs to a lawyer for a document which it takes him an hour to prepare....
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> Every error in commutative justice is an immolation of the laborer, a transfusion of the blood of one man into the body of another....[18]

The principle of reciprocity is built into the normal functioning of a free market. When exchange is free and uncoerced, it is impossible for one party to benefit at another's expense. The ratio at goods and services are exchanged will move toward a value that reflects the respective costs of the parties, including the disutility of their labor. If one party is able to find another exchange that provides a higher degree of utility, he will choose it in preference to the lesser utility. And if one party receives a producer surplus or rent above his costs, and market entry is free from barriers, others will find it profitable to offer a better deal. The normal pattern of free exchange is cost for cost, effort for

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[15] *Political Capacity of the Working Class*, in Edwards, ed., pp. 59-60.
[16] Stephen Pearl Andrews, "Proudhon and His Translator," *The Index*, June 22, 1876. Formatted by Shawn Wilbur at *Libertarian Labyrinth* <http://libertarian-labyrinth.org/theindex/1876-tucker-andrews.pdf>.
[17] Proudhon, *The Principle of Federation*. Translated by Richard Vernon (Toronto, Buffalo, London: University of Toronto Press, 1979), p. 36.
[18] Pierre-Joseph Proudhon, *System of Economical Contradictions, or, The Philosophy of Misery*, translated by Benjamin R. Tucker (Boston: Benjamin R. Tucker, 1888), p. 123.

effort, disutility for disutility, so that things equal out through the "higgling of the market." Or as Proudhon described it,

> Whoever says commerce says exchange of equal values, for if the values are not equal and the injured party perceives it, he will not consent to the exchange, and there will be no commerce.[19]
>
> ....What characterizes the contract is the agreement for equal exchange; and it is by virtue of this agreement that liberty and well-being increase; while by the establishment of authority, both of these necessarily diminish....
>
> Between contracting parties there is necessarily for each one a real personal interest; it implies that a man bargains with the aim of securing his liberty and the loss of revenue at the same time, without any possible loss. Between governing and governed, on the contrary, no matter how the system of representation or of delegation of the governmental function is arranged, there is *necessarily* alienation of a part of the liberty and of the means of the citizen....
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> The contract therefore is essentially reciprocal: it imposes no obligation upon the parties, except that which results from their personal promise of reciprocal delivery: it is not subject to any external authority: it alone forms the law between the parties: it awaits their initiative for execution....
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> The social contract should increase the well-being and liberty of every citizen. -- If any one-sided conditions should slip in; if one part of the citizens should find themselves, by the contract, subordinated or exploited by the others, it would no longer be a contract; it would be a fraud, against which annulment might at any time be invoked justly.[20]
>
> ....For no one has a right to impose his own merchandise upon another: the sole judge of utility, or in other words the want, is the buyer.... Take away reciprocal liberty, and exchange is no longer the expression of industrial solidarity: it is robbery.[21]

Coercive intervention, on the other hand, forces one party to a contract to accept a lower-ranking preference than he otherwise would, in order to provide the other party with his preference at a lower cost. Murray Rothbard described the principle in *Man, Economy, and State*. Although he wrote of slavery in particular, his description applied to all forms of compulsory exchange or coercive state intervention:

> ....In this form of compulsory exchange... only the ruler benefits from the exchange, since he is the only one who makes it of his own free choice. Since he must impose the threat of violence in order to induce the subject to make the exchange, it is clear that the latter loses by the exchange. The master uses the subject as a factor of production for his own profit at the latter's expense, and this hegemonic relationship may be called *exploitation*. Under

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[19] Proudhon, *What is Property?*, p. 103.
[20] Pierre-Joseph Proudhon, *General Idea of the Revolution in the Nineteenth Century*. Trans. by John Beverley Robinson (New York: Haskell House Publishers, Inc., 1923, 1969), pp. 113-114.
[21] Proudhon, *System of Economical Contradictions*, pp. 80-81.

hegemonic exchange, the ruler exploits the subject for the ruler's benefit.[22]

> ....[I]nter-vention will have direct, immediate consequences on the utilities of those participating. On the one hand, when the society is free and there is no intervention, everyone will always act in the way that he believes will maximize his utility, i.e., will raise him to the highest possible position on his value scale. In short, everyone's utility *ex ante* will be "maximized".... Any exchange on the free market, indeed any action in the free society, occurs because it is expected to benefit each party concerned. If we may use the term "society" to depict the pattern, the array, of all individual exchanges, then we may say that the free market maximizes social utility, since everyone gains in utility from his free actions.
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> Coercive intervention, on the other hand, signifies *per se* that the individual or individuals coerced *would not have voluntarily done what they are now being forced to do by the intervener....* The man being coerced, therefore, *always loses in utility as a result of the intervention,* for his action has been forcibly changed by its impact....
>
> Who *gains* in utility *ex ante*? Clearly, the intervener; otherwise, he would not have made the intervention....
>
> In contrast to the free market, therefore, all cases of intervention supply one set of men with gains *at the expense* of another set....
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> ....Voluntary exchanges, in any given period, will increase the utility of everyone and will therefore maximize social utility.[23]

B. Privilege and Inequality

In the real world, the law of reciprocity is often honored in the breach; coercive intervention in the market, as we saw in the previous section, violates the principle of reciprocity and in so doing benefits some at the expense of others. We also see a high degree of inequality. As R. A. Wilson suggested, the two phenomena just might be related:

> Privilege implies exclusion from privilege, just as advantage implies disadvantage.... "In the same mathematically reciprocal way, profit implies loss. If you and I exchange equal goods, that is trade: neither of us profits and neither of us loses. But if we exchange unequal goods, one of us profits and the other loses. Mathematically. Certainly. Now, such mathematically unequal exchanges will always occur because some traders will be shrewder than others. But in total freedom— in anarchy— such unequal exchanges will be sporadic and irregular. A phenomenon of unpredictable periodicity, mathematically speaking. Now look about you, professor— raise your nose from your great books and survey the actual world as it is— and you will not observe such unpredictable functions. You will observe,

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[22] Murray Rothbard, *Man, Economy, and State: A Treatise on Economic Principles* (Auburn University, Alabama: Ludwig von Mises Institute, 1962, 1993), p. 71.
[23] Ibid., pp. 768-770.

instead, a mathematically smooth function, a steady profit accruing to one group and an equally steady loss accumulating for all others. Why is this, professor? Because the system is not free or random, any mathematician would tell you a priori. Well, then, where is the determining function, the factor that controls the other variables? You have named it yourself, or Mr. Adler has: the Great Tradition. Privilege, I prefer to call it. When A meets B in the marketplace, they do not bargain as equals. A bargains from a position of privilege; hence, he always profits and B always loses. There is no more Free Market here than there is on the other side of the Iron Curtain....[24]

Anna Morgenstern, of *Tranarchy* blog, described the phenomenon in terms quite similar to Wilson's:

> Once a pocket of unmet demand is discovered, under anarchy, capital will flow in that direction and will arbitrage out the profit opportunity pretty rapidly.
>
> So while there will always be profit making going on somewhere in the economy, it will never consistently flow to the same people. If it does, that is prima facie evidence of violent intervention or fraud, IMO.
>
> This is just one reason why I don't think anarchy will have a large inequality of wealth.[25]

Thus the so-called "Matthew Effect": "To him that hath, more shall be given." In somewhat more scientific terms, it is sometimes referred to as "Pareto's law."

> It is well known that wealth is shared out unfairly. "People on the whole have normally distributed attributes, talents and motivations, yet we finish up with wealth distributions that are much more unequal than that," says Robin Marris, emeritus professor of economics at Birkbeck, University of London....
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> In 1897, a Paris-born engineer named Vilfredo Pareto showed that the distribution of wealth in Europe followed a simple power-law pattern, which essentially meant that the extremely rich hogged most of a nation's wealth (*New Scientist* print edition, 19 August 2000). Economists later realised that this law applied to just the very rich, and not necessarily to how wealth was distributed among the rest.
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> Now it seems that while the rich have Pareto's law to thank, the vast majority of people are governed by a completely different law. Physicist Victor Yakovenko of the University of Maryland in College Park, US, and his colleagues analysed income data from the US Internal Revenue Service from 1983 to 2001.
>
> They found that while the income distribution among the super-wealthy - about 3% of the population - does follow Pareto's law, incomes for the remaining 97% fitted a different curve - one that also describes the spread of energies of atoms in a gas...[26]

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[24] *The Illuminatus! Trilogy* Note on Austrian dogma
[25] Comment under Kevin Carson, "Chapter Seven Draft," *Mutualist Blog: Free Market Anti-Capitalism*, November 12, 2007 <http://mutualist.blogspot.com/2007/11/chapter-seven-draft.html>.
[26] Jenny Hogan, "Why it's hard to share the wealth," *New Scientist*, March 12, 2005.

The reason, as we saw at the close of the previous section, is that privilege--coercion--creates a zero-sum situation in which one party benefits at the expense of the other. There is a symmetrical relationship between one party's gain and the other party's loss.

As Ricardo described the relationship of landlords to capitalists and laborers, "The dealings between the landlord and the public are not like dealings in trade, whereby both the seller and the buyer may equally be said to gain, but the loss is wholly on one side, and the gain wholly on the other."[27]

A monopoly creates artificial scarcity, so that the holder of the monopoly privilege benefits at the expense of the public, who, forced to pay for something that is not naturally scarce, are absolute losers in the transaction. Stephen Pearl Andrews divided society into opposing classes of net exploiters and net exploited:

> The whole community may be divided... into those who receive more than equivalents for their labor and those who receive less than equivalents....
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> It is clear, if this exchange is not equal, if one party gives more of his own labor... than he *gets* of the labor of the other, ... that he is oppressed, and becomes so far as this inequality goes, the slave or subject of the other. He has, just so far, to expend his labor, not for his own benefit, but for the benefit of another.[28]

Benjamin Tucker, the inheritor of this tradition, treated state intervention as a zero-sum game:

> To-day (pardon the paradox!) society is fundamentally anti social. The whole so-called social fabric rests on privilege and power, and is disordered and strained in every direction by the inequalities that necessarily result therefrom. The welfare of each, instead of contributing to that of all, as it naturally should and would, almost invariably detracts from that of all. Wealth is made by legal privilege a hook with which to filch from labor’s pockets. Every man who gets rich thereby makes his neighbor poor. The better off one is, the worse off the rest are. As Ruskin says, every grain of calculated Increment to the rich is balanced by its mathematical equivalent of Decrement to the poor. The Laborer’s Deficit is precisely equal to the Capitalist’s Efficit.[29]

Or as Big Bill Haywood said, for every man who gets a dollar he didn't work for, there's another man who worked for a dollar he didn't get.

Perhaps the best summary of the nature of privilege is that of William Batchelder Greene: "It is right that all persons should be equal before the law; but when we have

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<http://www.newscientist.com/article.ns?id=dn7107>.

[27] David Ricardo (1817)

[28] Stephen Pearl Andrews, *Science of Society*, Pt. II:54, 57.

[29] Benjamin R. Tucker, "Socialism: What it Is," *Instead of a Book*, pp. 361-362.

established equality before the law, our work is but half done. We ought to have EQUAL LAWS also. Of what avail is it that we are all equal before the law, if the law is itself unequal."[30]

The social and organizational pathologies we examined in the second and third parts of this book all result from coercive interference with the natural expression of the principle of reciprocity in voluntary market exchange. Coercion benefits one party at the other's expense by forcing the other to accept a lesser utility. It creates an externality by forcing one party to bear the other's costs. When exchange is uncoerced, the outcome is Pareto optimal. Every party enters the exchange because it offers the highest utility of all available alternatives--and there is no artificial limitation on the availability of alternatives. Government, on the other hand, is in the *business* of limiting alternatives.

This limitation of alternatives by government coercion in order to enable the owners of the remaining alternatives to collect rent on them, is what Franz Oppenheimer meant by defining privilege as the "political means" to wealth ("unrequited appropriation of the labor of others"), as opposed to the "economic means" ("one's own labor and the equivalent exchange of one's own labor for the labor of others").[31] The political means is to collect tribute through artificial scarcity: political action to limit the available alternatives (especially through the political appropriation of land).

Oppenheimer approved, conditionally, the contention of "bourgeois economics" that the division of society into an exploited and exploiting class could not take place until the land had been completely appropriated and vacant land was no longer freely available for homesteading:

> All teachers of natural law, etc., have unanimously declared that the differentiation into income-receiving classes and propertyless classes can only take place when all fertile lands have been occupied. For so long as man has ample opportunity to take up unoccupied land, "no one," says Turgot, "would think of entering the service of another...."[32]
>
> ...This equality remained unshaken as long as there was still free land available for everyone who wanted it; for, evidently, in Turgot's phrase, "No well man will be willing to work for another, as long as he can take for himself as much land as he wants to cultivate."[33]

Where he differed was in his understanding of *how* the land had come to be completely appropriated:

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[30] William Batchelder Greene, *Equality, No. 1* (1849). Online text edited by Shawn Wilbur at *Libertarian Labyrinth*. <http://libertarian-labyrinth.org/mutual/wbg-equality.html>.
[31] Franz Oppehneimer, *The State*, Free Life Edition, translated by John Gitterman (San Francisco: Fox & Wilkes, 1914, 1997), p. 14.
[32] Oppehneimer, *The State*, p. 6.
[33] Oppenheimer, "A Post Mortem on Cambridge Economics (Part Two)," *The American Journal of Economics and Sociology*, vol. 2, no. 4 ((a943), p. 534.

> Now it is true that the class State can only arise where all fertile acreage has been *occupied* completely; and since I have shown that even at the present time, all the ground is not occupied economically,[34] this must mean that it has been preempted politically. Since land could not have acquired "natural scarcity," the scarcity must have been "legal." This means that the land has been preempted by a ruling class against its subject class, and settlement prevented.[35]
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> ....Nowhere in the world has the land been appropriated by small and medium free peasants, "until the holdings," as Rousseau remarked "couching one another, covered the whole country." Even in the most densely populated countries, at the present time whan the population has increased beyond all former experience, many more holdings of that size could exist than the number that would be needed to provide for their whole agrarian population, family operating owners, tenants and landless laborers combined.
>
> Of course, the differentiation into classes proves that the whole land is covered by holdings. But this has not ocurred only because peasants have taken up small and medium-sized farms in gradual, peaceful settlement.[36]

Rather, the land has been universally appropriated by political means: the entire supply of vacant land has been engrossed by one landed aristocracy or another, and their artificial titles to vacant and unimproved land used either to exclude laborers who might otherwise cultivate them as an alternative to wage employment, or to collect tribute from those who rightfully appropriate it through cultivation. The result is that, as Mill said, "The population of each country may be considered as composed, in unequal proportions, of two distinct nations or races: the first the proprietors of the land, the latter the tillers of it."[37] Henry George, Jr., made a similar observation in *The Menace of Privilege*, contrasting the high wages and lack of either severe poverty or great riches in eighteenth century America, when "easy access to land made it a comparatively simple matter for all men to get subsistence,"[38] to the appearance of great disparities in wealth when most land had been politically appropriated in the nineteenth century.[39]

> Not that all this vast territory is settled and in use. Far from it. There are thousands upon thousands of square miles of productive, accessible land that would yield bountifully to

[34] In the United States, Nock observed in the 1930s, if the settlement of land had occurred "in a natural way..., our western frontier would not be anywhere near the Mississippi River." In Rhode Island, the most densely populated state at that time, it was possible to drive across the state on a major highway and see almost no sign of human occupancy. "All discussions of 'over-population' from Malthus down, are based on the premise of legal occupancy instead of actual occupancy, and are therefore utterly incompetent and worthless." Albert Jay Nock, *Our Enemy, the State* (Delavan, Wisc.: Hallberg Publishing Corporation, 1983), p. 67n.
[35] Oppenheimer, *The State*, p. 8.
[36] Oppenheimer, "A Post Mortem on Cambridge Economics (Part Two)," p. 534.
[37] Franz Oppenheimer, "A Post Mortem on Cambridge Economics (Part Two)," p. 535.
[38] Henry George, Jr., *The Menace of Privilege*, Chapter One (part one), <http://www.progress.org/archive/hgjr1a.htm>; Chapter One (conclusion), <http://www.progress.org/archive/hgjr1b.htm>
[39] Ibid., Chapter Two (part one), <http://www.progress.org/archive/hgjr2a.htm>

> labor.... But it is not used. It is preempted and belongs to this or that individual, who chooses to hold it, not for use, but for what it will bring its owners when the increasing population has made a greater demand for it. *The owners ask for its present use a price based upon their expectation of its value for the future*. Vast quantities of unused land can be had, but not from the Government, and free, as of yore. It is to be had only from private owners and on the payment of a price -- a price that the growing needs of the community and the monopoly power of speculation is constantly augmenting.[40]

George *fils* explained the derivation of the term "privilege" as private law, or class legislation benefiting one group of individuals at the expense of another:

> Now the word "privilege" means not a natural, but an artificial condition. Even its derivation shows that. It comes from the Latin *privilegium*, meaning an ordinance in favor of a person; and *privilegium* comes from *privus*, private, and *lex* or *legem*, a law. Hence, in its essence, the word "privilege" means a private law, a special ordinance or a usage equivalent to a grant or an immunity in favor of a particular person.[41]

And the primary effect of privilege, as we have already seen, is to "empower their holders to appropriate, without compensation or adequate compensation, a large or small share of the produce of labor."[42]

Although Oppenheimer's primary focus (like that of all Georgists) was on the political appropriation of land as a form of artificial scarcity, the same principle of artificial scarcity applies to all form of privilege. The present global corporate economy, for instance, depends primarily on the enforcement of artificial scarcity by so-called "intellectual property" (although old-fashioned land theft and eviction of peasant subsistence farmers still deserves honorable mention for its role in promoting sweatshop labor and reducing the bargaining power of those engaged in it).

The general distinction between the political and economic means was developed independently by a wide range of thinkers: by Saint-Simon and Comte in France, and by Enlightenment radicals like Paine and Godwin and Ricardian socialists like Thomas Hodgskin in England, among many others.[43] Samuel Edward Konkin III made it the basis of his agorist class theory, which he erected as an alternative to Marxian class theory:

> 1. The State is the main means by which people live by plunder; the Market, in contradistinction, is the sum of human action of the productive.
>
> 2. The State, by its existence, divides society into a plundered class and a plundering

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[40] Ibid., Chapter Eight (part one), <http://www.progress.org/archive/hgjr8a.htm>
[41] Ibid., Chapter Two (part one).
[42] Ibid., Chapter Two (conclusion), <http://www.progress.org/archive/hgjr2b.htm>
[43] This is the theme of an excellent historical survey by David M. Hart and Walter E. Grinder, "The Basic Tenets of Real Liberalism. Part IV Continued: Interventionism, Social Conflict and War," *Humane Studies Review* vol. 3 no. 1 (1986), pp. 1-7

class.[44]

According to R.H. Tawney, the broad concept of usury in the middle ages roughly corresponded to unequal exchange, extortion, or "taking advantage." It included "the raising of prices by a monopolist" and rack-renting of land, among other things. Although the term was not carefully defined, it generally applied to "any bargain, in which one party obviously gained more advantage than the other, and used his power to the full."[45]

For Adam Smith, as John Commons observed, the disutility of labor was the cause and regulator of value (this was also the basis, as we saw in the first section, of medieval notions of justice in exchange). Labor's disutility created value by restricting output of reproducible goods, when the worker considered the income to be too low relative to the labor-pain entailed in production. It regulated value by shifting labor from employments where income was low relative to pain to employments where it was high relative to pain, and thus equalizing pain per unit of income. This was also the basis of Smith's critique of mercantilism and other forms of privilege. Privilege resulted in an unequal distribution of labor-pain per unit of income, and imposed pain on some for the benefit of others:

> Man was condemned to labor--that was true on account of the original sin. He was compelled to lay down a portion of his ease, liberty, and happiness, in order that goods might be produced. But this should be done fairly. No individual should be compelled to suffer more than any other individual in his capacity of producing, accumulating, and exchanging use-values for the good of his fellow men.[46]
>
> Having identified his automatic regulator of scarcity-value with the quantity of labor-pain, Smith proceeds to inquire why it is that, upon the labor-market, the price (exchange-value) of labor does not, under existing conditions, coincide with the quantity of labor-pain delivered in exchange for the produce. All of these discrepancies we shall find to be various aspects of artificial scarcity controlled by custom, sovereignty, or other collective action, instead of regulated automatically by quantity of labor-pain.... Among these restrictions were exclusive privileges of corporations (guilds), long apprenticeship, understandings between competitors, free education at public expense, state regulation of wages, price

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[44] Samuel Edward Konkin III, "*Cui Bono?* Introduction to Libertarian Class Theory," *New Libertarian Notes* no. 28 (December 1973), reproduced in Wally Conger, *Agorist Class Theory: A Left Libertarian Approach to Class Conflict Analysis* (Movement of the Libertarian Left, 2006).

[45] R. H. Tawney, *Religion and the Rise of Capitalism* pp. 130-131.

[46] John R. Commons, *Institutional Economics* (New York: Macmillan, 1934), pp. 203-204. The radical Thomas Hodgskin in Great Britain, as well as some of the American individualists, were influenced by Smith in their understanding of the labor theory of value. Hodgskin, like Smith, saw labor's repugnance as the basis of its value-creating capacity. In the United States, Stephen Pearl Andrews wrote that "by cost is meant the amount of *labor* bestowed on [a good's] production, that measure being again measured by the *painfulness* or *repugnance* of the labor itself" (*Science of Society* Pt. II:20), and identified cost with "the amount of repugnance overcome." (Ibid., Pt. II:79); Benjamin Tucker argued that absent monopoly there would be "no price where there is no burden..." And elsewhere, "Is there any just basis of price except cost? And is there anything that costs except labor or suffering (another name for labor)?" (*Instead of a Book, By a Man Too Busy to Write One*, pp. 214, 403).

> fixing, tariffs, bounties levied in order to maintain a favorable balance of trade, and obstructing the free circulation of labor and stock [capital] by poor laws.
>
> But even if these mercantilist interferences with liberty were eliminated, there were still two other proprietary claimants, the landlords and the capitalist employers, who, even under conditions of perfect liberty, prevented the accurate proportionment between labor-pain and wages. These other two claimants, who introduced the factor of proprietary scarcity, were examples of the Common Law of Private Property. "As soon as the land of any country has all become private property, the landlords, like all other men, love to reap where they never sowed, and demand a rent even for its natural produce."[47]

Profits on capital, likewise, were regulated both by the value of the capital employed and by combination among masters to keep down wages.[48] As most of the radical classical liberals argued, much if not most nominal "private property" in land is artificial, and thus a form of artificial scarcity created by privilege. And as we shall see later, much of the value of capital results from artificial scarcity created by the state's banking laws.

Thomas Hodgskin, writing in regard to the illegitimate "property" rights of England's landed oligarchy, made the crucial distinction between natural and artificial rights of property. Natural property rights are simply "a man's right to the free use of his own mind and limbs, and to appropriate whatever he creates by his own labour...." [49]Artificial rights, he said, are "the power of throwing the necessity to labour off [one's] own shoulders... by the appropriation of other men's produce," and "[t]he power... possessed by idle men to appropriate the produce of labourers...."[50]

> ...[C]ertain classes, it may be said, do not labour.... The receivers of rent and profit subsist on the producer of other men's labour; so do those who live on taxes.... Social laws may compel some classes to labour for other classes, or may even give the whole annual produce to those who never labour. If we admit that the members of the government, and the ministers of the church, are labourers, ... we cannot say the same for the slave-owners of the West Indies...: we cannot say the same for the landlords and fund holders of England, and for other similar classes. They are all subsisted and supported, supplied with all their wealth, by the labour of the slaves in the West Indies, or of the toil-worn and half-starved slave-descended labourers of Europe.[51]

Social regulations and commercial prohibitions, he said, "compel us to employ more labour than is necessary to obtain the prohibited commodity," or "to give a greater quantity of labour to obtain it than nature requires," and put the difference into the pockets of privileged classes.[52]

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[47] Ibid., pp. 207-208.
[48] Ibid., p. 208.
[49] Thomas Hodgskin, *Popular Political Economy: Four Lectures Delivered at the London Mechanics' Institution* (London: Printed for Charles and William Tait, Edinburgh, 1827), pp. 236-237.
[50] Hodgskin, *Popular Political Economy*, pp. 30, 237.
[51] Hodgskin, *Popular Political Economy*, pp. 29-30.
[52] Hodgskin, *Popular Political Economy*, pp. 33-34.

While Hodgskin defended the natural right of property without hesitation, he ridiculed those who wanted to "preserve... inviolate" the "existing right of property" or to hold it "sacred against the claims of the labourer to own whatever and all which he produces."

Hodgskin's distinction between natural and artificial property rights overlaps considerably with similar distinctions made by other thinkers. Proudhon, for example, distinguished "property" from "possession"; when he said "property is theft," by "property" he meant "artificial property" or "privilege." In the words of Commons, "[Proudhon] did not mean the individual property that a person owns resulting from his own labor or from free negotiations with others whose property also resulted from their own labor."[53]

In the same vein, as we saw above, Oppenheimer distinguished political appropriation of the land from actual appropriation, and Albert Jay Nock distinguished "labour-made" from "law-made" property.[54]

As our treatment of Proudhon suggests, artificial property rights in land are paradigmatic of artificial property rights in general. The same distinction in princple between natural and artificial property rights in land is made, in analogous manner, between natural and artificial property rights in all other areas. The same principle applies to patents and copyrights, business and occupational licenses, and every other form of privilege: natural property rights *reflect* scarcity, while artificial property rights *create* it; natural property rights secure the individual's right to his *own* labor-product, while artificial property rights entitle the holder to collect tribute on the labor-product of *others*; natural property rights entitle the holder to a return for his *contributions* to production, while artificial property rights entitle the holder to collect a toll for *not impeding* production.

Thus, in response to the proprietor's claim not only to have labored but to have provided employment to those otherwise without means of support, Proudhon challenged:

> You have laboured! Have you never made others labour? Why, then, have they lost in labouring for you what you have gained in not labouring for them?
>
> You have laboured! Very well, but let us see your creations. We will count, weigh, and measure them. It will be the judgment of Balthasar; for I swear by this balance, level, and square, that if you have appropriated another's labour in any way whatsoever, you shall restore it to the last iota.[55]

[53] Commons, *Institutional Economics*, p. 368.
[54] Nock, *Our Enemy, the State*, p. 80.
[55] Proudhon, *What is Property?*, p. 69.

Like the children of Israel in Canaan, the proprietor reaps where he did not sow.[56]

Because of the near-universal appropriation of land, most of it vacant and unimproved land held out of use, labor's ability to create wealth for the laborer is impeded, and instead becomes a means of creating wealth for the proprietor. Artificial property rights in land give the proprietor, as a result, property rights in the labor of others:

> ....A philosopher, arguing that all animals were originally born from the earth warmed by the rays of the sun..., was asked why the earth no longer yielded crops of that nature; and he answered: "Because it is old, and has lost its fertility." Has labour, once so fertile, also become sterile? Why does the tenant no longer acquire through his labour the land formerly acquired by the labour of the proprietor?
>
> "The reason, they said, "is that it is already appropriated."[57]

Privilege enables the holder of property rights to appropriate the productivity of nature or society for himself, and to stand in for "society" or "nature" in charging users according to their benefit--despite having done nothing to provide that benefit. The "value" of the service, i.e. the price he is able to charge for access, depends entirely on its positive utility to the buyer; so he is able to follow the standard method of monopoly pricing and target his price to the buyer's ability to pay.

> According to Carey and Bastiat, and contrary to Ricardo and the communists and anarchists, the landlord or capitalist rendered a service to the community as much as did the laborer. The value of this service was the alternative price which the employer or laborer would be compelled to pay if he did not pay rent to the landlord, or profit and interest to the capitalist. He was better off by paying rent for superior land than he would be by going to the margin of cultivation where no rent was paid, and better off by paying profits and interest to capitalists than b working for marginal capitalists who made no profits.[58]

But Bastiat and Carey do not distinguish "productivity" and "service" from the rents on artificial scarcity. For Bastiat, the landlord and capitalist contribute a "service" equivalent to the alternative cost if his land or capital were not available. The "unearned accrual of social value," in the form of improved land and technology, is provided by "society" to the laborer at far below its value to him. If the rent on land and the profit on capital are less than the utility the laborer receives from access to them compared to what his utility would be in the days before improved land and modern production technology were available, that is actually an unearned rent accruing to *labor*.

> ...all this social accrual of value was freely available to present laborers who did not own it, and thereby "saved" them from the labor they would otherwise be compelled to perform, as individuals repeating the past history of society, in order to obtain the present necessaries

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[56] Ibid., p. 119.
[57] Proudhon, *What is Property?*, p. 86.
[58] Commons, *Institutional Economics*, p. 114.

and luxuries.

But for some reason the landlord and the capitalist are allowed to stand in for "society" in taking credit for the improved land and technology that make increased productivity possible. Although the laborer did not earn the increased powers of productivity, which he did not himself produce, the landlord and capitalist apparently *did*.[59] Actually Bastiat's landlord was in a position, thanks to privilege, to collect tribute for the productivity gains created by society.

Railroad apologists argued in the nineteenth century that the cost of transporting wheat by horse over dirt roads was 50 cents per ton-mile; the railroads, therefore, were doing the farmer a favor by charging only 3 cents per ton-mile, in effect giving the farmer a consumer surplus of 47 cents. But as Commons pointed out, the proper comparison is not between the cost of railroad transportation and the cost of transportation by dirt road fifty years earlier. It is between railroad transportation and the best available alternative *today*. And if the best available alternative is rendered worse than it might otherwise have been, or access to it is restricted, by the railroads' privileges and artificial property rights, then the 3 cents per mile is an unjust form of tribute.[60]

Reason magazine's Ron Bailey, shameless apologist for the drug and biotech industries and all-around corporate cheerleader, has updated the railroaders' argument for the 20th century. Citing a study that compared the overall economic value to consumers from increased life expectancy to the cost paid for drugs, he argued (in the words of his title) that "drug companies don't get enough money... for the life-saving benefits they give us...."[61]

Ahem. There's a word for a firm that's able to price a good according to the consumer's benefit from it: a monopolist. One of the commenters under Bailey's post summed it up quite eloquently:

> Many products generate massive "consumer surplus"--benefit to their purchasers vastly in excess of their cost--because competition among suppliers drives the cost down to near the cost of production, rather than up to the level of benefit to the purchasers.

Proudhon illustrated the same principle with regard to the landlord's alleged "service" or "contribution" to production, in merely not impeding access to land he was not working himself.

> [David] Buchanan, a comentator on [Adam] Smith, regarded farm-rent as the result of a monopoly and claimed that labor alone is productive....

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[59] Commons, *Institutional Economics*, pp. 319-320.
[60] Commons, *Institutional Economics*, pp. 317-318.
[61] Ron Bailey, "Drug Companies Don't Get Enough Money ...," *Reason Hit&Run* blog, February 22, 2006 <http://www.reason.com/blog/show/112727.html#012727>.

Say responds to Buchanan that the proprietor is not a monopolist because a monopolist "is one who in no way adds to the utility of a product."

How much utility do the products of the farmer receive from the proprietor? Has he plowed, sowed, reaped, mowed, winnowed, weeded? These are the processes by which the tenant and his helpers increase the utility of the material which they consume for purposes of reproduction.

The landed proprietor [Say writes] *increases the utility of products by means of his instrument, the land. This instrument receives the materials of which wheat is composed in one state and returns it in another. The action of the land is a chemical process which modifies the material in such a way that it multiplies by destroying it. The soil is thus a producer of utility, and when it... requires its pay in the form of profit, or farm-rent, for its proprietor, this is not done without giving something to the consumer in exchange for whatever the consumer pays it....*

Let us clarify this.

The blacksmith who makes farming equipment for the farmer, the wheelright who makes him a cart, the mason who builds his barn, the carpenter, the basket-maker, etc., all of whom contribute to agricultural production by the tools they provide, are producers of utility; and to this extent they have a right to a part of the products.

"Without any doubt," Say says, "but the land is also an instrument whose service must be paid for, and so..."

I agree that the land is an instrument, but who made it? The proprietor? Did he, by the efficacious virtue of the right of property, by this moral quality infused into the soil, endow it with vigour and fertility? The monopoly of the proprietor lies just in the fact that, though he did not make the implement, he requires payment for its use....

"I admit that the proprietor's service is easy," adds Say--a frank confession.

"But we cannot disregard it. Without property, one farmer would contend with another to cultivate any field without a proprietor, and the field would lie fallow...."

The role of the proprietor is thus to reconcile farmers by robbing them.... According to [the economists], the proprietor is like Perrin-Dandin who, when summoned by two travellers to settle a dispute about an oyster, opened it, devoured it, and said to them: "The Court awards you each a shell."....

Will Say tell us why the same farmers who, if there were no proprietors, would fight with each other for possession of the soil, do not fight with the proprietors for this possession today? Obviously, because they think them legitimate possessors and because their respect for even an imaginary right exceeds their cupidity.... Would it be more difficult, then, to reconcile possessors without masters than tenants controlled by proprietors? Would working men who, to their own cost, respect the pretended rights of the idler, violate the natural rights

> of the producer and the manufacturer?[62]

The land is productive; but its productive forces are freely given by nature. They can contribute to exchange value only when the free gift of nature is monopolized. The landlord's only "contribution" to value is that he sits atop the free gift of nature, without using it himself, and charges others a fee for access to it. His rent, in its essence, is the toll collected by one of Dobb's gatekeepers (mentioned below). Or as Marx had put it in volume 3 of Capital,

> land becomes personified in the landlord and... gets on its hind legs to demand, as an independent force, its share of the product created with its help. Thus, not the land receives its due portion of the product for the restoration and improvement of its productivity, but instead the landlord takes a share of this product to chaffer away or squander.[63]

The "trinitarian forumula" of labor-wages, capital-profit, and land-rent is

> an enchanted, perverted, topsy-turvy world, in which Monsieur le Capital and Madame la Terre do their ghost-walking as social characters and at the same time directly as mere things.[64]

Benjamin Tucker, ridiculing claims that "whatever contributes to production is entitled to an equitable share in the distribution," countered: "Wrong! *Whoever* contributes to production is alone so entitled. *What* has no claims that *Who* is bound to respect. *What* is a thing. *Who* is a person. Things have no claims.... The possession of a right cannot be predicated of dead material...."[65]

Tucker criticized, in similar terms, Henry George's "Hodge and Podge" justification for interest based on the productivity of nature.[66] The illustration George used was of one party, Hodge, charging for the productivity of natural forces: Hodge sold Podge a pail of boiling water, not merely for the labor cost of fetching it from the stream and building the fire to heat it, but also for the contribution of a natural force--fire. Profit, Tucker paraphrased George as saying, is "the capitalist's share of the results of the increased power which Capital gives the laborer," with "Hodge's boiling water... made a type of all those products of labor which afterwards increase in utility purely by natural force." Nevertheless, George argued that this share was not a deduction from the laborer's earnings.

As Tucker pointed out, this is economic nonsense: "Where there is free competition in the manufacture and sale of spades, the price of a spade will be governed by the cost of

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[62] Proudhon, *What is Property?*, pp. 124-126.
[63] Karl Marx and Friedrich Engels, *Capital* vol. 3, vol. 37 of Marx and Engels *Collected Works* (New York: International Publishers, 1998), p. 811.
[64] Ibid., p. 817.
[65] Benjamin R. Tucker, "Capital's Claim to Increase," *Instead of a Book*, p. 184.
[66] Tucker, "Economic Hodge-Podge," *Instead of a Book*, pp. 202-205.

its production, and not by the value of the extra potatoes which the spade will enable its purchaser to dig." Only when someone has a monopoly on the supply of spades, can he charge according to utility to the user rather than cost of production. In that case, he can pocket most of the proceeds of increased productivity, and leave the purchaser just enough of the net increase in potatoes to persuade him to buy the spade. And the monopolist's price is clearly a deduction from the wages of labor:

> What are the normal earnings of other men? Evidently what they can produce with all the tools and advantages which they can procure *in a free market* without force or fraud. If, then, the capitalist, by abolishing the free market, compels other men to procure their tools and advantages of him on less favorable terms than they could get before, while it may be better for them to come to his terms than to go without the capital, does he not deduct from their earnings?

Hodge, therefore, will be able to charge Podge according to what the natural process of combustion contributes to the boiling of water, only if he can monopolize the boiling of water. Otherwise, competitors will drive the price down to the actual cost of performing the service, which does not include services provided free of charge by nature.

It is ironic that George should have failed to grasp this principle in the case of capital, because it was the basis for his criticism of land monopoly: the injustice of monopolizing natural opportunities in order to collect tribute from the labor of others.

> He does not see that capital in the hands of labor is but the utilization of a natural force or opportunity, just as land is in the hands of labor, and that it is as proper in the one case as in the other that the, benefits of such utilization of natural forces should be enjoyed by the whole body of consumers....
>
> The truth in both cases is just this, - that nature furnishes man immense forces with which to work in the shape of land and capital, that in a state of freedom these forces benefit each individual to the extent that he avails himself of them, and that any man or class getting a monopoly of either or both will put all other men in subjection and live in luxury on the products of their labor. But to justify a monopoly of either of these forces by the existence of the force itself, or to argue that without a monopoly of it any individual could get an income by lending it instead of by working with it, is equally absurd whether the argument be resorted to in the case of land or in the case of capital, in the case of rent or in the case of interest. If any one chooses to call the advantages of these forces to mankind rent in one case and interest in the other, I do not know that there is any serious objection to his doing so, provided he will remember that in practical economic discussion rent stands for the absorption of the advantages of land by the landlord, and interest for the absorption of the advantages of capital by the usurer.

It is privilege that enables a class of absentee owners to appropriate the productivity gains of social labor. As Proudhon pointed out, the increase in productivity from collective labor is appropriated entirely by the owning classes.

> "The capitalist," they say, "has paid the labourers their 'daily wages'"; at a rate agreed

upon; more precisely, it should be said that the capitalist has paid as many times "one day's wage" as he has employed labourers each day, which is not at all the same thing. For he has paid nothing for that immense power which results from the union and harmony of laborers and the convergence and simultaneity of their efforts. Two hundred grenadiers set the obelisk of Luxor upon its base in a few hours; do you suppose that one man could have accomplished the same task in two hundred days? Yet according to the calculation of the capitalist, the amount of wages would have been the same.

> *Divide et impera*, divide and conquer: divide and you will become rich... Separate labourers from each other, and each one's daily wage may exceed the value of each individual product, but this is not the question here. A force of a thousand men working for twenty days has been paid the same as a force of one working fifty-five years; but this force of one thousand has done in twenty days what a single man, working continuously for a million centuries, could not accomplish: is this exchange equitable? Once more, no; for when you have paid all the individual forces, you have still not paid the collective force. Consequently, there always remains a right of collective property which you have not acquired and which you enjoy unjustly.[67]

Privilege is enforced by a monopoly on the supply of credit, which prevents associated labor from appropriating the productivity gains from association in the form of increased wages. Since the rentier classes maintain a monopoly on the supply of credit, they maintain a monopoly on the function of advancing the capital necessary to organize collective production, and supplying the labor fund, and thus approach labor from a position of unequal exchange. They are able, therefore, to appropriate the net product to themselves as profit. The worker, whose wage is based on the productivity of one solitary man's labor rather than of his share in the productivity of collective labor, is unable to buy back the product.

> ...It is in consequence of monopoly that in society, net product being figured over and above gross product, the collective laborer must repurchase his own product at a price higher than that which this product costs him, — which is contradictory and impossible; that the natural balance between production and consumption is destroyed; that the laborer is deceived not only in his settlements, but also as to the amount of his wages; that in his case progress in comfort is changed into an incessant progress in misery: it is by monopoly, in short, that all notions of commutative justice are perverted, and that social economy, instead of the positive science that it is, becomes a veritable utopia....[68]

The purpose of Proudhon's credit schemes was to enable the worker, rather than the absentee owner and the merchant-capitalist, to profit from collective force: "the collective force, which is a product of the community, ceases to be a source of profit to a small number of managers and speculators: it becomes the property of all the workers."[69]

This issue was at the heart of our discussion of lean production in Chapter Ten. The

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[67] Proudhon, *What is Property?*, pp. 91, 93.
[68] Proudhon, *System of Economical Contradictions*, p. 303.
[69] Proudhon, *General Idea of the Revolution*, pp. 221, 223.

central question, in evaluating lean production, is the context of class power in which it takes place: who is in a position to appropriate the benefits of increased efficiency? If it is the worker, then lean production and labor-saving production technology are simply ways to make his own work easier, and to reduce the ratio of effort to consumption. If it is the absentee owner or manager, then the purpose of lean production becomes to eliminate jobs, not effort, and "increased efficiency" takes the form of downsizing and speedup.

The normal effect of market competition is for the productivity benefits of new technology to translate directly into lower consumer prices. It is only through artificial property rights that privileged sellers can charge the consumer in proportion to his increased utility, regardless of the cost of supplying the good. As Proudhon described it, the natural process of competition is that

> .... a mechanical invention, notwithstanding the privilege which it temporarily creates and the disturbances which it occasions, always produces in the end a general amelioration; ... the value of an economical process to its discoverer can never equal the profit which it realizes for society....[70]

Patents impede the normal process of market competition by which technological innovation translates directly into lower consumer cost. Benjamin Tucker, in "State Socialism and Anarchism," argued that opening up the supply of capital and land to free competition would result in their benefits being socialized. [add quote] Likewise, eliminating patents and other barriers to the free adoption of innovations will result in the socialization of the fruits of increased productivity.

Johan Soderberg gives the example of birds in flight, taking advantage of the turbulence created by other birds flying immediately ahead of them. This is

> an important boon for migratory birds enabling them to cover very long distances. Indeed, the utilisation of excess capacity in this way is paramount to the health of all ecosystems. With knowledge of this fact, the restricted economy of capitalism shows up as a mirror world of anti-production where the principle of life has been inverted. If the first bird was a bourgeois, he would sue the second bird for piracy. At each and every instant, private property acts as a stoppage.[71]

So artificial property rights enable the privileged to appropriate productivity gains for themselves, rather than allowing their benefits to be socialized through market competition. But they do more than that: they make possible the privilege to collect tribute for the "service" of *not* obstructing production. As Commons observed, the alleged "service" performed by the holder of artificial property rights, in "contributing"

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[70] Proudhon, *System of Economical Contradictions*, p. 126.
[71] Johan Soderberg, *Hacking Capitalism: The Free and Open Source Software Movement* (New York and London: Routledge, 2008), p. 148.

some factor to production, is defined entirely by his ability to obstruct access to it. As I wrote in *Studies in Mutualist Political Economy*, marginalist economics

> treated the existing structure of property rights over "factors" as a given, and proceeded to show how the product would be distributed among these "factors" according to their marginal contribution. By this method, if slavery were still extant, a marginalist might with a straight face write of the marginal contribution of the slave to the product (imputed, of course, to the slave-owner), and of the "opportunity cost" involved in committing the slave to one or another use.[72]

Such privileges, Maurice Dobb argued, were analogous to a grant of authority to collect tolls:

> Suppose that toll-gates were a general institution, rooted in custom or ancient legal right. Could it reasonably be denied that there would be an important sense in which the income of the toll-owning class represented "an appropriation of goods produced by others" and not payment for an "activity directed to the production or transformation of economic goods?" Yet toll-charges would be fixed in competition with alternative roadways, and hence would, presumably, represent prices fixed "in an open market...." Would not the opening and shutting of toll-gates become an essential factor of production, according to most current definitions of a factor of production, with as much reason at any rate as many of the functions of the capitalist entrepreneur are so classed to-day? This factor, like others, could then be said to have a "marginal productivity" and its price be regarded as the measure and equivalent of the service it rendered. At any rate, where is a logical line to be drawn between toll-gates and property-rights over scarce resources in general?[73]

Veblen made a similar distinction between property as capitalized serviceability, and capitalized disserviceability. The latter consisted of power advantages over rivals and the public which enabled owners to withhold supply, and constituted the bulk of tangible assets.[74]

The circular reasoning of marginalist economics, by which forbearing to impede production is a "contribution" to production, for which "service" the holder of an artificial property right is entitled to compensation from the productive labor which he helpfully refrained from impeding, is beautifully illustrated by Peter Schiff in the context of the global economy. It's hilarious, until you consider that it's dead-on accurate:

> Suppose six castaways are stranded on a deserted island, five Asians and one American. Further, suppose that the castaways decide to divide the work load among them in the following manner: (for the purpose of simplicity, the only desire the castaways work to satisfy is hunger) one Asian is put in charge of hunting, an other in charge of fishing, and a third in charge of finding vegetation. A fourth is put in charge of preparing the meal, while a

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[72] Kevin Carson, *Studies in Mutualist Political Economy*
[73] Maurice Dobb, *Political Economy and Capitalism: Some Essays in Economic Tradition*, 2nd rev. ed. (London: Routledge & Kegan Paul Ltd, 1940, 1960), p. 66.
[74] Veblen, *The Place of Science in Modern Civilization and other Essays*, p. 352, in Commons, p. 664.

fifth is given the task of gathering firewood and tending to the fire. The American is given the job of eating.

> So, on our island five Asians work all day to feed one American, who spends his day sunning himself of the beach. He is employed in the equivalent of the service sector, operating a tanning salon which none of the Asians on the island utilize. At the end of the day, the five Asians present a painstakingly prepared feast to the American, who sits at the head of a special table, built by the Asians specifically for this purpose.
>
> Realizing that subsequent banquets will only be forthcoming if the Asians are alive to provide them, he allows them just enough scraps from his table to sustain their labor for the following day.
>
> Modern day economists would say that this American is the lone engine of growth driving the island's economy and that without his ravenous appetite, the Asians on the island would be unemployed.[75]

In a sense that's true--if you accept the premise that the land the Asians are working belongs to the American, or that he has a legitimate "intellectual property" right in the seeds or techniques they use to grow food. It's always technically true that a ruling class "provides" jobs, if you take at face value its claimed right to rope off the means of production and charge admission.

These considerations are fundamental to a correct resolution of the debate on profit between Bastiat and Proudhon. What Bastiat fails to recognize, in his illustration of the plane, is the role of monopoly in enabling the maker of the plane to rent it out at a price that not only amortizes his actual cost and effort in producing it, but in addition to appropriate the plane's contribution to productivity. Wakefield and Oppenheimer both observed that the level of wages is set by the competing terms offered by self-employment. The maker of the plane is able to rent it out for such high monopoly rents, likewise, only when the alternative of acquiring one's own plane is artificially expensive. One of Tucker's correspondents, "Apex" (in a discussion that anticpates our treatment of mutual banking later in this chapter), explained the principle:

> The question is this: “Is a man who loans a plough entitled in equity to compensation for its use?” My answer is, “Yes.” Now, then, what of it? Does that make something for nothing right? Let us see. We must take it for granted that the loaning of the plough was a good business transaction. Such being the case, the man who borrows the plough must give good security that he will return the plough and pay for what he wears out. He must have the wealth or the credit to make the owner of the plough whole in case he should break or lose the plough. Now, I claim that this man, having the wealth or credit to secure a borrowed plough, could transmute that same credit or security into money, *without cost*, and with the money buy a plough, were it not for a monopoly of money. For a monopoly of money implies

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[75] Peter Schiff, "Even Stephen Roach Has It Wrong," *Safe Haven*, March 29, 2005 <http://www.safehaven.com/article-2810.htm>.

a monopoly of everything that money will buy.[76]

Let us remember that no man can borrow money, as a good business transaction, under any system, unless he has the required security to make the lender whole in case he should lose the money. What a stupendous wrong is this—that a man having credit cannot use it, but must exchange it and pay a monopoly price, which is really for the privilege of using his own credit![77]

Tucker, immediately following the series of exchanges between Apex and the defenders of interest, added his comment:

But under the system of organized credit contemplated by Apex no capable and deserving person would borrow even a title to capital. The so-called borrower would simply so change the face of his own title as to make it recognizable by the world at large, and at no other expense than the mere cost of the alteration. That is to say, the man having capital or good credit, who, under the system advocated by Apex, should go to a credit-shop—in other words, a bank—and procure a certain amount of its notes by the ordinary process of mortgaging property or getting endorsed commercial credit discounted, would only exchange his own personal credit—known only to his immediate friends and neighbors and the bank, and therefore useless in transactions with any other parties—for the bank's credit, known and receivable for products delivered throughout the State, or the nation, or perhaps the world. And for this convenience the bank would charge him only the labor-cost of its service in effecting the exchange of credits, instead of the ruinous rates of discount by which, under the present system of monopoly, privileged banks tax the producers of unprivileged property out of house and home.[78]

Regarding Bastiat's example of the plane, Tucker pointed out that price in a free market is governed by cost of production rather than utility to the purchaser, and "that James consequently, though his plane should enable William to make a million planks, could not sell or lend it for more than it cost him to make it, except he enjoyed a monopoly of the plane-making industry."[79]

Capitalism, as opposed to the free market, could not exist without artificial property rights--as its most honest defenders admit. This is the theme, for example, of a post by Elizabeth Anderson of *Left2Right* blog, one of the better liberal bloggers.[80] She rejects natural property rights because they are "incompatible with capitalism"--particularly with the form of "advanced capitalism" she so admires. Advanced capitalism, she argues, depends on artificial forms of property like the limited liability corporation and "intellectual property rights" (which are both "indispensable to capitalism and deeply artificial). On first reading the post, in fact, I mistakenly read Anderson's defense of

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[76] "Another Answer to Mr. Babcock," *Instead of a Book*, p. 189.
[77] "Usury," Ibid., p. 191.
[78] Tucker, "Apex or Basis," Ibid., p. 194.
[79] Tucker, "The Position of William," Ibid., p. 200.
[80] Elizabeth Anderson, "How Not to Complain Against Taxes (II): Against Natural Property Rights," *Left2Right*, January 20, 2005. http://left2right.typepad.com/main/2005/01/why_i_reject_na.html

artificial property rights as written in the spirit of Swift's "modest proposal": a brilliant satiric *attack* on capitalism.

Anderson's judgment in placing the divide between "natural" and "artificial" strikes me as oddly counterintuitive in some cases. For example, she identifies "natural" property in land as a hypersteroidal form of Lockeanism, in which the absolute power of transfer is limited by no requirement of possession. I would tend, rather, to measure the artificiality of property rights by the distance of their remove from simple possession and transfer of possession. She quotes De Soto as an authority on the importance of government in transforming customary property rights into artificial (and enforceable) ones, but neglects the present role of government in suppressing more egalitarian forms of possessory ownership in favor of the artificial property rights of latifundistas and other landed oligarchs. Likewise, she regards bankruptcy as an artificial limitation on the "natural" property rights of creditors, whereas Spooner's position on the unenforceability of specific performance in the case of promises to pay strikes me as far more natural.

Thomas Hodgskin, almost a hundred years before J.A. Hobson or John Maynard Keynes, remarked on the effect of privilege in the maldistribution of purchasing power.

> ....The peasant, who produces so much corn, that his master is ruined by its reduced price, has not wherewithal to eat and cover himself. The weaver, who supplies the world with clothing, whose master undertakes perilous adventures to tempt savages to use his productions, is perishing with hunger and nakedness in the midst of an inclement season.... The established right of property,—that *right* which denies bread and raiment to the labourer, in order to pamper those who do not labour with luscious viands and clothe them in purple and fine linen, [is threatened with] total subversion by violence....[81]

Privilege results in distorting and destabilizing effects that, in turn, lead to corrective government intervention. A central problem of the advanced economies, from the late 19th century on, has been the crisis of overproduction, overaccumulation and underconsumption. They all result from the maldistribution of purchasing power that occurs when privilege breaks the direct connection between effort and reward. To quote Hodgskin again,

> The wants of individuals which labour is intended to gratify, are the natural guide to their exertions. The instant they are compelled to labour for others, this guide forsakes them, and their exertions are dictated by the greed and avarice, and false hopes of their masters. The wants springing from our organization, and accompanying the power to labour, being created by the same hand which creates and fashions the whole universe, including the course of the seasons, and what the earth brings forth, it is fair to suppose that they would at all times guide the exertions of the labourer, so as fully to ensure a supply of necessaries and conveniences, and nothing more. They have, as it were, a prototype in nature, agreeing with other phenomena, but the avarice and greed of masters have no such prototype. They stand isolated and apart from all the great phenomena of the universe. They were originally crimes

[81] Hodgskin, *Popular Political Economy*, p. 264.

> condemned by our moral sentiments, and still have their source in our crime-begotten political systems. Nature disowns them as a guide to action, and punishes us for following them. By this system the hand is dissevered from the mouth, and labour is put in motion to gratify vanity and ambition, not the natural wants of animal existence. When we look at the commercial history of our country, and see the false hopes of our merchants and manufacturers leading to periodical commercial convulsions, we are compelled to conclude, that they have not the same source as the regular and harmonious external world. Capitalists have no guide to their exertions, because nature rejects and opposes their dominion over labour. Starts of national prosperity, followed by bankruptcy and ruin, have the same source then as fraud and forgery. To our legal right of property we are indebted for those gleams of false wealth and real panic, which, within the last fifty years, have so frequently shook, to its centre, the whole trading world.[82]

The major function of the interventionist state from the early 20th century on, as we saw in Chapter Three, has been to guarantee a market for overproduction, either through foreign imperialism (as J.A. Hobson described), through government spending to use up the surplus product, or through Keynesian policies of increasing aggregate demand.

Note to vulgar libertarians: I'm already fully aware of all the second-hand arguments from J.B. Say as to why labor's inability to "buy back its product" is supposed to be a non-problem, and why maldistribution of income couldn't happen *in a free market*. No less an Austrian than Joseph Stromberg has explained just how it can be, and is, a problem in the nonfree market we actually live in. In "State Monopoly Capitalism and Empire," he made considerable use of J.A. Hobson's "imperialism as solution to overproduction" thesis, explaining *in terms of Austrian economic principles* just why it is true. In an economy where industry is cartelized by the state operating in league with big business, big business is unable to dispose of its product at cartel prices.[83] As Stromberg also put it in a later email, what part of "this isn't a free market" don't the vulgar libertarians understand?

C. Specific Forms of Privilege, and the Effect of Their Abolition

The central area of disagreement between individualist anarchists and state socialists (along with all other "progressive" ideologies that see state intervention as the solution to the evils of capitalism) is over the relationship between the interventionist state and economic exploitation. The statists see exploitation as the natural outcome of an

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[82] Hodgskin, *The Natural and Artificial Right of Property Contrasted. A Series of Letters, addressed without permission to H. Brougham, Esq. M.P. F.R.S.* (London: B. Steil, 1832). Online Library of Liberty <http://oll.libertyfund.org/index.php?option=com_staticxt&staticfile=show.php%3Ftitle=323&layout=html>.
"Letter the Eighth: Evils of the Artificial Right of Property"

[83] Joseph R. Stromberg, "The Role of State Monopoly Capitalism in the American Empire" *Journal of Libertarian Studies*, vol. 15, no. 3 (Summer 2001) <http://www.mises.org/journals/jls/15_3/15_3_3.pdf>.

unregulated market, and see state intervention as necessary to counteract this outcome. Individualist anarchists see exploitation as the result of privilege created by state intervention in the market, and propose opening up all the forms of artificial scarcity created by such privilege to the revolutionary force of market competition. As Benjamin Tucker put it, we are consistent Manchester liberals.

Tucker described the functioning of privilege in the ostensibly "free market" economy:

> When Warren and Proudhon, in prosecuting their search for justice to labor, came face to face with the obstacle of class monopolies, they saw that these monopolies rested upon Authority, and concluded that the thing to be done was... to utterly uproot Authority and give full sway to the opposite principle, Liberty, by making competition, the antithesis of monopoly, universal. They saw in competition the great leveler of prices to the labor cost of production. In this they agreed with the political economists. The query then naturally presented itself why all prices do not fall to labor cost; where there is any room for incomes acquired otherwise than by labor; in a word, why the usurer, the receiver of interest, rent, and profit, exists. The answer was found in the present one-sidedness of competition. It was discovered that capital had so manipulated legislation that unlimited competition is allowed in supplying productive labor, thus keeping wages down to the starvation point, or as near it as practicable...; but that almost no competition at all is allowed in supplying capital, upon the aid of which both productive and distributive labor are dependent for their power of achievement, thus keeping the rate of interest on money and of house-rent and ground-rent at as high a point as the necessities of the people will bear.
>
> On discovering this, Warren and Proudhon charged the political economists with being afraid of their own doctrine. The Manchester men were accused of being inconsistent. The believed in liberty to compete with the laborer in order to reduce his wages, but not in liberty to compete with the capitalist in order to reduce his usury....
>
> ....So they raised the banner of Absolute Free Trade; free trade at home, as well as with foreign countries; the logical carrying out of the Manchester doctrine; *laissez faire* the universal rule. Under this banner they began their fight upon monopolies, whether the all-inclusive monopoly of the State Socialists, or the various class monopolies that now prevail.
>
> Of the latter they distinguished four of principal importance: the money monopoly, the land monopoly, the tariff monopoly, and the patent monopoly.[84]

The phenomenon Tucker described, the coexistence of almost unlimited competition in the supply of labor with greatly circumscribed competition in the supply of capital, has been remarked upon by many thinkers over the years. The general principle is described by Noam Chomsky as "socialism for the rich, free market discipline for the poor." Or as Geoff Olson describes it, at greater length:

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[84] Tucker, "State Socialism and Anarchism: How Far They Agree, and Wherein They Differ"

> For several decades, middle-class North Americans have been coached on the virtues of beating out the other guy or gal for a grade, contract, job or home. "Competition" and "competitiveness" have become magical spells for warding off the last remaining gremlins of socialism....
>
> If we seem to be working more than our parents ever did, and receiving less for the effort, that may offer a bit of a clue. It's intriguing that mainstream media always trots out competitiveness whenever the indefensible needs defending. Whether it's an argument for the minimum wage, a celebration of corporate merger, or applause for a superstar CEO's golden parachute, we're told it's really about us being more competitive as a city, province, nation, trading bloc, etc.
>
> But hang on a moment. If this is the case, why do we find relatively little direct competition at the highest levels of business? What of the interlocking boards of major corporations, in which the same names crop up over and over?
>
> Once you get past mom and pop businesses, the North American economic landscape is mostly an "oligopoly." That may sound like a Dr. Seuss creature, but it's actually a market in which control over the supply of a commodity is in the hands of a small number of producers. Hence, the comfortable push/pull between remaining monopolies--the Coke/Pepsi dynamic. This mirrors the monopolies in the political realm, summed up in the comic battles between the Democrats and Republicans. (Lest we forget, the last two main contenders, John Kerry and George W. Bush, hailed from the same Yale frat club/secret society, Skull and Bones.)
>
> Those at the top have little to gain from direct competition. They and their parents hail from the same prep schools, head for the same golf courses, and subscribe to the same journals. Their interactions are usually more country club than cutthroat. With a multigenerational game this good, the plutocrats have plenty of reason to convince everyone else to keep fighting among themselves, by pushing the glorious virtues of competition through foundations and media outlets. In fact, their continuing comfort depends on it.[85]

The central function of privilege being the power to extract unearned wealth by impeding production, and by obstructing access to unused productive resources on the part of those who could put them to productive use, it follows that the general effect of abolishing privilege will be the opposite: to increase production and wealth, both through the allocation of productive resources without impediment to their most productive use, and through the full reward of productive labor. As Henry George, Jr., pictured it:

> The production of wealth would not be less in such a state of things, but more; while the powers to interfere with its natural and equitable distribution would be destroyed. None would have the means of appropriating what he did not produce. None would have the power to heap together great riches at the expense of the mass. To the producer would go the fruits, and he who would not work should starve, or at least be viewed with disgust and treated with

[85] Geoff Olson, "Social Darwinist competition leads to Ik-y mess," *The Vancouver Courier*, July 20, 2007 <http://www.canada.com/vancouvercourier/news/opinion/story.html?id=f70e98e6-8fbb-4f5c-9a25-76c038cca258&k=83345>.

contempt. No longer would the idler, the appropriator of other men's gains, call himself a "gentle-man" in the marriage certificate; no longer would the owners of Government favor range themselves apart as an aristocracy of privilege....

For if Nature... is no longer shut off by the speculator at every turn, but is cast open to the labor of head and hand, whence can come enough men to fully engage her in production? Her demand for men can never cease, and to them she does not exhaust herself, but passes from a lower to a higher use, multiplying her rewards in an infinite progression.

Where all men would be able to get an independent living, who need bow, or cringe, or be afraid? And where would be the necessity for laborers to band together to resist cutting in wages, blacklisting, dismissal for premature old age?

Labor produces more and more as civilization advances; but Privilege, in the person of the monopolist of natural opportunities, the owner of franchise, tariff or similar power, appropriates, leaving to the laborer little more than enough to sustain him in further production. Wages at bottom depend upon what the laborer can earn for himself from the best land that is free to him -- land that is open to him without the payment of rent. With all restrictions away and Nature calling for men to bring forth her infinite quantity and variety of treasure, and with the powers of labor increasing as the human units more closely cooperate in the body social, wages would not fall or even remain stationary, but would mount. American laborers would then think no more of organizing against "capital," as Privilege is mistakenly called, than they would think of organizing against a race of men whose only records are a few scattered ruins and picture writings engraved on fragments of stone. Strikes and lockouts, sweeping enjoining orders and the glisten of bayonets in industrial affairs would belong to a past and to-be-forgotten age. Great stretches of unused Nature would be calling to labor to come and receive her rich reward, and none by Government writ or social sanction would bar the way.

Labor applied to free conditions would find so ample a reward as to lead sensibly to a shortening of the hours of toil and the development of the mental and moral natures.[86]

1. The Credit Monopoly.

Benjamin Tucker listed the credit monopoly first among the forms of legal privilege that robbed labor of its product. The credit monopoly consists of state-enforced entry barriers, like licensing and capitalization requirements (even for secured loans) that restrict competition in the supply of credit, and enable banks to charge a monopoly price.

The form such restrictions take in recent times was described by Karl Hess and David Morris:

First, one gets a certificate which gives permission to raise capital for the bank and outlines

[86] Henry George, Jr., *The Menace of Privilege*, "Chapter Twenty-Six," <http://www.progress.org/archive/hgjr26a.htm>

> what conditions need to be met in order to receive a charter. Step two is getting the charter after having met the conditions. The conditions are numerous, but the most important one is that a given amount of deposit capital must be raised in a specific period of time. In order to get permission to raise capital a group must prove that there is a reason to have another bank, that it can serve a necessary function, and that it has a viable chance of succeeding.[87]

Capitalization requirements for institutions providing secured loans, over and above the security provided for the loans themselves, amount to unnecessarily mandating a double guarantee. Their only real function is to raise the entry cost for the credit industry so that a monopoly price can be charged for issuing currency against property.

> BANK-BILLS are doubly guaranteed. On one side, there is the capital of the bank, which is liable for the redemption of the bills in circulation: on the other side are the notes of the debtors of the bank, which notes are... a sufficient guaranty for all the bills; for no bills are issued by any bank, except upon notes whereby some responsible person is bound to restore to the bank. after a certain lapse of time, money to the amount borne on the face of the bills. If the notes given by the receivers of the bills are good, then the bills themselves are also good.[88]

As we saw in the opening section of Chapter Three, privilege (or its lack) has a powerful effect on the bargaining power of labor. The very term "employment" (with "self-employment" an anomaly comparable to a freed slave or an unowned horse), and the idea of work as something that someone must be *given* rather than something one *does*, assumes a lack of direct access to means of production and subsistence:

> Our natural resources, while much depleted, are still great; our population is very thin, running something like twenty or twenty-five to the square mile; and some millions of this population are at this moment "unemployed," and likely to remain so because no one will or can "give them work." The point is not that men generally submit to this state of things, or that they accept it as inevitable, but that they see nothing irregular or anomalous about it because of their fixed idea that work is something to be *given*.[89]

Defenders of the status quo often argue that employers are competing for labor as much as workers are competing for employment. But this is not entirely true. The competition between employers, although it exists, is artificially constrained by privilege, so that there are fewer employers competing in the labor market than would be the case in a genuinely free market.

Oliver Williamson refers, for example, to the "reputation effects" of bad employer

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[87] Karl Hess and David Morris, *Neighborhood Power: The New Localism* (Boston: Beacon Press, 1975), p. 81.
[88] William B. Greene, *The Radical Deficiency of the Existing Circulating Medium, and the Advantages of a Mutual Currency* (1857). Online text scanned by Shawn Wilbur <http://libertarian-labyrinth.org/mutual/wbg-mb1857.html >. This work, with minor alterations, was the basis of the 1870 edition of *Mutual Banking*.
[89] Nock, *Our Enemy, the State*, p. 82n.

practices: workers in the job market will evaluate prospective employers on past performance.[90] That's true, as far as it goes. But the more the number of competing employers is reduced, the worse a reputation the worst employer can afford to have and still get workers. To put it in terms of Bohm-Bawerk's marginal pairs, if the number of competing employers is artificially constrained, there is likely to be a disappointed worker left over at the end rather than a disappointed employer.

Vulgar libertarians like to stress that, "in a free market," workers are free to take their labor elsewhere if they don't like their working conditions. And many free market libertarians respond with just that advice--frequently in quite indignant terms--in response to workers' complaints about their employers. Every complaint about employers' restrictions on their employees' freedom of speech and association outside of work is met with the response: "Well, nobody's forcing you to work there."

Well, yes and no. We market anarchists do not propose the imposition of any external constraint on what terms an employer can set as a condition of employment. The question is not whether the *state* should permit employers to set such conditions, but *what kind of a market* allows it*?*

Just how godawful do the other " options" have to be before somebody's desperate enough to take a job, and hold onto it like grim death, under conditions of stagnant pay, where (thanks to downsizing and speedups) they're doing their own work plus that of a former coworker?

But never mind those things. How do things get to the point where people are lined up to compete for jobs where they can be forbidden to associate with coworkers away from work, where even squalid, low-paying retail jobs can involve being on-call 24/7, where employees can't attend political meetings without keeping an eye out for an informer, or can't blog under their own names without living in fear that they're a web-search away from termination?

To grasp the extent of the state's role in such exploitation, just consider the likely effect of abundant, low-interest credit (or, as we shall see in the next section, cheap vacant land) on the bargaining power of labor. Tucker's remedy of free mutual credit ("free" as in "free speech," not "free beer") was based on the mutual banking proposals of William B. Greene.

Here is how a mutual bank would function, as described by Greene in *The Radical Deficiency of the Circulating Medium*:

> Any person or company, by pledging real estate to the MUTUAL B ANK , may become a member of the Banking Company; and said Banking Company shall have power to receive new members to an unlimited extent.

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[90] Oliver Williamson, *The Economic Institutions of Capitalism* (New York: The Free Press, 1985), p. 259.

Said Mutual Bank shall have power to issue paper-money to circulate *as currency* among parties willing to use it as such.

Any member may borrow the paper-money of said bank, on his own notes running to maturity, to an amount not to exceed three-fourths (or such other fixed proportion as your honorable body may determine)of the value of the property by himself pledged.

Each member shall be bound to receive the bills issued by said bank, at the full value borne on their face, in payment of debt, and in all the transactions of trade; but no member, who has in his possession bills of the bank to an .amoumt equal to the whole value.of the property by himself pledged, shall be bound to receive any more, until some of those held by him shall have gone out of his possession....

The rate of interest at which said money shall be loaned shall be determined by—and shall, if possible, just meet and cover—the average losses and necessary expenses of the institution.

No money shall be loaned by said bank to any person who does not become, by a pledge of real estate, a member of the company.

Any member, by paying his debts to the bank, may withdraw from the company, have his property released from pledge, and be himself released from all obligations to the bank, and to the holders of the bank's money as well....

No paper-money shall be issued by said bank, until after real estate, to the value of two millions of dollars, shall have been pledged to the bank by the members of the Banking Company.

Your petitioners humbly conceive that a bank is an insurance company that insures and guarantees the business-paper of individuals. Individuals give their promissory notes to the bank, which notes bear interest; and receive from the bank, in exchange for their notes, other promissory notes not bearing interest. The notes given by individuals are worth more than those given by the bank, since they bear interest; but, on the other hand, the bank's notes are worth more than the notes of individuals, since they are notes of individuals transformed-by being- insured, and may therefore serve as currency. The interest paid by borrowers for bank-notes not bearing interest is paid to the banks as insurance money

According to the estimate of your petitioners, one per cent on the amount borrowed, would more than cover the average cost of insurance.... Your petitioners believe that a Mutual Bank, through the simple process of legitimate competition... would furnish them with an instrument by which they might enable the members of the community generally to mutually insure each other's business-paper; thus providing a currency for the people at less than one-sixth of the present cost.[91]

Greene expected such free competition in the issue of secured loans to exercise a

[91] Greene, *The Radical Deficiency of the Existing Circulating Medium.*

powerful downward pressure on interest rates, and to increase the independence of labor:

> Let it be assumed that the Mutual Bank has been established and offers credit at the cost of operating the bank, which is about one per cent. This will be the full rate charged on all loans. This rate comes into competition with the rate charged by all other banks and all other money lenders. The effect on the other banks will be felt very soon, because no one is going to pay six or eight per cent for money when he can get it for one per cent or less. One of two things must happen. The old banks must either meet the cut and also lend money at that rate, or else lose their customers who will go to the new bank, the new bank needs no capital, as it does business entirely on the capital of its customers, who are also its members; for every member virtually brings his own capital to the Mutual Bank when he joins it.
>
> The business the Mutual Bank can do is unlimited, and each new member joining the Bank in creases the number of people who can do business with each other on this new basis. The circle of exchange becomes wider arid wider and it cannot be long before the whole comunities is impelled by self interest to do business on this plan.
>
> Once the Mutual Bank is operating, money will be available practically without interest to any responsible producer, so that his independence will no longer depend upon the whim of the usurer, but upon his determination and his ability in his line of work. There will be big factories and small shops, and the demand for wage labor will be greater than the supply, with the result that wages will soar until they approach the full value of the work done. Due to the elimination of interest, rent, and privileged profits, under Mutualism the cost of commodities will be much lower and money therefore will have more buying power, in addition to wages being higher.[92]

This was, in all its essentials, the same mutual banking system that Tucker tirelessly advocated in the pages of *Liberty* over his entire career as editor. For example:

> Does the law of England allow citizens to form a bank for the issue of paper money against any property that they may see fit to accept as security; the paper money not redeemable in specie except at the option of the bank; the customers of the bank mutually pledging themselves to accept the bank's paper in lieu of gold or silver coin of the same face value; the paper being redeemable only at the maturity of the mortgage notes, and then simply by a return of said notes and a release of the mortgaged property,—is such an institution, I ask, allowed by the law of England?[93]

The ability mobilize their own credit through such a free credit system would open up an enormous source of capital for workers. As Alexander Cairncross observed, "the American worker has at his disposal a larger stock of capital at home than in the factory where he is employed...."[94]

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[92] Greene, *Mutual Banking* (1870). Online edition scanned by Saren Calvert <http://www.the-portal.org/mutual_banking.htm>.
[93] Tucker, "The Power of Government over Values," *Instead of a Book*, p. 226.
[94] Alexander Cairncross, "Economic Schizophrenia," *Scottish Journal of Political Economy* (February 1950), quoted. in Michael Perelman, *Classical Political Economy: Primitive Accumulation and the Social Division of Labor* (Totowa, N.J.: Rowman & Allanheld; London: F. Pinter, 1984, c 1983), p. 27.

Here's how Tucker envisioned the resulting worker-friendly market, with jobs competing for workers instead of the reverse:

> For, say Proudhon and Warren, if the business of banking were made free to all, more and more persons would enter into it until the competition should become sharp enough to reduce the price of lending money to the labor cost, which statistics show to be less than three-fourths of once per cent. In that case the thousands of people who are now deterred from going into business by the ruinously high rates which they must pay for capital with which to start and carry on business will find their difficulties removed… Then will be seen an exemplification of the words of Richard Cobden that, when two laborers are after one employer, wages fall, but when two employers are after one laborer, wages rise. Labor will then be in a position to dictate its wages, and will thus secure its natural wage, its entire product...[95]

John Beverley Robinson, a member of Tucker's circle, in *The Economics of Liberty* described the effects of such free credit on the bargaining power of labor:

> Upon the monopoly rate of interest for money that is... forced upon us by law, is based the whole system of interest upon capital, that permeates all modern business.
>
> With free banking, interest upon bonds of all kinds and dividends upon stock would fall to the minimum bank interest charge. The so-called rent of houses... would fall to the cost of maintenance and replacement.
>
> All that part of the product which is now taken by interest would belong to the producer. Capital, however... defined, would practically cease to exist as an income producing fund, for the simple reason that if money, wherewith to buy capital, could be obtained for one-half of one per cent, capital itself could command no higher price.[96]

Near-zero interest rates would increase the independence of labor in all sorts of interesting ways. Mortgages would be paid off far more quickly, with most people in their 30s likely owning their houses free and clear. Between this and the disappearance of high-interest credit card debt, two of the greatest sources of anxiety to keep one's job at any cost would disappear. In addition, many workers would have large savings ("go to hell money"). In Doug Henwood's words,

> mortgaged workers are more pliable--less likely to strike or make political trouble. And they need money to live; nearly everyone below the upper middle class is just a few paychecks from insolvency.[97]

Significant numbers would retire in their forties or fifties, cut back to part-time, or start businesses; with jobs competing for workers, the effect on bargaining power would

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[95] "State Socialism and Anarchism," *Instead of a Book*, p. 11.
[96] John Beverley Robinson, *The Economics of Liberty* (Minneapolis: Herman Kuehn, 1916), pp. 80-81.
[97] Doug Henwood, *Wall Street: How It Works and for Whom* (London and New York: Verso, 1997), p. 232.

be revolutionary.

The authors of *An Anarchist FAQ* elaborated on the libertarian socialist implications of Benjamin Tucker's free market in credit:

> It's important to note that because of Tucker's proposal to increase the bargaining power of workers through access to mutual credit, his individualist anarchism is not only compatible with workers' control but would in fact promote it (as well as logically requiring it). For if access to mutual credit were to increase the bargaining power of workers to the extent that Tucker claimed it would, they would then be able to: (1) demand and get workplace democracy; and (2) pool their credit to buy and own companies collectively. This would eliminate the top-down structure of the firm and the ability of owners to pay themselves unfairly large salaries as well as reducing capitalist profits to zero by ensuring that workers received the full value of their labour. Tucker himself pointed this out when he argued that Proudhon (like himself) "would individualise and associate" workplaces by mutualism, which would "place the means of production within the reach of all."[98]

The worker would become a de facto co-owner of his workplace, even if it remained nominally capitalist-owned.

In addition, the availability (or unavailability) of capital to working class people has a significant effect on the rate of self-employment and small business formation. The capitalist credit system, in particular, is biased toward large-scale, conventional, absentee-owned firms. David Blanchflower and Andrew Oswald[99] found that childhood personality traits and test scores had almost no value in predicting adult entrepreneurship. On the other hand, access to startup capital was the single biggest factor in predicting self-employment. There is a strong correlation between self-employment and having received an inheritance or a gift.[100] NSS data indicate that most small businesses were begun not with bank loans but with own or family money...."[101] The clear implication is that there are "undesirable impediments to the market supply of entrepreneurship."[102] In short, the bias of the capitalist credit system toward large-scale capitalist enterprise means that the rate of wage employment is higher, and self-employment is lower, than their likely free market values.

As you might expect, barriers to market competition in the supply of credit lead to a

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[98] "Benjamin Tucker: Capitalist or Anarchist?" *Anarchist FAQ*, G.5 <http://www.infoshop.org/faq/secG5.html>.
[99] David G. Blanchflower and Andrew J. Oswald, "What Makes an Entrepreneur?" <http://www2.warwick.ac.uk/fac/soc/economics/staff/faculty/oswald/entrepre.pdf>. Later appeared in *Journal of Labor Economics*, 16:1 (1998), pp. 26-60.
[100] Ibid., p. 2.
[101] Ibid., p. 28.
[102] Ibid., p. 3.

net loss of social utility.

> If it is true that capital and other constraints hold back the effective supply of entrepreneurship, and so lead to there being frustrated employees who would rather be entrepreneurs, those who run their own businesses might be expected to be 'happier', on average, than those who do not.[103]

And the study found, indeed, that they are.[104] In addition,

> *When capital constraints bind, the larger is Z, the number of people in the economy who have capital, the smaller is the utility gap between entrepreneurs and workers.*[105]

So it follows that we have no need for state intervention to secure to labor its full product. As Tucker argued over a century ago,

> These employers have a perfect right to hire men on whatever conditions the men will accept. If the latter accept cruel conditions, it is only because they are obliged to do so. What thus obliges them? Law-sustained monopolies. Their relief lies, then, not in depriving employers of the right of contract, but in giving employees the same right of contract without crippling them in advance.[106]

I attempted to make the same point in "Contract Feudalism," a pamphlet for the Libertarian Alliance:

> We shouldn't need federal regulations to stop [the setting of onerous conditions of employment by employers] from happening. In a free market where land and capital weren't artificially scarce and expensive compared to labor, jobs should be competing for workers. What's remarkable is not that contract feudalism is technically " legal," but that the job market is so abysmal that it could become an issue in the first place.[107]

In addition to the primary form of exploitation described above, the monopoly has some other ill effects.

The absentee ownership of capital also skews investment in a different direction from what it would be in an economy of labor-owned capital, and reduces investment to lower levels. Investments that would be justified by the bare fact of making labor less onerous and increasing productivity, in an economy of worker-owned capital,[108] must produce an additional return on the capital to be considered worth making in an economy of rentiers. It is directly analogous to the holding of vacant land out of use that might enable laborers to subsist comfortably, because it will not in addition produce a rent over and above the

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[103] Ibid., p. 4.
[104] Ibid., pp. 25-27.
[105] Ibid., p. 9.
[106] Tucker, "On Picket Duty," *Instead of a Book*, p. 163.
[107] "Contract Feudalism"
[108] Hodgskin, *Popular Political Economy*, pp. 255-256.

laborer's subsistence.

> It is maintained... that labour is not productive, and, in fact, the labourer is not allowed to work, unless, in addition to replacing whatever he uses or consumes, and comfortably subsisting himself, his labour also gives a profit to the capitalist...; or unless his labour produces a great deal more... than will suffice for his own comfortable subsistence. Capitalists becoming the proprietors of all the wealth of the society... act on this principle, and never... will they suffer labourers to have the means of subsistence, unless they have a confident expectation that their labour will produce a profit over and above their own subsistence. This... is so completely the principle of slavery, to starve the labourer, unless his labour will feed his master as well as himself, that we must not be surprised if we should find it one of the chief causes... of the poverty and wretchedness of the labouring classes.[109]

Perhaps not coincidentally, there is a wide array of literature finding an inverse correlation between inequality of wealth and economic growth.[110]

When capital equipment is owned by the same people who make and use it, or made and used by different groups of people who divide the entire product according to their respective labor and costs, it is productive. But when capital equipment is owned by a class of rentiers separate from those who make it or use it, the owners may be said more accurately to impede production rather than "contribute" to it.[111]

> ...One labourer may produce or make the instruments which another uses to assist production—not mutually to share in just proportions the produce of their co-operating labour, but for the profit of a third party. The capitalist being the mere *owner* of the instruments, is not, as such, a labourer. He in no manner assists production. He acquires possession of the produce of one labourer, which he makes over to another, either for a time,—as is the case with most kinds of fixed capital, or for ever, as is the case with wages,—whenever he thinks it can be used or consumed for *his* advantage. He employs or lends his property to share the produce, or natural revenue, of labourers; and every accumulation of such poverty in his hands is a mere extension of his power over the produce of labour, and retards the progress of national wealth. In this which is at present the case, the labourers must share their produce with unproductive idlers, and to that extent less of the annual produce is employed in reproduction.
>
> If there were only the makers and users of capital to share between them the produce of their co-operating labour, the only limit to productive labour would be, that it should obtain for them and their families a comfortable subsistence. But when in addition to this..., they must also produce as much more as satisfies the capitalist, this limit is much sooner reached. When the capitalist... will allow labourers neither to make nor use instruments, unless *he*

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109 Hodgskin, *Popular Political Economy*, pp. 51-52.

110 Klaus Deininger and Lyn Squire, "Economic Growth and Income Inequality: Reexamining the Links," *Finance & Development*, March 1997, pp. 38-41 <http://www.worldbank.org/fandd/english/0397/articles/0140397.htm>. Philippe Aghion, Eve Caroli, Cecilia Garcia-Penalosa, *Inequality and Economic Growth: The perspective of the new growth theories* N 9908 (June 1999) <http://www.cepremap.cnrs.fr/couv_orange/co9908.pdf>.

111 Hodgskin, *Popular Political Economy*, pp. 243-244.

obtains a profit over and above the subsistence of the labourer, it is plain that bounds are set to productive labour much within what Nature prescribes. In proportion as capital in the hands of a third party is accumulated, so the whole amount of profit required by the capitalist increases, and so there arises an artificial check to production and population. The impossibility of the labourer producing all which the capitalist requires prevents numberless operations, such as draining marshes, and clearing and cultivating waste lands; to do which would amply repay the labourer, by providing him with the means of subsistence, though they will not, in addition, give a large profit to the capitalist. In the present state of society, the labourers being in no case the owners of capital, every accumulation of it adds to the amount of profit demanded from them, and extinguishes all that labour which would only procure the labourer his comfortable subsistence.

He developed this same theme, as it applied to land, in *The Natural and Artificial Right of Property Contrasted*:

> It is, however, evident, that the labour which would be amply rewarded in cultivating all our waste lands, till every foot of the country became like the garden grounds about London, were all the produce of labour on those lands to be the reward of the labourer, cannot obtain from them a sufficiency to pay profit, tithes, rent, and taxes....
>
> In the same manner as the cultivation of waste lands is checked, so are commercial enterprise and manufacturing industry arrested. Infinite are the undertakings which would amply reward the labour necessary for their success, but which will not pay the additional sums required for rent, profits, tithes, and taxes. These, and no want of soil, no want of adequate means for industry to employ itself, are the causes which impede the exertions of the labourer and clog the progress of society.[112]

This resembles the argument made by some Radical Keynesians that, at zero real interest, any investment project will be undertaken that increases the net efficiency of production.

On the other hand, the availability of credit (and land) without the monopolist's surcharge will increase the producers' motivation to invest in their own production. Apologists for capitalism see the present system, in which capital investment is carried out primarily by the absentee owners of large concentrations of investment capital, as the only possible one. So any suggestion that the rates of return on absentee investment might be lowered result in cries of "but what will be the motive for investment?" In an economy of predominantly worker-owned production, the primary motive for investment will be to reduce future effort by making one's labor more productive. And the abolition of monopoly rates of interest (and rent) will increase the present-day earnings of labor from which such investments can be made. As Charles-François Chevé put it in response to Bastiat:

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112 Thomas Hodgskin, "Letter the Eighth: Evils of the Artificial Right of Property," *The Natural and Artificial Right of Property Contrasted. A Series of Letters, addressed without permission to H. Brougham, Esq. M.P. F.R.S.* (London: B. Steil, 1832). http://oll.libertyfund.org/index.php?option=com_staticxt&staticfile=show.php%3Ftitle=323&layout=html

> "The law," you say, "will rob us of the prospect of laying by a little property, because it will prevent us from gaining any advantage from it." Quite to the contrary, the law will assure to everyone the prospect of laying by as much wealth as they have produced through their labour, by forbidding anybody to plunder his neighbour of the fruits of his labours, and by decreeing that services exchanged shall be equivalent: use for use and property for property. "It will deprive us," you add, "of all stimulus to save at the present time, and of all hope of repose for the future. It is useless to exhaust ourselves with fatigue; we must abandon the idea of leaving our sons and daughters a little property, since modern science renders it useless, for we should become traffickers in men if we were to lend it on interest." Quite to the contrary, the abolition of interest revives in you the stimulus to save at the present time and assures you the hope of repose for the future, because it prevents you, the labourers, from being plundered, by means of rent, of the greater part of the fruits of your labour, and because by obliging you to spend no more than the exact sum you have earned, it renders saving all the more indispensable to everybody, be they rich or poor. Not only will you be able to leave your sons and daughters a little property without becoming traffickers in men, but you will b able to obtain this property with a good deal less effort than today; because if, while you earn 10 francs a day and spend 5, you are deprived, as nowadays, of the other 5 by all the forms of rent and of interest on capital, after forty years you won't have a farthing to leave to your children; whereas once rent is abolished you will have more than 60,000 francs to bequeath to them.[113]

Most of the objections raised against Greene's and Tucker's radical theory of credit are strawmen, and have been debunked quite effectively.

For example, Murray Rothbard dismissed the Greene-Tucker propsals as just another form of "money crankery," an attempt at creating prosperity by inflating the money supply with fiat currency.[114]

But this objection was answered by no less an authority than Rothbard himself, as I have pointed out:

> On money and banking issues, Rothbard made the mistake of interpreting the Greene-Tucker system of mutual banking as an attempt at inflationary expansion of the money supply. Although the Greene-Tucker doctrine is often casually lumped together (in a broader category of "money cranks") with social crediters, bimetallists, etc., it is actually quite different. Greene and Tucker did not propose inflating the money supply, but rather eliminating the monopoly price of credit made possible by the state's entry barriers: licensing of banks, and large capitalization requirements for institutions engaged in providing only secured loans. Most libertarians are familiar with such criticisms of professional licensing as a way of ensuring monopoly income for the providers of medical, legal and other services. Licensing and capitalization requirements, likewise, enable providers of credit to charge a

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[113] F. C. Chevé [Charles-François Chevé (1813-1875)], one of the editors of the *Voix du Peuple*, to Frédéric Bastiat. Translation by Roderick T. Long. *The Bastiat-Proudhon Debate on Interest (1849-1850)* <http://praxeology.net/FB-PJP-DOI-IV-1.htm>.

[114] Murray Rothbard, "The Tucker-Spooner Doctrine: An Economist's View," *Egalitarianism as a Revolt Against Nature and Other Essays* (Auburn, Ala.: Ludwig von Mises Institute, 2000), reproduced in *Journal of Libertarian Studies*, vol. 20, no. 1 (Winter 2006), pp. 10-12.

monopoly price for their services.

In fact, Rothbard himself made a similar analysis of the life insurance industry, in which state reserve requirements served as market entry barriers and thus inflated the cost of insurance far above the levels necessary for purely actuarial requirements.[115]

The notions that present capital investment comes from past abstention, and that it is necessary to advance a "labor fund" from past savings, have been repeatedly attacked. Thomas Hodgskin, for example, made this point in both *Labour Defended Against the Claims of Capital* and *Popular Political Economy*:

> The only advantage of circulating capital is that by it the labourer is enabled, he being assured of his present subsistence, to direct his power to the greatest advantage. He has time to learn an art, and his labour is rendered more productive when directed by skill. Being assured of immediate subsistence, he can ascertain which, with his peculiar knowledge and acquirements, and with reference to the wants of society, is the best method of labouring, and he can labour in this manner. Unless there were this assurance there could be no continuous thought, an invention, and no knowledge but that which would be necessary for the supply of our immediate animal wants....
>
> The labourer, the real maker of any commodity, derives this assurance from a knowledge he has that the person who set him to work will pay him, and that with the money he will be able to buy what he requires. He is not in possession of any stock of commodities. Has the person who employs and pays him such a stock? Clearly not....
>
> A great cotton manufacturer... employs a thousand persons, whom he pays weekly: does he possess the food and clothing ready prepared which these persons purchase and consume daily? Does he even know whether the food and clothing they receive are prepared and created? In fact, are the food and clothing which his labourers will consume prepared beforehand, or are other labourers busily employed in preparing food and clothing while his labourers are making cotton yarn? Do all the capitalists of Europe possess at this moment one week’s food and clothing for all the labourers they employ?...
>
> ...As far as food, drink and clothing are concerned, it is quite plain, then, that no species of labourer depends on any previously prepared stock, for in fact no such stock exists; but every species of labourer does constantly, and at all times, depend for his supplies on the co-existing labour of some other labourers.[116]
>
> ...When a capitalist therefore, who owns a brew-house and all the instruments and materials requisite for making porter, pays the actual brewers with the coin he has received for his beer, and they buy bread, while the journeymen bakers buy porter with their money wages, which is afterwards paid to the owner of the brew-house, is it not plain that the real wages of both these parties consist of the produce of the other; or that the bread made by the

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[115] Kevin Carson, "Carson's Rejoinders," *Journal of Libertarian Studies*, vol. 20, no. 1 (Winter 2006), pp. 97-98. Rothbard's comments on the life insurance industry are found in *Power and Market: Government and the Economy* (Kansas City: Sheed, Andrews and McMeel, 1997), p. 59.

[116] Hodgskin, "Labour Defended Against the Claims of Capital."

journeyman baker pays for the porter made by the journeyman brewer? But the same is the case with all other commodities, and labour, not capital, pays all wages....

In fact it is a miserable delusion to call capital something saved. Much of it is not calculated for consumption, and never is made to be enjoyed. When a savage wants food, he picks up what nature spontaneously offers. After a time he discovers that a bow or a sling will enable him to kill wild animals at a distance, and he resolves to make it, subsisting himself, as he must do, while the work is in progress. He saves nothing, for the instrument never was made to be consumed, though in its own nature it is more durable than deer's flesh. This example represents what occurs at every stage of society, except that the different labours are performed by different persons—one making the bow, or the plough, and another killing the animal or tilling the ground, to provide subsistence for the makers of instruments and machines. To store up or save commodities, except for short periods, and in some particular cases, can only be done by more labour, and in general their utility is lessened by being kept. The savings, as they are called, of the capitalist, are consumed by the labourer, and there is no such thing as an actual hoarding up of commodities.[117]

In short, what political economy conventionally referred to as the "labor fund," and attributed to past abstention and accumulation, in fact resulted from the *present* division of labor and the cooperative distribution of its product. "Capital" is a term for a right of property in organizing and disposing of this present labor. The same basic cooperative functions could be carried out just as easily by the workers themselves, through mutual credit. Under the present system, the capitalist monopolizes these cooperative functions, and thus appropriates the productivity gains from the social division of labor.

Betwixt him who produces food and him who produces clothing, betwixt him who makes instruments and him who uses them, in steps the capitalist, who neither makes nor uses them, and appropriates to himself the produce of both. With as niggard a hand as possible he transfers to each a part of the produce of the other, keeping to himself the large share. Gradually and successively has he insinuated himself betwixt them, expanding in bulk as he has been nourished by their increasingly productive labours, and separating them so widely from each other that neither can see whence that supply is drawn which each receives through the capitalist. While he despoils both, so completely does he exclude one from the view of the other that both believe they are indebted him for subsistence.[118]

Franz Oppenheimer made a similar argument in "A Post Mortem on Cambridge Economics":

THE JUSTIFICATION OF PROFIT, to repeat, rests on the claim that the entire stock of instruments of production must be "saved" during one period by private individuals in order to serve during a later period. This proof, it has been asserted, is achieved by a chain of equivocations. In short, the material instruments, for the most part, are not saved in a former period, but are manufactured in the same period in which they are employed. What is saved is capital in the other sense, which may be called for present purposes "money capital." But

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[117] Hodskin, *Popular Political Economy*
[118] Hodgskin, "Labour Defended."

> this capital is not necessary for developed production.
>
> Rodbertus, about a century ago, proved beyond doubt that almost all the "capital goods" required in production are created in the same period. Even Robinson Crusoe needed but one single set of simple tools to begin works which, like the fabrication of his canoe, would occupy him for several months. A modern producer provides himself with capital goods which other producers manufacture simultaneously, just as Crusoe was able to discard an outworn tool, occasionally, by making a new one while he was building the boat.
>
> On the other hand, money capital must be saved, but it is not absolutely necessary for developed technique. It can be supplanted by co-operation and credit, as Marshall correctly states. He even conceives of a development in which savers would be glad to tend their savings to reliable persons without demanding interest, even paying something themselves for the accommodation for security's sake. Usually, it is true, under capitalist conditions, that a certain personally-owned money capital is needed for undertakings in industry, but certainly it is never needed to the full amount the work will cost. The initial money capital of a private entrepreneur plays, as has been aptly pointed out, merely the rôle of the air chamber in the fire engine; it turns the irregular inflow of capital goods into a regular outflow.[119]

The Greene-Tucker argument for the interest-lowering effect of mutual banking, say its critics, ignores the nature of interest as a reward for "waiting" or "abstention." They themselves ignore the basic fact that, in the case of secured loans, no abstention takes place. Or rather, the saving or abstention was carried out by the very person whose property is mortgaged. The mortgaged property is itself the accumulated savings of the borrower, and the bank only issues currency against the borrower's note:

> ...[T]he banker, who invests little or no capital of his own, and, therefore, lends none to his customers, since the security which they furnish him constitutes the capital upon which he operates...[120]
>
> ...Mr. Fisher seems to think it inherently impossible to use one's property and at the same time pledge it. But what else happens when a man, after mortgaging his house, continues to live in it? This is an actual every-day occurrence, and mutual banking only seeks to make it possible on easier terms,—the terms that will prevail under competition instead of the terms that do prevail under monopoly.[121]
>
> ...[T]he establishment of a mutual bank does not require the investment of capital, inasmuch as the customers of the bank furnish all the capital upon which the bank's notes are based, and... therefore the rate of discount charged by the bank for the service of exchanging its notes for those of its customers is governed, under competition, by the cost of that service, and not by the rate of interest that capital commands.[122]

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[119] Franz Oppenheimer, "A Post Mortem on Cambridge Economics (Part Three)," *The American Journal of Economics and Sociology*, vol. 3, no. 1 (1944), pp, 122-123, [115-124]
[120] Tucker, "Economic Hodge-Podge," *Instead of a Book*, p. 206.
[121] Tucker, "Free Trade in Banking,"*Instead of a Book*, p. 231.
[122] Tucker, "Free Money and the Cost Principle," Ibid., pp. 286-287.

....The so-called borrower would simply so change the face of his own title as to make it recognizable by the world at large, and at no other expense than the mere cost of the alteration. That is to say, the man having capital or good credit, who, under the system advocated by Apex, should go to a credit-shop—in other words, a bank—and procure a certain amount of its notes by the ordinary process of mortgaging property or getting endorsed commercial credit discounted, would only exchange his own personal credit—known only to his immediate friends and neighbors and the bank, and therefore useless in transactions with any other parties—for the bank's credit, known and receivable for products delivered throughout the State, or the nation, or perhaps the world. And for this convenience the bank would charge him only the labor-cost of its service in effecting the exchange of credits, instead of the ruinous rates of discount by which, under the present system of monopoly, privileged banks tax the producers of unprivileged property out of house and home. So that Apex really would have *no borrowing at all*...[123]

2. Artificial Property Rights in Land. We have already mentioned, in passing, the general issue of artificial property rights in land. Of the specific points of contention between the different systems of rules for property in land, I have already written in Chapter Five of *Studies in Mutualist Political Economy* (and hope someday to revise into more satisfactory form). Here I wish only to examine the parallels between them, in the analogous distinctions they make between natural and artificial, legitimate and illegitimate, rights. As we have already seen, all major property theorists make some such distinction, despite major differences on the specifics of determining legitimacy, using quite similar language.

The possessory or usufructory theories of Proudhon and the American individualist anarchists treated made occupancy and use the standard not only for just acquisition, but for continued ownership; all land titles not grounded in ongoing occupancy and use were to be treated as null and void. Among the American individualists, the general princple was stated by Benjamin Tucker (whose main influence was J.K. Ingalls). He defined the land monopoly as

the enforcement by government of land titles which do not rest upon personal occupancy and cultivation. It was obvious to Warren and Proudhon that, as soon as individualists should no longer be protected by their fellows in anything but personal occupancy and cultivation of land, ground-rent would disappear, and so usury have one less leg to stand on. Their followers of today are disposed to modify this claim to the extent of admitting that the very small fraction of ground-rent which rests, not on monopoly, but on superiority of soil or site, will continue to exist for a time and perhaps forever, though tending constantly to a minimum under conditions of freedom....[124]

Our earlier distinction of privilege, as an artificial property right, from natural

[123] Tucker, "Apex or Basis," *Instead of a Book*, p. 194.
[124] Tucker, "State Socialism and Anarchism: How Far They Agree, and Wherein They Differ"

property rights, applies very much to land. It was central to classical liberalism from the beginning. Thomas Hodgskin used this distinction as the title of a book: *The Natural and Artificial Right of Property Contrasted*. By natural right of property, he meant "the right of individuals, to have and to own, for their own separate and selfish use and enjoyment, the produce of their own industry, with power freely to dispose of the whole of that in the manner most agreeable to themselves..." This right, established by the "continual possession and use by one person of any one thing," was founded in nature. It resulted from the need of labor to satisfy human wants in the natural order of things, and on the extension of individuality to the creations of the individual's labor.[125]

Although Hodgskin cited Locke as his primary authority, his radical interpretation of Locke put an emphasis on ongoing use as the basis for continued appropriation of land in a way that would probably cause Rothbard's followers and other modern Lockeans to look askance:

> You do not require to be informed, though I may state the fact for the benefit of less enlightened persons, that all the wealth of the world, the whole means of subsistence, whatever contributes to clothe and to feed man, is the produce of labour, and is annually created and annually consumed. Even those useful instruments, such as ships, houses, &c. which last for several years, require to be continually kept in repair by the hand of labour, which is tantamount to continual production. The field that has been once cleared and ploughed, is soon overrun with useless weeds, if it be not continually cultivated. There is no other wealth in the world but what is created by labour, and by it continually renewed. This principle, now universally acknowledged, makes the right of property appear more absolute and definite than it was in Mr. Locke's comprehension, because the right to own land is in fact only the right to own what agricultural or other labour produces. The natural law of appropriation, therefore, exists in full force at all times and places; and at this moment constitutes a rule for appropriating every part of the wealth which is continually created. The wants which can only be gratified by labour always exist, or are always renewed, the necessity to gratify them by labour is never suspended; and now, as at the beginning, nature bestows on the labour intended to gratify these wants whatever it can produce.[126]

Hodgskin suggested, in rather pointed terms, that the practical effect of the property rights established under the laws of the state was not at all to secure the individual's ownership of his labor product:

> Does legislation, Sir, that legislation which you, as a member of parliament, have sworn to uphold, proceed upon a study of the principles which determine the natural right of property? Is the latter—is the natural relation between labour and its produce recognised and acted on throughout society, as we acknowledge and act on the relation between seed time and sowing? Have all the laws of society said to be intended expressly to protect property,

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[125] Thomas Hodgskin, "Letter the Second. the Natural Right of Property Illustrated," *The Natural and Artificial Right of Property Contrasted. A Series of Letters, addressed without permission to H. Brougham, Esq. M.P. F.R.S.* (London: B. Steil, 1832).
http://oll.libertyfund.org/index.php?option=com_staticxt&staticfile=show.php%3Ftitle=323&layout=html
[126] Ibid.

been framed with a view to preserve this relation entire and untouched? Has government, instituted, according to Mr. Locke, for no other purpose but to guarantee the enjoyment of our natural property, fulfilled its commission? Does labour now obtain and own whatever it produces? Is every man's right to have and enjoy whatever he creates or obtains by honest exertions protected by the law? Is it that splendid achievement described. Are the natural consequences of every man's conduct allowed to come freely home to him under the guarantee of the law?[127]

He went on to state, much more explicitly, that the artificial rights of property established by the state had, as their primary purpose, the enablement of a parasitic exploiting class to live off the labor of the productive classes. And this parasitic exploiting class included the "owners" of most of the land in England:

> Laws being made by others than the labourer, and being always intended to preserve the power of those who make them, their great and chief aim for many ages, was, and still is, to enable those who are not labourers to appropriate wealth to themselves. In other words, the great object of law and of government has been and is, to establish and protect a violation of that natural right of property they are described in theory as being intended to guarantee....
>
> All the legislative classes, and all the classes whose possessions depend not on nature, but on the law, perceiving that *law* alone guarantees and secures their possessions, and perceiving that government as the instrument for enforcing obedience to the law, and thus for preserving their power and possessions, is indispensable, unite one and all, heart and soul to uphold it, and, as the means of upholding it, to place at its disposal a large part of the annual produce of labour....
>
> Among the legislative classes embodied into, and constituting the government, we must place the landed aristocracy. In fact, the landed aristocracy and the government are one—the latter being nothing more than the organized means of preserving the power and privileges of the former. After securing a revenue for the government,—the landed aristocracy sacrificing to this even a part of their private property, or rather taking a portion from rent, which they appropriate as taxes, transferring their cash from one hand to the other,—after securing a revenue to the state, the laws have been made with a view to guarantee the possessions and the wealth of the landowners.... His right to possess the land, not to possess the produce of his own labour, is as admirably protected as can be effected by the law. Another must not even walk on it, and all the wild animals and fruit it bears are said by the law to be his. Nature makes it a condition of man having land, that he must occupy and cultivate it, or it will yield nothing. The instant he ceases his labour, she decks it with flowers, and stocks it with the birds and animals which she delights to clothe and feed; exacting no payment but their happiness. The mere landowner is not a labourer, and he never has been even fed but by violating the natural right of property....
>
> The law grants tithes, and enforces the payment of them. It gives the soil, and a power to exact rent to the landlord, and a revenue to the government; but in all these, the great and leading objects of law, I see no protection for the natural right of property. On the contrary, not one of them can be thought of without trenching on this natural right....

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[127] Ibid.

> At present, besides the government, the aristocracy, and the church, the law also protects, to a certain extent, the property of the capitalist, of whom there is somewhat more difficulty to speak correctly than of the priest, the landowner, and the administerer of the law, because the capitalist is very often also a labourer. The capitalist as such, however, whether he be a holder of East India stock, or of a part of the national debt, a discounter of bills, or a buyer of annuities, has no natural right to the large share of the annual produce the law secures to him. There is sometimes a conflict between him and the landowner, sometimes one obtains a triumph, and sometimes the other; both however willingly support the government and the church; and both side against the labourer to oppress him; one lending his aid to enforce combination laws, while the other upholds game laws, and both enforce the exaction of tithes and of the revenue. Capitalists have in general formed a most intimate union with the landowners, and except when the interest of these classes clash, as in the case of the corn laws, the law is extremely punctilious in defending the claims and exactions of the capitalist.
>
> In all these circumstances which in relation to the right of property may be considered as the leading objects of legislation, I see no guarantee or protection of the natural right of property. The end for which men are said by Mr. Locke to unite into commonwealths, and put themselves under government, is in practice unknown to the law. The natural right of property far from being protected, is systematically violated, and both government and law seem to exist chiefly or solely, in order to protect and organize the most efficacious means of protecting the violation. On the men who produce a bushel of malt, nature bestows it every grain; the law instead of guaranteeing to them its full use and enjoyment, takes three-fourths of it from them. To those by whose combined labour the ground is cultivated, and the harvest gathered in, nature gives every sheaf and every stalk which they choose to collect; the law, however, takes almost the whole of it away....
>
> The important and yet perhaps trite fact to which I wish by these remarks to direct your attention is, that law and governments are intended, and always have been intended, to establish and protect a right of property, different from that which, in common with Mr. Locke, I say is ordained by nature. The right of property created and protected by the law, is the artificial or legal right of property, as contra-distinguished from the natural right of property. It may be the theory that government ought to protect the natural right; in practice, government seems to exist only to violate it. Never has the law employed any means whatever to protect the property nature bestows on individuals; on the contrary, it is a great system of means devised to appropriate in a peculiar and unjust manner the gifts of nature. It exacts a revenue for the government,—it compels the payment of rent,—it enforces the giving of tithes, but it does not ensure to labour its produce and its reward.[128]

Hodgskin's position anticipates Oppenheimer's distinction, which we saw earlier, between the economic and political means, and his conception of the class state. He anticipates Oppenheimer in much else as well, setting forth a theory of political appropriation much like Oppenheimer's.

Were the natural right of property the basis of all appropriation, Oppenheimer argued,

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[128] "Letter the Third: The Legal Right of Property," in Ibid.

it would have been impossible for the land to become fully appropriated to the extent that it was necessary for laborers to pay rent for access to it.

> [Mr. Locke] says accurately, "as much land as a man tills, plants, and improves, cultivates, and can use, the product of so much is his property."—"This is the measure of property in land, which nature has well set by the extent of man's labour, and the conveniences of life; no man's labour could subdue or appropriate all, nor could his enjoyment consume more than a small part, so that it would be impossible in this way to intrench on the right of another, or acquire to himself a property to the injury of his neighbours. Unfortunately, however, this admirable principle has not the smallest influence over legislators in dealing out that which, by the bye, is not theirs, the land of new colonies.[129]

Rather, the land was politically appropriated by conquest, so that even vacant and unimproved land could be held out of use by the artificial property titles of a ruling class, and the latter could charge tribute from labor for access to it.

> The persons who thus appropriated the soil of Europe, did so by a right of conquest. They did not lay down the sword the instant they had overrun the land, they kept it drawn in their hand, and engraved with it laws for the conquered. The countries they overran had been previously cultivated by slaves in a rude manner. In appropriating the soil, they appropriated its inhabitants, reduced some to slavery, and continued the slavery of others. Power so acquired, and privileges so established, were the basis of the present *political and legal,* not social, edifice of Europe. These conquerors were the first legislators. By an almost uninterrupted succession, the power of legislation has continued in the hands of their descendants to the present day....
>
> ....Seeing that conquerors have always been the legislators, and knowing that they have always endeavoured to preserve their own power, I cannot avoid concluding, that the law has always been made with a view to preserve, as much as possible, that appropriation of the soil, that artificial right of property, and that system of government, which the northern barbarians, under the blind impulse of previous habits, utterly ignorant of the form society was destined to assume, and utterly ignorant of that rule for the appropriation of land.... I am less anxious to investigate final causes, than to state general facts; and it is such a fact, that all the laws of Europe have been made with a view to maintain and preserve by force an artificial right of property, a scheme of appropriating the land, and a system of political power, all of which were originally established by the sword.[130]

Franz Oppenheimer and Albert Jay Nock, both Georgists of sorts, rejected the appropriation of land through state grants of title without personal occupancy or admixture of labor as, respectively, "political appropriation of the land" or "law-made property"; both of them, however, favored the socialization of rent as an alternative to a possessory criterion for subsequent transfers of property once appropriated, and saw land value taxation as an alternative to messy inquiries into the history of land appropriation.

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[129] "Letter the Fourth: On the Right of Property in Land," in Ibid.
[130] Ibid.

Murray Rothbard, whose Lockeanism was less radical than the usufructory or Georgist theories, considered all subsequent transfers of justly acquired land to be valid in themselves, with no further requirement of personal occupancy as the criterion of ownership; nevertheless he repudiated as strenuously as anybody, as artificial and illegitimate, all titles to vacant and unimproved land never appropriated by admixture of labor.

Despite the differences between these property theorists as to the specifics of where they draw the line, their distinctions between natural and artificial property rights in land are motivated by essentially the same value. All the major *principled* theories of property rights (as opposed to the *utilitarian* system which governs real property law in the U.S. and most western countries, and which--although nominally based on Locke--pays little regard to questions of justice in acquisition) are imperfect attempts to maximize the value of self-ownership, and the individual's ownership of his labor-product. Specifically, all of the different major systems of property in land are intended to promote the individual's ownership of the labor he mixes in with the land, given the special difficulties presented by the immobility of land.

All of them are imperfect: each is more effective than the others in securing the individual's ownership of buildings and improvements in some cases, and less effective in doing so in other cases.

For example George Reisman, a prominent critic of my work, denounces the mutualist position on land (the occupancy-and-use tenure advocated by J.K. Ingalls and Benjamin Tucker) as a "philosophy for thieves."[131] The reason is that the mutualist system of property rights presents greater inconvenience, comparatively speaking, for the occupier and improver of land to recoup the value of his improvements by alienating the property:

> ...[L]et us imagine that our legitimate land owner—legitimate even by Carson's standards—has spent several years clearing or draining his land, pulling out stumps, removing rocks and boulders, digging a well, building a barn and a house, and putting up fences to keep in his livestock. It is this land that he agrees to rent to a tenant, or, what is not too different, sell on a thirty-year mortgage, which he himself will carry, on the understanding that every year for thirty years he will receive a payment of interest and principal.
>
> The tenant or mortgagee signs a contractual agreement promising to pay rent, or interest and principal, and takes possession of the property. Being a secret mutualist, however, he thereupon proclaims that the property is now his, on the basis of the mutualist doctrine that, in Carson's words, "occupancy and use is the only legitimate standard for establishing ownership of land."

[131] George Reisman, "Mutualism: A Philsophy for Thieves," *Mises Economics Blog*, June 18, 2006 <http://blog.mises.org/archives/005194.asp>.

> This is a clear theft not only of the land, but also of the product of labor. A worker has toiled for years and is now arbitrarily deprived of the benefit of his labor, and this in the name of the protection of the rights of workers![132]

Of course the factual assumptions of the scenario are ludicrous. Reisman assumed a broader community governed by Lockean principles, in which the "mutualist" acts as a sort of cuckoo in the nest and surprises the former owner by announcing himself only after the property has changed hands. In fact, mutualism, or any other system of land tenure, could only exist where a local consensus existed on property rights rules.

Nevertheless, he has a point. It would be more difficult, under occupancy-and-use tenure, for an owner who no longer wants to occupy his property to recoup the value of his buildings and improvements by renting the property or selling it on installments. But this hardship is balanced by an equal hardship under Lockeanism:

> Here's an opposing case for you: Imagine I'm renting a house under a Lockean property system, and get permission to plant a garden on it. I invest a lot of effort in composting and green manuring, and even spend money on granite dust, greensand, rock phosphate and the like to improve the soil. When I get done with it, what was hardpan clay has been transformed into rich, black, friable soil. And when I cease renting, I lose the value of all the improvements I made. That's the sort of thing that happens all the time under Lockeanism. But I suspect that Reisman would say that I made the improvements with my eyes open, and am entitled to no sympathy because I knew what the rules were. I certainly doubt that he's shedding any tears over the invested labor that the South Central Farmers are in danger of losing.
>
> The difference is, when it happens under the system he's defending, it's just life; when it happens under the system he's demonizing, it's an outrage.[133]

Although the different principled systems of property rights theory draw the line at different point, in all of them the choice of where to draw the line reflects a similar distinction in principle. Despite all their differences, all the principled property rights systems regard admixture of labor or alteration as the only legitimate basis for appropriating unowned land; and all of them regard property titles to vacant and unimproved land as illegitimate.

This is true even of the most conservative of them, the Lockeans, whose most conservative Austrian representative--Mises--observed in *Socialism*:

> Nowhere and at no time has the large scale ownership of land come into being through the workings of economic forces in the market. It is the result of military and political

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[132] George Reisman, "Mutualism's Support for the Exploitation of Labor and State Coercion," *Mises Economics Blog*, June 23, 2006 <http://blog.mises.org/archives/005219.asp>.

[133] Kevin Carson, "George Reisman's Double Standard," Mutualist Blog: Free Market Anti-Capitalism, June 23, 2006 <http://mutualist.blogspot.com/2006/06/george-reismans-double-standard.html>.

> effort.... The great landed fortunes did not arise through the economic superiority of large-scale ownership, but by violent annexation outside the area of trade.... The non-economic origin of landed fortunes is clearly revealed by the fact that, as a rule, the expropriation by which they have been created in no way alters the manner of production. The old owner remains on the soil under a different legal title and continues to carry on production.[134]

This was but a restatement of a widespread observation made in many times and places, and self-evident to anyone of common sense who takes time to look beneath the veil of "property rights" to the underlying reality: whenever the majority who cultivate the land, and whose ancestors have cultivated it from time out of mind, pay rent to the absentee owners of large land holdings, that state of affairs does not have its origins in the ordinary or natural process of appropriation. The use of coercive force by the state, in upholding artificial rights of property on behalf of a usurping class, is at the root of it. As Jefferson put it, "Whenever there are in any country uncultivated lands and unemployed poor, it is clear that the laws of property have been so far extended as to violate natural right."[135]

Even the most conservative of principled land theories, Lockeanism (and even without the Proviso),[136] is quite throughgoing in the radicalism of its effects, if it were consistently applied. This is demonstrated by the thought of Murray Rothbard, whose consistent Lockean principles would undermine the majority of land titles in the United States and most of the world if they were put into effect. He denounced, in no uncertain terms, surviving feudal forms of land ownership (like the latifundia of Latin America, and its counterparts among the various landed oligarchies throughout the Third World). He denounced, likewise, the state's preemption of vacant land in settler states like the United States and Australia, and all present title to land stemming directly from the state's grants of vacant and unimproved land to speculators.

> ...[S]uppose that centuries ago, Smith was tilling the soil and therefore legitimately owning the land; and then that Jones came along and settled down near Smith, claiming by use of coercion the title to Smith's land, and extracting payment or "rent" from Smith for the privilege of continuing to till the soil. Suppose that now, centuries later, Smith's descendants (or, for that matter, other unrelated families) are now tilling the soil, while Jones's descendants, or those who purchased their claims, still continue to exact tribute from the modern tillers. Where is the true property right in such a case? It should be clear that here, just as in the case of slavery, we have a case of continuing aggression against the true owners—the true possessors—of the land, the tillers, or peasants, by the illegitimate owner, the man whose original and continuing claim to the land and its fruits has come from coercion and violence. Just as the original Jones was a continuing aggressor against the original Smith, so the modern peasants are being aggressed against by the modern holder of the Jones-derived land title. In this case of what we might call "feudalism" or "land

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[134] Ludwig von Mises, *Socialism: An Economic and Sociological Analysis* (London, 1951), p. 375

[135] Thomas Jefferson, *Writings*, Ford Edition, Vol. VII, p. 36, in George, Jr., *The Menace of Privilege*, Chapter Two (part one).

[136] I.e., that there should be "enough and as good" land left for others after the appropriation.

> monopoly," the feudal or monopolist landlords have no legitimate claim to the property. The current "tenants," or peasants, should be the absolute owners of their property, and, as in the case of slavery, the land titles should be transferred to the peasants, without compensation to the monopoly landlords.[137]
>
> THUS, THERE ARE TWO types of ethically invalid land titles: "feudalism," in which there is continuing aggression by titleholders of land against peasants engaged in transforming the soil; and land-engrossing, where arbitrary claims to virgin land are used to keep first-transformers out of that land. We may call both of these aggressions "land monopoly"—not in the sense that some one person or group owns all the land in society, but in the sense that arbitrary privileges to land ownership are asserted in both cases, clashing with the libertarian rule of non-ownership of land except by actual transformers, their heirs, and their assigns.[138]

It's safe to say, based on these passages, that Rothbard didn't share the attitude of the usual suspects at Cato who get their panties in a wad every time a leftist government initiates a land reform in Latin America. Unlike the vulgar libertarians, Rothbard didn't regard United Fruit Company as the "good guys" in Guatemala. In fact, he might have had the Catoids in mind when he wrote about the ineffectiveness of the free market economists' preachments to the Third World when they ignored questions of justice in land titles:

> ....But these preachments naturally fall on deaf ears, because "free market" for American conservatives obviously does not encompass an end to feudalism and land monopoly and the transfer of title to these lands, without compensation, to the peasantry. And yet, since agriculture is always the overwhelmingly most important industry in the undeveloped countries, a truly free market, a truly libertarian society devoted to justice and property rights, can only be established there by ending unjust feudal claims to property. But utilitarian economists, grounded on no ethical theory of property rights, can only fall back on defending whatever status quo may happen to exist—in this case, unfortunately, the status quo of feudal suppression of justice and of any genuinely free market in land or agriculture....
>
> American conservatives, in particular, exhort the backward countries on the virtues and the importance of private foreign investment from the advanced countries, and of allowing a favorable climate for this investment, free from governmental harassment. This is all very true, but is again often unreal to the undeveloped peoples, because the conservatives persistently fail to distinguish between legitimate, free-market foreign investment, as against investment based upon monopoly concessions and vast land grants by the undeveloped states. To the extent that foreign investments are based on land monopoly and aggression against the peasantry, to that extent do foreign capitalists take on the aspects of feudal landlords, and must be dealt with in the same way....[139]

All the major principled theories of property rights in land, including the Lockean, are

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[137] "10. The Problem of Land Theft," *The Ethics of Liberty*
[138] "11. Land Monopoly, Past and Present," *The Ethics of Liberty*
[139] Ibid.

in agreement that the artificial scarcity resulting from enforcement of title to vacant and unimproved land artificially depresses the return on labor and inflates that on land. Among the Lockeans, this was stated quite forcefully by Rothbard:

> Keeping land out of use raises the marginal value product and the rents of remaining land and lowers the marginal value product of labor, thereby lowering wage rates.[140]

All the principled theories are likewise in agreement, not only that land is artificially scarce for labor, but that it is artificially plentiful for the privileged classes who have appropriated it politically. As a result, the political appropriators have access to far more land than they can put to productive use, and therefore either use large tracts of land inefficiently, hold it out of use altogether, or both. Adam Smith remarked on the inefficient use of large estates in Europe:

> It seldom happens that a great proprietor is a great improver... To improve land with profit, like all other commercial projects, requires an exact attention to small savings and small gains of which a man born to a great fortune... is seldom capable. The situation of such a person naturally disposes him to attend to ornament which pleases his fancy than to profit for which he has so little occasion.... He embellishes perhaps four or five hundred acres in the neighbourhood of his house, at ten times the expense which the land is worth after all his improvements; and finds that if he was to improve his whole estate in the same manner, and he has little taste for any other, he would be a bankrupt before he finished the tenth part of it....[141]

The great latifundistas of Latin America, likewise, often hold the majority of their land out of cultivation.

Alfred Marshall referred to the fact "that much good land is poorly cultivated, because those who would cultivate it well have not access to it."[142]

In addition, the boundaries between the different principled rights theories are quite blurry. As Charles Johnson points out, any generally delineated principles of individual rights require arbitrary rules for their application: "the principle... does not fully *specify* how to *apply* individual rights in the case at hand." Principles, for their application, require more or less arbitrary *rules* that are not entailed *as such* in the princples.[143] Nozick argued that any theory of property rights must include provisions for extinction (i.e., transfer and abandonment), as well as initial appropriation.[144] This is equally true of

[140] Murray Rothbard, *Power and Market: Government and the Economy* (Kansas City: Sheed Andrews and Mcmeel, Inc., 1970, 1977), pp. 132-133.
[141] Smith, *Wealth of Nations*, pp. 166-167.
[142] Alfred Marshall, *Principles of Economics*, Book VI Ch. XI
[143] Charles Johnson, "Liberty, Equality, Solidarity: Toward a Dialectical Anarchism," in Roderick T. Long and Tibor R. Machan, eds., *Anarchism/Minarchism: Is a Government Part of a Free Country?* (Hampshire, UK, and Burlington, Vt.: Ashgate Publishing Limited, 2008), p. 166.
[144] Robert Nozick, *Anarchy, State, and Utopia*.

Lockeanism, which includes standards for constructive abandonment after some arbitrarily chosen lapse of time. Usufructory theories, likewise, must set some reasonable minimum threshold for abandonment so that it is possible to go on a long vacation or periodically leave land fallow. Rather than saying they rest on qualitatively different principles of transfer and abandonment, it's more accurate to say that both the usufructory and Lockean systems provide for abandonment, and differ qualitatively "over how long land must be left unused before it can be reclaimed as abandoned property."

George Reisman ignored the requirement of conventional (and in large part arbitrary) rules, as an element common to all property rights systems. In fact, he used a double standard in using god terms and devil terms, respectively, to describe the functioning of objectively identical enforcement mechanisms under Lockean and mutualist property rules.

It's a mistake to judge any proposed property system on the assumption that it would be implemented as badly as possible, but that is often exactly what is done. For example, critics of occupancy and use tenure commonly ask about an owner letting a portion of land lie fallow as part of a crop rotation scheme, or taking an extended vacation, or even going into town to buy groceries, and finding his land or home stolen out from under him by a squatter. Now occupancy and use tenure will be enforced by juries of small property owners in a community where property universally distributed among such small owners, and all the members of the community are small owners. It would seem to be a matter of common sense that the law of occupancy and use will be enforced in view of its primary intent, which is to secure such small owners in their ownership with a minimum of inconvenience; and since most such small owners presumably would not care to live in fear of their land and homes being expropriated from under them the minute they leave home.

> Any rule is rigid less by the rigidity of its terms than by the rigidity of its enforcement. Now it is precisely in the tempering of the rigidity of enforcement that one of the chief excellences of Anarchism consists. Mr. Herbert must remember that under Anarchism all rules and laws will be little more than suggestions for the guidance of juries, and that all disputes, whether about land or anything else, will be submitted to juries which will judge not only the facts, but the law, the justice of the law, its applicability to the given circumstances, and the penalty or damage to be inflicted because of its infraction. What better safeguard against rigidity could there be than this? Machinery for altering the law, indeed! Why, under Anarchism the law will be so flexible that it will shape itself to every emergency and need no alteration. And it will then be regarded as *just* in proportion to its flexibility, instead of as now in proportion to its rigidity.[145]

The bare principle of private property in land does not carry with it, of any necessity, any particular set of rules of land tenure. Nozick pointed out that any theory of "justice in holdings" must include three major topics: 1) a theory of "the *original acquisition of*

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[145] Tucker, "Property Under Anarchism," *Instead of a Book*, p. 12.

holdings, the appropriation of unheld things"; 2) "the *transfer of holdings* from one person to another"; and 3) "principles governing how a person may divest himself of a holding, passing it into an unheld state."[146] Or as Tucker put it, "The question is not whether we should be able to sell or acquire in 'the open market' anything which we rightfully possess, but how we come into rightful possession."[147] Free market liberals are divided among themselves on how to answer this question.

Bill Orton has argued, quite convincingly in my opinion, that no particular system of property rules is self-evident. No ownership claim can be deduced logically from the principle of self-ownership alone, without the "'overlay' of a property system," or a system of "allocation rules."[148] No such system, whether Lockean, Georgist, or Mutualist, can be proved correct. Any proof requires a common set of allocation rules, and a particular set of allocation rules for property can only be established by social consensus, not by deduction from the axiom of self-ownership.[149] (However, since all three traditions deduce their theory of appropriation by homesteading from the principle of self-ownership, in so similar a manner, it might be more accurate to say that the labor theory of appropriation common to the different overlays is more plausibly deducible from self-ownership, and less dependent on convention than the rules concerning transfer and abandonment.)

In any case, there is a great deal of practical overlap in their positions. For one thing, the "stickiness" of property is a matter of degree:

> In both systems [i.e., "sticky" (Lockean) and "non-sticky" (socialist/usufruct)], in practice there are well-known exceptions. Sticky property systems recognize abandonment and salvage; usufruct allows for people to be absent for some grace period without surrendering property, and of course allows trade. You might even see the two systems as a continuum from high to low threshold for determining what constitutes "abandonment."[150]

Or as Orton put it elsewhere, stickiness is a matter of degree, rather than a qualitative difference between capitalist and socialist property. They are "the same thing... with different parameters" for the length of time necessary to establish abandonment.[13]

Libertarianism, in the sense of adherence to the non-aggression principle, is consistent with any set of property rules. It is the set of property rules that determines whether a given act of violence is coercion or self-defense. Arguments for the superiority of one set

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[146] Robert Nozick, *Anarchy, State, and Utopia* (U.S.A.: Basic Books, 1974), pp. 150-151.
[147] Benjamin Tucker, "An Alleged Flaw in Anarchy," *Instead of a Book*, p. 212.
[148] Bill Orton, "Cohen's Argument," Free-Market.Net forums, January 1, 2001 <http://www.free-market.net/forums/main0012/messages/807541545.html> Captured April 30, 2004.
[149] Orton, "Re: On the Question of Private Property," Anti-State.Com Forum, August 30, 2003 <http://www.antistate.com/forum/index.php?board=6;action=display;threadid=6726;start=20> Captured April 30, 2004.
[150] Bill Orton, "Yet Another Variation," Anti-State.Com Forum, December 7, 2003 <http://anti-state.com/forum/index.php?board=1;action=display;threadid=7965;start=0> Captured April 30, 2004.

of property rules over another can be established only on consequentialist grounds (i.e., on the basis of prudential assessments of how they lead to results consistent with commonly accepted ideas of "fairness"), and not deduced from principle.

3. Patents and Copyrights. We already discussed, in Chapters Nine and Ten, the function of "intellectual property" in unequal exchange and the exploitation of labor. As we saw, Tom Peters likes to enthuse that most of the price of commodities consists of "intangibles" or "intellect." That is just another way of saying that most of the purchase price of what we buy amounts to rent on artificial property rights like copyright and patents, trademarks, and so forth, and that therefore the same portion of the labor we have done to earn that purchase price goes to pay rent to the holders of such artificial property, rather than to pay for the materials and labor actually involved in producing the goods. Whatever portion of the price of consumer goods, on average, is comprised of returns on "intellectual property," that same portion of our workweek consists of tribute to the owners of artificial property.

> It's funny that in the name of protecting "intellectual property," big media companies are willing to do such violence to the idea of *real* property -- arguing that since everything we own, from our t-shirts to our cars to our ebooks, embody someone's copyright, patent and trademark, that we're basically just tenant farmers, living on the land of our gracious masters who've seen fit to give us a lease on our homes.[151]

In industries where physical capital outlays are negligible compared to human capital, patents and copyrights act as tollgates between labor and the consumer market, enabling the holders of "intellectual property" both to appropriate part of the laborer's product and to charge monopoly prices to the consumer.

> The RIAA represents artists about as effectively as the big pharmaceutical companies represent sick people. I'll explain. The vast majority of innovation in medicine comes from university campuses. The usual pattern is Big Pharma then comes in and uses the research that's already been done to then patent it and turn it into an obscenely profitable drug (especially if it's good for treating a disease common among people in rich countries). Then they say anybody else who makes cheap or free versions of the drug is stealing, and by doing so we're stifling innovation and acting immorally.
>
> Similarly, the vast majority of musical innovation happens on the streets by people who are not being paid by anyone. The machine that is the music industry then snatches a bit of that popular culture, sanitizes it, and then sells it back to us at a premium. They create a superstar or two out of cultural traditions of their choosing and to hell with the rest of them. Sometimes the musicians they promote are really good, but that's not the point. The point is that if the RIAA were truly interested in promoting good artists, they'd be doing lots of smaller record contracts with a wide variety of artists representing a broad cross-section of

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[151] Cory Doctorow, "In the age of ebooks, you don't own your library," *Boing Boing*, March 23, 2008 <http://www.boingboing.net/2008/03/23/in-the-age-of-ebooks.html>.

musical traditions. But as it is, if it were up to the RIAA we'd be listening to the music of a small handful of multimillionaire pop stars and the other 99.9% of musicians would starve.[152]

Intellectual property, in short, is theft. And it's instructive to consider the hypocrisy of those who rely on it as a business model. The publishing, music and software industry figures who whine the most about "piracy," and complain that "you can't compete with free," are the very same people who themselves ruthlessly downsized their workforces when new production technology made them redundant. David Noble, in *Progress Without People*, relates an incident in the early 1970s when the *Washington Post* was adopting computerized cold type technology which rendered pressmen obsolete. The pressroom was invaded after hours by pressmen who systematically took apart the machines with the clinical expertise of a Jack the Ripper.[153] So why is it bad for "Luddites" to smash machines that put them out of a job, while technology that puts capitalists out of a job violates their "property" rights? If the same newspaper publishers whose adoption of new technology rendered skilled workers obsolete, now find themselves threatened by cutting and pasting and hyperlinks--well, it couldn't happen to a nicer bunch of guys. And if the record companies' management and shareholders now find *themselves* redundant in the face of home sound editing, filesharing, and other forms of new technology, then let them eat cake. If workers don't have a property right in their jobs in the face of new technology, then neither do capitalists have a property in a business model rendered obsolete by new technology.

4. Occupational Licensing and Safety Codes. We already examined the role of these forms of artificial property, as they affect unequal exchange and exploit the worker and consumer, in Chapter Four. Like patents and copyrights, they serve as toll gates. In this case, they impede the individual's ability to transform his labor and skills directly either into subsistence production for his own use, or into marketable value.

A good example is the medallion system of licensing taxicabs, where a license to operate a cab costs into the hundreds of thousands of dollars. The effect of the medallion system is to criminalize the countless operators of gypsy cab services. For the unemployed person or unskilled laborer, driving carless retirees around on their errands for an hourly fee seems like an ideal way to transform one’s labor directly into a source of income without doing obesiance to the functionaries of some corporate Human Resources department.

The primary purpose of the medallion system is not to ensure safety. That could be accomplished just as easily by mandating an annual vehicle safety inspection, a criminal

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[152] David Rovics, "The RIAA vs. the World," *Counterpunch*, October 9, 2007 <http://www.counterpunch.org/rovics10092007.html>.

[153] David F. Noble, *Progress Without People: New Technology, Unemployment, and the Message of Resistance* (Toronto: Between the Lines, 1995), p. 42.

background check, and a driving record check (probably all the licensed taxi firms do anyway, and with questionable results based on my casual observation of both vehicles and drivers). And it would probably cost under a hundred bucks rather than three hundred thousand. No, the primary purpose of the medallion system is to allow the owners of licenses to screw both the consumer and the driver.

Another good example is the entry barriers to employment as a surveyor today, as compared to George Washington's day. As Vin Suprynowicz points out, Washington had no formal schooling until he was eleven, only two years of it thereafter, and still was able to learn enough geometry, trigonometry and surveying to get a job paying $100,000 annually in today's terms.

> How much government-run schooling would a youth of today be told he needs before he could contemplate making $100,000 a year as a surveyor — a job which has not changed except to get substantially easier, what with hand-held computers, GPS scanners and laser range-finders? Sixteen years, at least — 18, more likely.[154]

Appendix 11A.

Reciprocity and Thick Libertarianism

Charles Johnson, in his argument for "thick" libertarianism, uses Chris Sciabarra's "dialectical libertarianism"[155] as a starting point--including anti-state libertarianism in what Johnson calls "a larger effort to understand and to challenge interlocking, mutually reinforcing systems of oppression, of which statism is an integral part--but only one part among others."[156] By "thick" libertarianism, he means promoting a relationship between narrowly anti-state ("thin") libertarianism, and "'thicker' bundles of socio-cultural commitments..."

Johnson lists several different kinds of "thickness": i.e., several possible ways in which anti-state libertarianism's non-aggression principle can be bundled together with related cultural values, so that "thick" libertarians may oppose forms of oppression or exploitation which are not formally coercive.[157] The most important, for our purposes, is what he calls Grounds Thickness: "some commitments might be *consistent* with the non-aggression principle, but might undermine or contradict the *deeper reasons* that *justify* libertarian principles. Although you could *consistently* accept libertarianism without the

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[154] Vin Suprynowicz, "Schools guarantee there can be no new Washingtons," *Review Journal*, February 10, 2008 <http://www.lvrj.com/opinion/15490456.html>.
[155] Chris Sciabarra, *Total Freedom: Toward a Dialectical Libertarianism* (University Park, Penn.: The Pennsylvania State University Press, 2000).
[156] Charles Johnson, "Liberty, Equality, Solidarity: Toward a Dialectical Anarchism," p. 155.
[157] Ibid., pp. 175-176.

bundle, you could not do so *reasonably*: rejecting the bundle means rejecting the *grounds* for libertarianism.[158]

He goes on to argue that anti-state libertarianism's opposition to coercion assumes an even more fundamental value of human moral equality and "*equality of authority*," which social and economic oppression can violate without formal coercion.[159] Given that the "underlying reason" for commitment to anti-state libertarianism is a belief in the equal political authority of human beings, while it may not be formally inconsistent for a libertarian to endorse voluntary forms of social authoritarianism, it is "*weird*." The same is true of those who display hostility toward voluntary expressions of solidarity or mutual aid:

> Once could in principle believe that everyone ought to be free to pursue her own ends while *also* holding that nobody's ends actually matter except her own. But again, while the position is possible, it is *weird*; one of the best reasons for being concerned about the freedom of others to pursue their own ends is a certain generalized respect for the importance of other people's lives and the integrity of their choices, which is intimately connected with the libertarian conception of Equality.[160]

In short, the value libertarians place on liberty is grounded in the value of human equality. We are entitled to equal liberty, and no one is entitled to coerce another, because of the equal dignity and value each of us possesses as an end in himself. And it is possible to violate this principle of equal dignity, by violating (as we shall see below) the principle of reciprocity, without formally violating liberty as such.

Matt MacKenzie builds on this foundation, in analyzing economic exploitation from the standpoint of Grounds Thickness.[161] MacKenzie begins with the fundamental value of anti-state libertarianism as such: that "it is morally impermissible to initiate coercion or fraud against others."[162] But that statement immediately suggests the question of *why* it is impermissible; and the reason is that others *are our equals* in that they are entitled to be treated as ends rather than means.

MacKenzie provides his own supplemental definition of Grounds Thickness: "certain commitments ought to be accepted because they are based on the same grounds that justify one's commitment to libertarianism in the first place."[163] Economic exploitation deserves condemnation even when non-coercive, because it violates the fundamental norm of fairness underlying libertarianism's non-aggression principle.

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158 Ibid., p. 176.
159 Ibid., pp. 170-171.
160 Ibid., p. 179.
161 Matt MacKenzie, "Exploitation: A Dialectical Anarchist Perspective,"
162 Ibid.
163 Ibid.

In developing his argument against exploitation, MacKenzie relies heavily on Alan Wertheimer's book *Exploitation*.[164] Wertheimer defines exploitation, much like the average medieval tradesman of Meek and Tawney, as "taking unfair advantage."[165] He distinguishes between harmful and mutually advantageous exploitation. Harmful exploitation occurs when A exploits B in ways that create net harm to B. Mutually advantageous exploitation equates to the kind of situation described earlier in this chapter, in which the exploited party (B) is a net beneficiary from a transaction compared to his state had he not participated in it, but the exploiter (A) is able to assess payment to B based on the latter's benefit, rather than on A's cost of providing the service. The key question, in distinguishing non-harmful exploitation from the coercive kind, is whether B benefits compared to "a no-transaction baseline." If the individual gives consent because he believes he benefits compared to his state without the transaction, it is both non-harmful and consensual exploitation. Harmful and non-consensual exploitation occurs when the individual does not give voluntary or valid consent, as is the case with coercion or fraud.

The most interesting case, in this taxonomy, is when the individual consents to the transaction, and benefits from the exchange compared to the "no-transaction baseline," but the transaction still violates a norm of fairness.

> ....[C]onsider the case in which B is in a lifethreatening situation and A is the only one who is in a position to rescue him. A offers to rescue B, but only if B agrees to sign over all of his current wealth as well as 50% of all future earnings. B, valuing his life, agrees. He benefits relative to the no-transaction baseline, which is death, but I think most would agree that he is not treated fairly. The broader point here is that parties to a mutually beneficial transaction are not indifferent to the distribution of costs and benefits between the two parties. And I see no reason to rule out from the start the idea that some distributions within the zone of mutual advantage could be exploitative.[166]

MacKenzie treats justice as a subset of the broader category of fairness: claims to justice entail a right to enforcement; claims to fairness which do not invoke the standard of justice may well be equally valid, but are not necessarily enforceable in all cases.[167]

Unfairness is subject to what MacKenzie calls "transaction specific considerations," and to "background considerations":

> First, there are transaction specific considerations of fairness. Here the focus is on features of the transaction itself in relative abstraction from the larger social or

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[164] Alan Wertheimer, *Exploitation* (Princeton, N.J.: Princeton University Press, 1996). All references below to Wertheimer's arguments rely on their treatment in MacKenzie's article.
[165] MacKenzie, "Exploitation,"
[166] Ibid.
[167] Ibid.

> historical context. For instance, if A employs fraud in order to take advantage of B, the unfairness here is a direct defect of the transaction itself. Also, cases of transient monopoly, such as standard rescue examples, may simply involve forms of transaction specific unfairness. Second, there are background considerations of fairness. These considerations deal with the larger social context within which the transaction occurs. For instance, if A has a legal monopoly on the production of widgets, this fact may be relevant to whether A's sale of widgets to B will count as an exploitative transaction. Obviously, these two types of considerations are interdependent. Background unfairness emerges from patterns of individual actions and these systemic forms of unfairness can make possible or facilitate cases of transaction specific unfairness. Moreover, background injustice—those forms of unfairness that constitute rights violations—can make possible or facilitate forms of unfairness that are not themselves unjust.[168]

MacKenzie sets aside, for the sake of argument, transaction specific considerations that involve force and fraud. This leaves for consideration the very important general class of transactions which are exploitative (in the sense of being unfair) without involving direct coercion between the parties themselves, but nevertheless involve the exploiting party taking advantage of structural conditions that operate in his favor so that the "distribution of costs and benefits" between the two parties is unequal.

MacKenzie's "distribution of costs and benefits between the parties" is, in essence, what I have discussed in the main body of this chapter as the norm of reciprocity. Economic rents that result from short-term bottlenecks in the supply of reproducible commodities, or from similar transient phenonmena that involve no coercion or fraud, fall into the general category of "unfairness" (in the sense of an inequality of benefits resulting from one party taking advantage of background conditions, so as to "charge what the market will bear").

So long as market entry is unconstrained, such unfair but non-coercive exchange may be not only of net benefit to the individual by MacKenzie's no-transaction baseline, but (as Marx observed in *The Poverty of Philosophy*) serves a greater social purpose as the driving mechanism by which resources are directed into those uses where demand outstrips supply, and thereby causes price to gravitate toward cost. In such a case, when exploitation amounts to a temporary producer surplus, the social attitude tends to fall into the category of grudging admiration ("you lucky bastard"), rather than moral outrage.

Moral outrage occurs, on the other hand, when artificial (or even natural--e.g., differential land rent) constraints on market entry render the producer surplus permanent--especially when the beneficiary had recourse to political power in creating such an entry barrier for his own benefit. MacKenzie is especially concerned with this category, which

[168] Ibid.

equates by and large to Oppenheimer's "political means."[169]

So what we have arrived at is a residual category of transactions in which both parties participate willingly and no direct force is used by the exploiting party, and in which the exploited party benefits compared to his no-transaction baseline, and yet exploitation takes place from the standpoint of fairness (i.e., the comparative distribution of costs and benefits between the parties). And further, in this category of transactions, the exploiting party is taking unfair advantage, not of a transient state of affairs resulting from normal fluctuations of supply in a competitive market, or of producer rents from being the first to introduce an innovation when competitors are free to adopt it afterward, but of a state of affairs in which the state sets up market entry barriers to competition with the exploiting party, and thereby artificially constrains the range of alternatives available to the exploited party.

MacKenzie's objective is to convince libertarians that they ought to recognize as exploitative the rents that accrue to corporations taking advantage of this state of affairs, and condemn as unfair such exploitation even when it occurs in nominally "voluntary" transactions between "private" entities.

> The picture, then, is this: the state directly exploits its citizens and intervenes in the market on behalf of privileged economic elites (often under the guise of progressive, public interest regulation) creating a distorted, cartelized economy. The rents gained by the beneficiaries of state intervention constitute the extraction of social surplus from the exploited—workers, consumers, entrepreneurs, etc. Further, this pervasive exploitation is compatible with the continued improvement in the condition of the exploited through economic exchange. Relative to a no-transaction baseline, market exchange is mutually beneficial, even in a cartelized market economy. However, the beneficiaries of cartelization are able to capture more of the surplus of social cooperation than they would be able to in a more just and competitive economy.[170]

At one point MacKenzie catches himself in what seems to me to be a basic contradiction:

> ....when it comes to voluntary market exchange, the appropriate libertarian principle of fairness is not—heaven forbid—a notion of an objective price or a notion of equal exchange, but rather a notion of the (hypothetical) competitive market price. The fair market price is the (hypothetical) free market price.[171]

This seems to me to contradict his earlier line of argument. In even a competitive market, short term imbalances of supply make it possible for a firm to receive a producer

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[169] Ibid.
[170] Ibid.
[171] Ibid.

surplus or economic rent by taking advantage of such conditions. This, I think, clearly falls into the category of a transaction that is "unfair," in the sense of being an unequal "distribution of costs and benefits" between the parties, without being either unjust in a transaction-specific sense or in terms of background considerations. Like the unfairness of, say, producer rents from superior innate skill, they are an unfairness that is nobody's fault and which most sensible people will cheerfully accept, and yet which are still "unfair" for all that.

In my opinion, denying the "unfairness" of such temporary economic rents, even in a free and competitive market, undermines the central lesson of MacKenzie's article: the distinction between unfairness and injustice. The most important thing, in MacKenzie's model of state capitalism, is that unfairness is the product of background injustice, and thereby goes beyond *mere* unfairness to the point of being itself tinged with actual *injustice*, in a much larger share of cases than most libertarians are willing to recognize. The difference between the free market and the regime of privilege is that while the former permits unfairness, it is an unfairness in which the "unjust rewards" are temporary and promote the greater social good; the latter, on the other hand, enforces "unjust rewards" as its central end, while forcibly suppressing the process by which they serve the greater good.

But from the same distinction, it also follows that unfairness--even when it does not entail injustice, either directly or indirectly--it is still *unfair*. Libertarians should oppose unfairness because--according to the principle of grounds thickness--it contradicts the ethical basis of their libertarianism even when it does not involve actual coercion. The value of liberty itself has, underlying it, the value of moral equality. And the norm of reciprocity stems from that same value of moral equality. If you are just as important as I am, it follows that your right to pursue your own goals is as sacred as mine, that your right to be compensated for your labor is just as important to you as mine is to me, and that the costs (effort or pain) you experience are just as significant to you as mine are to me.