

POPSICLE STICKS AND HOMESTEADING LAND FOR NATURE PRESERVES

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Abstract

According to libertarian homesteading theory, in order to convert unowned virgin territory into ownership status, one must mix one's labor with it, thus transforming it through his efforts into land that can be better used by humanity than what was initially there. But, what about acreage whose sole purpose is the contemplation of nature; a nature preserve, that is, untouched by human hands or feet? How can that be taken out of nature and converted into ownership if through this very process, the land is no longer untouched? The present paper attempts to wrestle with this vexing issue

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1. Introduction

According to libertarian theory if private property rights are to be properly conferred on unowned virgin territory, it must be done through a process of homesteading.¹ That is, the first one to occupy and “mix his labor with the land” becomes the proper owner it. What, specifically, must the homesteader do to establish his ownership rights over such a terrain? For agricultural purposes, he must clear the tree stumps, move away the big rocks, plow the land, seed it, and gather a crop from these efforts of his. For urban areas, he must build a road or a house or a

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¹ Block, 1990, 2002A, 2002B; Block and Yeatts, 1999-2000; Block vs Epstein, 2005; Bylund, 2005; Hoppe, 1993, 2011; Kinsella, 2003, 2006; Locke, 1948; Paul, 1987; Rothbard, 1973, 32; Rozeff, 2005

factory on it. To use the territory for a park, he must clear the land, build paths and bathrooms for his intended clients, place lighting there, etc. He is then and only then justified in calling the land his own, being able to legally repel invaders, etc.²

But there is a question that has had a bandit-like existence in libertarian theory for many years. Suppose the homesteader's purpose is none of these. Instead, he wants to "build," or "create," or, better yet, *preserve* some land in its purely natural form. He will not allow any customers to tread upon his territory, since to do so would be incompatible with a pure nature preserve. He will charge them a fee for keeping the land untouched; they will benefit from the mere contemplation of this offering. But how does he attain ownership of this land in the first place, if he cannot mix his labor with it, for that, too, would be incompatible with retaining this territory in its pristine state?

We are asking in effect, "How can homesteading theory be reconciled with the desire of some people to have land remain in its pure state, untouched by human hands?" For purposes of our analysis of this vexing challenge we assume, *arguendo*, the validity of libertarian homesteading theory.³

At first blush this indeed appears as an intractable problem. For homesteading requires a "mixing" of labor with the land, on the one hand. On the other, any such "mixing" would obviate the goal of being able to offer land to consumers exactly, precisely, as it was before any human action whatsoever occurred with regard to it. In this examination we posit the purpose of the land reserve is for contemplation purposes only. That is, the consumers of the services provided by such land would benefit only by knowing that such preservation has been accomplished. They could not "use it" in any other way. For example, were they to walk on it, it would no longer be exactly as nature had created it. It would not be sullied by human occupation, a defilement, at least to people who treasure this acreage uncontaminated by homo sapiens.

We will employ a two stage test to determine success.⁴ For one thing, any plan must pass muster as legitimate homesteading. For another, it must satisfy the yearnings of those whose goal it the attainment of nature preserves being legitimately owned, so they will never be despoiled, at least for as long as their proprietors wish to maintain them in their pure state.

² Suppose that the criterion for homesteading is that the farmer (A) plant and harvest three separate crops, over three years, before he can attain full ownership. He starts this process, and does so for two years, whereupon someone else, farmer B, comes to this land, shoves farmer A aside, and starts homesteading on his own account. Are farmer B's actions licit? No. As long as farmer A is duly in the process of homesteading, no one else may interfere with him.

³ That is, we abstract from all critiques. For example, Nozick (1973) famously says, if I empty a can of tomato soup in the ocean, have I mixed my labor with the ocean and become its owner or I have foolishly wasted my tomato soup? Another example, the Henry Georgists (1879) oppose homesteading, since they disagree with private ownership of land. For a rejoinder to this claim, see Rothbard (1997).

⁴ For another attempt in this regard, one we see as complementary to ours, see Wisniewski, Unpublished

In section II we put forth, but then reject, several possible solutions to our problem. The burden of section III is to answer, finally, this challenge. We conclude in section IV.

2. Failed candidates

Plans such as homesteading virgin territory by placing amenities for the use of people would not suffice. Paths, lighting, bathrooms, in a virgin forest would make it easier for most people to enjoy these surroundings, but they would be incompatible with the purpose for which this land is intended to be put.⁵

What about installing these amenities in order to homestead the land, but then removing them, entirely, so as to satisfy the desire for land *au naturel*? This might well satisfy *some* people with a yen for untouched land, but not the purists. Not for them this scenario; they would reject it on the ground that land that was once touched by human beings could no longer be considered unsullied.

Suppose, instead of paths, bathrooms, lighting, etc., an *eruv*⁶ were placed around the plot of land destined to always remain in its natural state, and allow the person who does this to own the territory encircled, and *viola!*, the fondest desires of even the most committed Green in this regard would be satisfied. True. But this would be at the cost of sacrificing homesteading theory. For merely mixing one's labor with the periphery of an area does not confer on such a person the entire land mass *internal* to it (Block, 2008). For example, suppose that the first settler in the U.S. homesteaded a ring of land one mile thick encircling the entire country; he would still not get to own any of the fly over part of this nation. He would only legitimately possess the land he had actually homesteaded, that one mile deep perimeter.⁷

Posit, instead, that the would-be homesteader places popsicle sticks⁸ all throughout the acreage to be homesteaded, enough of these, we stipulate, to satisfy the criterion of "mixing" one's labor with the land. He dare not go into this area to place these slivers of wood into the ground, lest he accidentally, horrors, trample down some blades of grass and thus rend it "unnatural." However, he could shoot them into the ground, from afar, using a suitably altered harpoon gun.⁹ Afterward, these sticks could be removed, so as to satisfy the virgin territory look.

⁵ An objection to this entire line of thought might be that the idea behind homesteading is to put land to human *use* and leaving territory completely untouched by us is hardly conducive to that end. But, surely, at least *some* people would regard completely untrammelled land as productive. What of the objection that in the free market, such people have no way to *demonstrate* (Rothbard, 1977) this preference? Ah, but they *do*. They can donate money to a group of environmental purists that promises to retain land in its pristine natural condition.

⁶ This is a string, or ritual enclosure placed around an area that allows Orthodox Jews to engage in acts within it (e.g., carrying objects) that would otherwise be forbidden; see on this: <http://en.wikipedia.org/wiki/Eruv>

⁷ Nor could he prevent other would be homesteaders from having access to the internal land mass. Block, 2008.

⁸ Completely natural ones, approved by greens of all types and varieties, of course.

⁹ Powered by solar, wind or water, of course, not coal, oil or nuclear reactors.

While this would pass muster for homesteading, by stipulation, and would suffice for most of those who wish to contemplate virgin territory from afar, it would still not do for the purists. For the popsicle sticks, even though manufactured from wood, a natural product are still the product of (evil) humans and their machines. The land would thus remain infected forevermore by the dirty, greasy hands of members of our species. This would still hold true even if the wood was of local provenance.

How about cows? They are not manufactured. Yes, they are domesticated, but members of this species are still “natural.”¹⁰ First, can one homestead land with one’s cattle, or is this strictly a do-it-yourself job? It seems clear that homesteading can be done indirectly. After all, not only farmland may be homesteaded. Ranchers who are located in areas with very sparse vegetation can also bring land into private ownership. Humans, too, may homestead for each other. If A hires B to go out and mix the latter’s labor on the former’s account, then, surely, A ends up as the owner, even though B did all of the “mixing.” B, in effect, homesteaded the land, to be sure, and, perhaps, from the philosophical point of view, was for a split second the owner of it. But then their contract kicked in and the land, if ever it was B’s, passed into the ownership of A. In any case, even when farmers “mix their labor with the land,” they do so *indirectly*. They use plows to turn the soil, saws to chop down trees, machines to clear away large rocks, etc. “Mixing” is not a synonym for “touching.”

So, yes, cows do indeed suffice for homesteading. However, even though they are “natural,” e.g., non human, they will still not suffice for the radical purists. These people would still discern in this scenario the foul smell of human beings.¹¹ For the bovines, while part of nature, do not emanate from the virgin land now to be homesteaded, and to remain in its untouched status; otherwise, homo sapiens could not bring them there.¹²

How about planting trees in the area to be used as a nature preserve? Trees are natural, of course. They can be planted from afar, thus obviating any too close “mixing” of human (ugh) labor with the terrain. Posit, *arguendo*, that this process would satisfy both the requirements of homesteading as a justification for land ownership and also, the goals of ordinary environmentalists. However, this option would stick in the craw of the radical purists. If the new trees are indigenous to the local soil they would be rejected on the ground of monoculture. If a different species, then, unnatural to the areas. Further, the trees, of whatever variety, would not have been planted but for the intervention of mankind. If they came into being from fully natural sources,¹³ then there is no scope for ownership, one of our two desiderata.

¹⁰ They are not human, after all, and, thus, may be seem as part of the natural order, unlike our own species, at least in the eyes of radical left environmentalists.

¹¹ One wonders how they survive looking in the mirror.

¹² Another element of the radical left is to “buy local.” Extrapolating from this, we arrive at the motto, “homestead local.” Cows, unfortunately, are not found everywhere that nature preserves are sought. At best, they could but suffice for just a few.

¹³ Seeds fall to the ground from extant trees and spring up into new members of that species.

3. The solution

At last, after clearing the decks in this manner, we arrive at what we regard as a solution to our two-part challenge of satisfying radical naturalists and the requirements of homesteading. Cows¹⁴ will not cut the mustard, but beetles, frogs, ants, worms, snakes, butterflies, caterpillars and other such species will; the ones, that is, found in nature in the terrain to be converted to ownership. They are to be found *everywhere*.

How would this work? First, we capture them. We do so either with birds we have trained for this purpose¹⁵ or by utilizing nets with long poles. Thus we homestead and thus come to own these creepy, crawly creatures. Subsequently, we *release* the members of these species we have previously homesteaded and thus now own to do our homesteading of the land for us. If cows are adequate under mere ordinary circumstances to establish ownership, why not these slugs, insects and other varmints?¹⁶ We own these living things, they now “work” for us, whether they know it or not. Cows, too, are presumably unaware of the homesteading uses to which we put them. We release these creatures *right back where they came from, where we got them from*, thus obviating any objection on the ground that we are upsetting nature in this terrain.

Can radical environmentalists object? We think not. The species stem from the very area to be homesteaded. We have not, ourselves, entered into these sacred domains. We have not set so much as a toe there. Now yes, some of these purists might dismiss our Herculean efforts since we have in *some* very indirect manner interacted with the land in question. If so there is no satisfying them. However, we are confident that we have reconciled the seeming irreconcilable. We have applied homesteading theory accurately and have thus turned virgin land into owned territory. We have done so in a manner that does not directly interfere with hair or hide of this natural environment apart from capturing, and then immediately releasing right back where we found them, sufficient creatures to establish ownership of the land.

However, we must contemplate the possibility that the ultra, ultra Greens will still object to the forthcoming. With their microscopic vision, they will still discern the ugliness of human interaction with these land preserves. So, we introduce the last arrow in our quiver, so to speak, sound. It is possible to attract into (temporary)

¹⁴ Or sheep or goats or chickens or any other barnyard animal

¹⁵ Is this feasible? The knowledge of the present authors is insufficient to answer this question. Also, we have too much respect for the niceties of specialization and the division of labor, and too much modesty about our abilities as biologists, to even undertake the research necessary to confidently respond to it. Suffice it to say that, perhaps, with new technology, this may become possible, even if it is not so at present.

¹⁶ To deny this would be to indulge in “speciesism,” something that the present politically correct authors are loath to become guilty of.

captivity, as outline above, mammals and birds¹⁷ without laying a finger on them, either directly or indirectly, by luring them into ownership through whistles and other types of voices. And, if this is still too much a violation of principle, as the noise emanates from human beings, ugh, after all, there is always the mechanism of decoys, as is commonly used in duck hunting. Only in this case, we do not shoot our feathered friends. We use them to homestead land for us.

Will even this satisfy the most fussy of purists? We do not know. But, we feel we have gone far enough to establish the seeming impossible: homesteading natural preserves by mixing our “labor” with them, without fatally undermining their naturalness.

4. Conclusion

Most people who read the aforementioned will think we have lost our collective minds. Why spend so much time and electrons¹⁸ to discuss an issue that no one will think to be of any importance? And again, the radical left environmentalists we have attempted to placate will not thank us for attempting to show that ownership through homesteading is compatible with their desires for nature preserves. Private property rights are anathema to their concerns.

We engage in this quest not to bring ease to such haters of the human species. We do so, instead, one, to probe further into the depths of homesteading theory, and two, to address an issue that has had a bandit like existence in the libertarian theory of homesteading. Can it, and if so how, be reconciled with the desires of some for nature preserves, untouched by any mixing of labor, on the one hand, and, on the other, with homesteading theory that requires some sort of “mixing?” We think this paper constitutes a step forward in the solution to this challenge.

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¹⁷ [http://www.chow.com/how_6866890_predator-calls_-call-fox-close.html#ixzz1VK1fbLFE](http://www.chow.com/how_6866890_predator-calls_-call-fox-close.html#ixzz1VK1fbLFE;); http://www.google.ca/#hl=en&xhr=t&q=Bird+Whistles&cp=13&pf=p&scient=psy&site=&source=hp&aq=0&aqi=g5&aql=&oq=Bird+Whistles&pbx=1&bav=on.2,or.r_gc.r_pw.&fp=cab8d79b6906b781&biw=1280&bih=907

¹⁸ In a previous era, we might have said, instead, waste so much paper and ink

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