

Immigration and Homesteading

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Abstract: Which is the proper libertarian position on immigration? Open borders? Closed borders? Governmentally regulated borders? We argue for the former. But, then, what about the problem of immigrants who engage in rape, bombings, driving a truck through crowds of innocent people? The present paper argues that we can have our cake and eat it too: adhere strictly to open border libertarian principles, and, let the “magic of the market” (full private property rights) deal with any attached challenges.

*Immigration and homesteading*¹

In part I of this essay, we examine the case in favor of allowing the uninvited immigrant to homestead bits and pieces of land clearly previously homesteaded, but now in the hands of the state and/or its minions. In part II, we do so for land never before occupied by human beings, and, yet, claimed by the government. We reject this claim on libertarian grounds. Part III is our conclusion.

¹ I would like to thank David Gordon for bibliographical help Jeff Herbener. The usual caveats of course apply.

I. Occupied state lands²

Would an immigrant, or anyone else for that matter, be justified in seizing public land, for instance, an acre or so of Audubon Park in New Orleans, on the ground that the government, its present owner, is a thief?

The answer emanating from Rothbard (1969) would appear to support that sort of act: “Suppose, for example, that A steals B’s horse. Then C comes along and takes the horse from A. Can C be called a thief? Certainly not, for we cannot call a man a criminal for stealing goods from a thief. On the contrary, C is performing a *virtuous* act of confiscation, for he is depriving thief A of the fruits of his crime of aggression, and he is at least returning the horse to the innocent ‘private’ sector and out of the ‘criminal’ sector. C has done a noble act and should be applauded. Of course, it would be still better if he returned the horse to B, the original victim. But even if he does not, the horse is far more justly in C’s hands than it is in the hands of A, the thief and criminal. C, here, could of course be our immigrant; A, the government and B the hapless taxpayer. Continues Rothbard (1969):

“Let us now apply our libertarian theory of property to the case of property in the hands of, or derived from, the State apparatus. The libertarian sees the State as a giant gang of organized criminals, who live off the theft called ‘taxation’ and use the proceeds to kill, enslave, and generally push people around. Therefore, any property in the hands of the State is in the hands of thieves, and should be liberated as quickly as possible. *Any* person or group who liberates such property, who confiscates or appropriates it from the State, is performing a virtuous act and a signal service to the cause of liberty. In the case of the State, furthermore, the victim is not readily identifiable as B, the horse-owner. All

² This essay is dedicated to all the otherwise stalwart libertarians who reject the open –borders position, the only one compatible with this philosophy. See footnote 11 below for a listing of them

taxpayers, all draftees, all victims of the State have been mulcted. How to go about returning all this property to the taxpayers? What proportions should be used in this terrific tangle of robbery and injustice that we have all suffered at the hands of the State? Often, the most practical method of de-statizing is simply to grant the moral right of ownership on the person or group who seizes the property from the State. Of this group, the most morally deserving are the ones who are already using the property but who have no moral complicity in the State's act of aggression. These people then become the 'homesteaders' of the stolen property and hence the rightful owners."

Let me repeat and emphasize one thought therein: "*Any* person or group who liberates such property, who confiscates or appropriates it from the State, is performing a virtuous act and a signal service to the cause of liberty."³ Well, the immigrant is a person. This can hardly be denied. Thus, in Rothbard's view, he would be justified in "liberating" this property, and returning it, at long last, to the private sector. But Rothbard (1969) is by no means finished in his analysis along these lines. He states:

Take, for example, the State universities. This is property built on funds stolen from the taxpayers. Since the State has not found or put into effect a way of returning ownership of this property to the taxpaying public, the proper owners of this university are the 'homesteaders', those who have already been using and therefore 'mixing their labor' with the facilities. The prime consideration is to deprive the thief, in this case the State, as quickly as possible of the ownership and control of its ill-gotten gains, to return the property to the innocent, private sector. This means student and/or faculty ownership of the universities.

As between the two groups, the students have a prior claim, for the students have been paying at least some amount to support the university whereas the faculty suffer from the moral taint of living off State funds and thereby becoming to some extent a part of the State apparatus.

The same principle applies to nominally 'private' property which really comes from the State as a result of zealous lobbying on behalf of the recipient. Columbia

³ Emphasis added by present author

University, for example, which receives nearly two-thirds of its income from government, is only a 'private' college in the most ironic sense. It deserves a similar fate of virtuous homesteading confiscation.

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

What of the view that the government is merely our agent, holding property (parks, roads, empty land) for us in our behalf? This would be difficult to reconcile with Rothbard's aforementioned analysis.⁴ We can almost hear him say something along the following lines: "The state as an *agent*? Surely, you jest. No, the government is a band of thieves writ large, albeit it with a very good public relations firm supporting it, but the idea that it holds property for the benefit of the citizenry is ludicrous."

II. Unoccupied lands claimed by the state, but never before homesteaded

So much for the transfer of clearly homesteaded land legally but not properly owned by the government, or its collaborators, such as General Dynamics or Columbia University. What of the case of land never before homesteaded?

Again, we return to Rothbard (1969) for insight: "The homesteading principle means that the way that unowned property gets into private ownership is by the principle that this

⁴ In the view of Rothbard (1978, p. 49): "if you wish to know how libertarians regard the State and any of its acts, simply think of the State as a criminal band, and all of the libertarian attitudes will logically fall into place."

property justly belongs to the person who finds, occupies, and transforms it by his labor. This is clear in the case of the pioneer and virgin land.”

Thus, if the immigrant confines himself to territory never before homesteaded, he violates no rights that must be respected in accord with libertarian law. If an agent of the government stops him from so doing, it is that latter who is acting the part of a criminal. Thus, open borders is the only policy compatible with the libertarian philosophy.

How, then, are we to protect ourselves from waves of immigrants who not only mean us physical harm, but who, based on past experience will likely inflict it on us? Unhappily, we need not document the hundreds of cases in which such newcomers have engaged in mass rapes, bombings, shootings, running innocent people over with trucks, etc.; these indecencies are almost omnipresent. The answer is simple. All we need do is privatize every square inch on the country under attack by these malevolent immigrants.⁵ Then, while we still can maintain open borders, the only proper libertarian position, anyone who crosses them without permission from owners can be removed on grounds of trespass.

In my analysis, we can have our cake and eat it too. We can adhere, rigidly, to libertarian principle (open borders is the *only* view compatible with libertarianism, since the outsider who starts homesteading virgin land, or government -land, violates no rights, and anyone who stops him is acting incompatibly with libertarianism), and, also, keep hordes of undesirables from our borders (by privatizing every single square inch of territory.) Libertarian critics of open borders are satisfied with accomplishing the second of these desiderata, keeping us safe, but jettison the first. I argue we must adhere to *both* if we wish to cleave to libertarian principles.

⁵ This certainly includes all roads, streets, highways, avenues. On this see Block, 2009. It also encompasses other terrain now under the control of government such as parks, museums, libraries, symphony halls, etc.

This claim, however, has been challenged by Mosquito (2017A). He denies that, at present, there is any such thing as virgin territory. He maintains that all land in the U.S., for example, is already owned; the government is merely in effect the agent for the citizenry, and all those who have paid it taxes. This scholar offers the following analysis:

As to government controlled land...I own it.

In the ... correct homesteading view, you own only that which you mix your labor with. So, I think I can safely say that homesteading is the mixing of labor with virgin land, land never before touched by human hands... [Let us] begin with the practical: in today's world, how many immigrants are moving to 'virgin land, never touched by humans'? I will suggest that the answer is about as close to zero as one can get. In Europe, they are not climbing to the top of the Swiss Alps, in the US, they are not setting up camp in the middle of the Mojave (or in untouched land in Alaska). So even if I grant [the] point that this is virgin land, never touched by humans, I find no practical use of [that] concept in today's discussion of immigration. Therefore, I find it dangerous to speak of open borders immigration based on a model that no immigrant employs.

If [we] are speaking purely theoretically, and at the same time speaking against the form of immigration we see around us today (in other words, [the] definition of 'open borders immigration' is significantly narrower than the definition employed by those who demand it), this is a different matter – but I (and many others) would appreciate it if [this was] said so clearly.

Now...how much mixing of labor with land is required to make one an owner? [Is there] an objective answer for this? An answer that fits in all situations, all cultures, at all times? An answer that can be derived solely from the NAP [non-aggression principle]?

If [so], this would be a real breakthrough. Remember – *an objective answer*: ten minutes of labor per square meter per week – something along these lines.

Now, absent an objective answer – meeting all of my conditions noted above – I suggest that the amount of labor to be mixed with the land is not fixed; the answer is to be subjectively derived. Yes, at the extremes (just like with the extremes in

defining ‘aggression’) we can all agree: a farmer ploughs the field, builds a home and barn, plants crops, and regularly rotates the field, etc. This is easy. Conversely, for me to claim ownership of the sun would be kind of silly – and equally as easy to point to as the (opposite) extreme.

But absent an objective answer to the question...where do we draw the line between two such points? After all, it is in the points in between – the continuum, – where the difficulties (from a pure NAP standpoint) lie.

So, now we can address this virgin land in Wyoming or Alaska – government controlled, to be sure, and as you clarify. What mixing of labor, if any, has a government employee or contractor done with this land?

Certainly, they have built roads along the land; they provide security services over 100% of the land; they offer fire prevention services over 100% of the land; 100% of the land is regularly patrolled; they have built structures of various sorts – land offices, tourist rest stops; they manage it for proper use of forest harvesting; they manage the game on the land; etc.

In every way, they treat the land as a private owner would treat similar land ...

For example, it is said that Ted Turner owns a few million acres of forest. I am certain he is not ploughing fields every day,⁶ nor is he having any of his employees do this. Weyerhaeuser, similarly, owns hundreds of thousands if not millions of acres. Yet, [no one] would ... say neither Turner nor the lumber company ‘owns’ the land.

So, what is different in these two cases – the public vs. the private?

Sure, you can say – “bionic, that is not enough mixing of labor!” And I would say – ‘... give me your objective definition to the issue of how much labor is required – and base this solely on the NAP.’

⁶ Rothbard (1982, p. 64) answers that objection in the following way: “Note that we are not saying that, in order for property in land to be valid, it must be continually in use. The only requirement is that the land be once put into use, and thus become the property of the one who has mixed his labor with, who imprinted the stamp of his personal energy upon, the land. After that use, there is no more reason to disallow the land’s remaining idle than there is to disown someone for storing his watch in a desk drawer.”

And I suggest, in the end ... [this] cannot [be done]. My answer to the question of ‘How much labor?’ is just as good as [anyone else’s] answer to the question. The NAP offers no guidance to this.

Now, given that my answer is just as good as [any other], and I paid for the government employees and contractors who did the work and provided the services on that property in Wyoming and Alaska, well...just like Ted Turner...I own the land.

Just because the colors of the rainbow meld into one another, Red, Orange, Yellow, Green, Blue, Indigo, Violet, does not mean we cannot distinguish those that are located close to each other from those placed far away from each other. Yes, there is a continuum⁷ between Red and Orange; there is a “grey” area between them; it is difficult to tell them apart, at some points. But that does not at all apply to Red versus Blue, or Orange in comparison to Violet. This is precisely the flaw in Mosquito’s (2017A) analysis. Yes, it is difficult to draw the line between planting a bush and claiming either a single square yard or two square yards. The one fades into the other, and we have no sharp dividing line that can be drawn between the two of them. But the same does not apply to making a distinction between one acre and one million square miles. That is the conclusion this author wishes to draw, and it is an invalid one.

Mosquito (2017A) poses this challenge: “How many immigrants are moving to ‘virgin land, never touched by humans?’ I will suggest that the answer is about as close to zero as one can get.”

As far as I’m concerned, this might even be a minus number. This author is of course correct; the number is probably zero. Well, maybe one or two, in the history of the entire

⁷ For an analysis of this phenomena, see Block and Barnett (2008).

world. Immigrants usually go to big cities, sometimes to farming areas, virtually never, ever, do they settle in virgin unhomesteaded territory.

However, this is irrelevant to our discussion. We do not need even one such person to make the point in favor of open borders. Even a hypothetical such person will do just fine. In my book *Defending I* (Block, 1976), I defended the pimp on the ground that he need not be a violator of the NAP. As far as I know, there is not a single solitary pimp who does not abuse his prostitutes, and this could not properly be defended on libertarian grounds. But I was discussing a sort of Platonic Pimp: a hypothetical one, who did not in any way abuse his prostitutes. I was trying to make the point that a pimp *need* not violate the NAP, even if all of them as a matter of fact actually did. I was defending the *idea* of a pimp, not any actual one. I now make much the same point with regard to the immigrant who settles in virgin territory. I do not much care if any of them ever did any such a thing. But, my Platonic Immigrant *could* have done this. With this, I think I have proven the case for open borders. There is nothing, *nothing*, intrinsically wrong from the libertarian perspective with an immigrant violating immigration law. Any immigration official who stops him is himself violating the NAP. Remember, the policy advocated by opponents of open borders makes no provision for a (probably hypothetical) immigrant who wants to settle in the middle of Wyoming or Alaska, on virgin territory. The argument that Mosquito (and other US citizens) really own this land, so that my hypothetical immigrant is really trespassing, goes against everything that eminent libertarian theorists⁸ have ever said about homesteading, which constitutes a bedrock of this philosophy.

⁸ Block, 1990B, 2002C, 2002D; Block and Edelstein, 2012; Block and Yeatts, 1999-2000; Block vs Epstein, 2005; Bylund, 2005, 2012; Grotius, 1625; Hoppe, 1993, 2011; Kinsella, 2003, 2006, 2009B; Locke, 1948 (pp. 17-19), 1955 (chapter 5); Paul, 1987; Pufendorf, 1673; Rothbard, 1973, 32; Rozeff, 2005B; Watner, 1982

I am just as concerned as any open borders opponent are about being overrun by hordes of rapefugees, and bombfugees, and running over people with a truck-fugees. I insist that my way of looking at the matter enables us to have our cake and eat it too. We privatize every square inch of the country. Then and only then will an immigrant who enters this country be guilty of trespass. With full private property, along with open borders, we can retain our hold over the libertarian NAP. The stance of libertarian open borders opponents, jettisons something very important to libertarians, the NAP.

But Mosquito (2017A) is not without a response to this rejoinder of mine. He states:

I will summarize my two main points from my lengthy response: first, [the open borders] position – even if one grants that it is correct in theory (which I do not ...) – is a theory in search of an application in reality; second, the government-controlled land is owned by me – and every other individual who has been forced to pay for the associated government labor.

[The open borders position is a] theoretical position with no useful application in today's world – certainly not in the west... So even if I grant [the] point that this is virgin land, never touched by humans, I find no practical use of [this] concept in today's discussion of immigration. Therefore, I find it dangerous to speak of open borders immigration based on a model that no immigrant [actually] employs. "If [we] are speaking purely theoretically, and at the same time speaking against the form of immigration we see around us today (in other words ... 'open borders immigration' [this] is significantly narrower than the definition employed by those who demand it), this is a different matter – but I (and many others) would appreciate it if [this were] said ... clearly.

We are not speaking today of pimps and prostitutes; there is no ongoing debate on this topic amongst libertarians. There *is* a context to the dialogue of open borders and immigration ...

... [the] "open borders" position has nothing to do with the general dialogue of today – the practical application of this topic within the context of today's dialogue; [t]his 'open borders' position is irrelevant to the situation today.

Let us consider the last point first. What I am attempting to do is to apply libertarian theory, accurate, uncompromising, libertarian theory, precisely to “the situation today.” Also, I want the target countries⁹ to be safe. In my analysis, this requires two things: not to initiate violence against immigrants peacefully tilling virgin territory, and, also, full private property, so that no uninvited guests may appear within our shores. Do I think that full privatization is immanent? Of course not, given the political economy of the day. But that is irrelevant. My prime purpose in my writings on the subject¹⁰ is not to be practical in that compromising sense. No, it is to carve out the correct libertarian position, one that, happily is also utilitarian in the sense that it will safeguard the resident population.

As for Mr. Mosquito, or any other tax-paying citizen being the legitimate owner of virgin territory, a veritable contradiction in terms, this has been refuted, over and over, by pre-eminent libertarian scholars.

For example, in the view of Rothbard (1982, 49):

If every man has the right to own his own person and therefore his own labor, and if by extension he owns whatever property he has ‘created’ or gathered out of the previously unused, unowned state of nature, then who has the right to own or control the earth itself? In short, if the gatherer has the right to own the acorns or berries he picks, or the farmer his crop of wheat, who has the right to own the land on which these activities have taken place? Again, the justification for the ownership of ground land is the same for that of any other property. For no man actually ever ‘creates’ matter: what he does is to take nature-given matter and transform it by means of his ideas and labor energy. But this is precisely what the pioneer – the homesteader -- does when he clears and uses previously unused virgin land and brings it into his private ownership. The homesteader – just as the

⁹ The U.S., preeminently, but also others such as Sweden, German, France, etc., to be safe from immigrants with no respect for women, for gays, for the NAP.

¹⁰ Block, 1983A, 1983B, 1988, 1990A, 1998, 2004, 2006B, 2011A, 2011B, 2013, 2016A; Block and Callahan, 2003; Gregory and Block, 2007. Other open borders libertarian essays include the following: Berg, 2010; Ebeling, 2015A, 2015B; Esplugas and Lora, 2010; Friedman, 1973, 2006; Hornberger, 2016A, 2016B; Hudson, 1986; Krepelka, 2010; Rothbard, 1962; Rozeff, 2005A; Salin, 2000, chap. 11; Todea, 2010

sculptor, or miner -- has transformed the nature-given soil by his labor and his personality. The homesteader is just as much as 'producer' as the others, and therefore just as legitimately the owner of his property. As in the case of the sculptor, it is difficult to see the morality of some other group expropriating the product and labor of the homesteader. (And, as in the other cases, the 'world communist' solution boils down in practice to the ruling group.) Furthermore, the land communalists, who claim that the entire world population really owns the land in common, run up against the natural fact that before the homesteader, no one really used and controlled, and hence owned the land. The pioneer, or homesteader, is the man who first brings the valueless unused natural objects into production and use.

From this we can readily infer that Mr. Mosquito's position is akin to that of the "world communist" or the "land communalist." It is difficult to understand how this author, world-renowned for his many and important, contributions to libertarian theory, can be brought to such a pass. But, it is difficult to resist this conclusion. For, he avers in effect that there is no such thing as virgin territory, that the minions of the government can be considered the proper owners of territory they never so much as placed a foot on. To engage in a bit of motive mongering for the moment, I discern that his intention is to ward off the domestic country being overwhelmed by millions of rape-fugees, bomb-fugees, and others of their ilk. He is no less than eloquent in his condemnation of these dangers, to his immense credit. He simply does not realize that we need not jettison pure libertarian theory in order to attain these ends.

States Rothbard (1982, 47): "Let us return to our island of Crusoe and Friday. Crusoe, isolated at first, has used his free will and self-ownership to learn about his wants and values, and how to satisfy them by transforming nature-given resources through 'mixing' them with his labor. He has thereby produced and created property. Now suppose that Friday lands in another part of the island. He confronts two possible courses of action: he may, like Crusoe, become a producer, transform unused soil by his labor ... also creating

property. Or he may decide upon another course: he may spare himself the effort of production ... He may aggress against the producer.

If Friday chooses the course of labor and production, then he in natural fact, as in the case of Crusoe, will own the land area which he clears and uses, as well as the fruits of its product. But, as we have noted above, suppose that Crusoe decides to claim more than his natural degree of ownership, and asserts that, by virtue of merely landing first on the island, he ‘really’ owns the entire island, even though he had made no previous use of it. If he does so, then he is, our view, illegitimately pressing his property claim beyond its homesteading – natural law boundaries, and if he uses that claim to try to eject Friday by force, then he is illegitimately aggressing against the person and property of the second homesteader.

It should by now be clear that the “second homesteader,” Friday, is the innocent person in this scenario; he plays the role of the homesteader of land in the middle of Alaska or Wyoming. Further, that the first homesteader, Crusoe, is “illegitimately pressing his property claim beyond its homesteading -- natural law boundaries.”

In the view of Rothbard (1982, 47):

Some theorists have maintained—in what we might call the ‘Columbus complex’—that the first discoverer of a new, unowned island or continent can rightfully own the entire area by simply asserting his claim. (In that case, Columbus, if in fact he had actually landed on the American continent—and if there had been no Indians living there—could have rightfully asserted his private ‘ownership’ of the entire continent.) In natural fact, however, since Columbus would only have been able actually to use, to ‘mix his labor with,’ a small part of the continent, the rest then properly continues to be unowned until the next homesteaders arrive and carve out their rightful property in parts of the continent.” Rothbard (1982, 47-48, fn. 2): “A modified variant of this ‘Columbus complex’ holds that the first discoverer of a new island or continent could properly lay claim to the entire continent by himself walking it (or hiring others to do so), and thereby laying out a boundary for the area. In our view, however, their claim would be no more than to the boundary *itself*, and not to any of the land within it, for only the boundary will have been transformed and used by man.

Further, Rothbard (1982, 63-64) avers:

Suppose ... that Mr. Green legally owns a certain acreage of land, of which the northwestern portion has never been transformed from its natural state by Green or by anyone else. Libertarian theory will morally validate his claim for the rest of the land – provided, as the theory requires, that there is no identifiable victim (or that Green had not himself stolen the land.) But libertarian theory must invalidate his claim to ownership of the northwestern portion. Now, so long as no ‘settler’ appears who will initially transform the northwest portion, there is no real difficulty; Brown’s claim may be invalid but it is also mere meaningless verbiage. He is not yet a criminal aggressor against anyone else. But should *another* man appear who does transform the land, and should Green oust him by force from the property (or employ others to do), then Green becomes at that point a criminal aggressor against land justly owned by another. The same would be true if Green should use violence to prevent another settler from entering upon this never-used land and transforming it into us.

Just so there will be no mistake about this matter, Green, here, is clearly either El Senor Mosquito, and/or his agent, the government. In very sharp contrast indeed, Brown, the person who starts to mix his labor with the so far unoccupied, unhomesteaded, untouched, virgin territory in the northwest, plays the role of the peaceful immigrant; he is acting totally in accord with the NAP of libertarianism. When Green “ousts” Brown, the former is violating the rights of the latter.

Rothbard (1982, 64) powerfully makes this point yet in another¹¹ way:

Crusoe, landing upon a large island, may grandiosely trumpet to the winds his ‘ownership’ of the entire island. But, in natural fact, he *owns* only the part that he settles and transforms into use. Or ... Crusoe may be a solitary Columbus landing upon a newly-discovered continent. But so long as no other person appears on the scene, Crusoe’s claim is so much empty verbiage and fantasy, with no foundation in natural fact. But should a newcomer – a Friday – appear on the scene, and begin

¹¹ Am I being somewhat repetitive here? Without a doubt, this is true. My justification for so doing is that this is a complex issue, and many highly credentialed libertarians, have misunderstood it. For a listing of such, see [Brimelow, 1995](#); Hoppe, 1998, 2001, 2002; Hospers, 1998; Kinsella, 2005; Machan, 1998; Mosquito, 2016A, 2016B, 2016C, 2016D, 2016E, 2016F, 2016G, 2016H, 2016I, 2017A, 2017B; Rockwell, 2015A; Rothbard, 1994; Simon, 1998; de Soto, 1998

to transform unused land, then any *enforcement* of Crusoe's invalid claim would constitute criminal aggression against the newcomer and invasion of the latter's property rights.

It is almost as if Rothbard had Mosquito in mind when he penned these words. Here, first, comes Mosquito's government (Columbus or Crusoe), with its "claim (to the entire continent, or large island that) is so much empty verbiage and fantasy, with no foundation in natural fact." Then Friday turns up on the scene, and begins homesteading land completely untouched by human hands or feet. Whereupon the evil state, or Columbus, or Crusoe *enforces* this totally invalid claim, with Mosquito's blessing. It is difficult to see how more clearly it is demonstrated that the two views, Rothbard's and Mosquito's, diverge.

But does the latter not have a response? He might accuse me of an argument from authority: just because Rothbard disagrees with Mosquito does not necessarily mean that the latter is incorrect. Perhaps Rothbard, on this one occasion, was in error? No. Not a bit of it. My argument is supported by the exegesis of Rothbard, but is by no means totally dependent upon it. Or, put this in another way, it is Rothbard's arguments, not his persona, that demonstrates the error of the Mosquitoian analysis. The latter is subject to all sorts of *reductio ad absurdum*. For example, it is a basic tenet of libertarianism that secession is always and ever justified.¹² There are disquieting implications here for secession. If the government really owns all the land, secession by its very nature must be prohibited. It would constitute a theft from the legitimately owned property of the state. But to say that this would run counter to libertarian thought would be an understatement of the highest

¹² Adams, 2000; Baldwin, 2015; Block, 2002A, 2002B, 2007; Denson, 1997; DiLorenzo, 2002, 2006, 2007, 2015; Fedako, 2013; Gordon, 1998; Hulsmann, 2003; Hummel, 1996; Kinsella, 2009A, Kreptul, 2003; McGee, 1994A, 1994B; Rosenberg, 1972; Rockwell, 2015B; Rothbard, 1967; Stromberg, 1979; Thies, 2009; Thornton, 1994; Thornton and Ekelund, 2004; Williams, 2015.

order.

Let us next consider the views of Mosquito, 2017B.

He begins by reiterating his entirely correct claim that

... there is no objective answer to how much labor must be mixed with the land to determine ‘ownership.’” But from this he deduces the entirely incorrect conclusion “that even the so-called vacant stretches of desert and the mountaintops have ‘some’ labor mixed into them by government employees – whom I have paid for; therefore the government controlled land is owned by me – and every other individual who has been forced to pay for the associated government labor.

Here, he is subject to the withering “Columbus” fallacy: anyone can pretty much say anything about homesteading, since there are no objective criteria to distinguish licit from illicit homesteading. I now look out my window and see the moon. According to the Mosquito, there is no one who can say me nay. I am the legitimate owner of this heavenly body. All others stay away, or else!

No, I of course cannot offer any exact criteria for successful homesteading, such as two months per acre, or anything like that. In Rothbard’s (1982) view, to which I fully subscribe, it all depends upon context, history, past practices.

But, Mosquito (2017B) allows a good thing for his side of this debate, the non-objectivity of homesteading in terms of time spent per acre, get the better of him. He takes a reasonable principle, and runs too far with it. Suppose that the US lands an astronaut on Mars or the Moon. He plants a US flag there. He builds a few roads, etc., and then claims the entire heavenly body as the private property of the US government, and stands ready

to protect this claim by force. According to the argument of this author, this claim would be legitimate. It is difficult to reconcile any coherent theory of homesteading with so grotesque a conclusion. The idea that because the state builds a few roads 1000 miles away from an uninhabited part of Alaska, claims ownership over it, it willing to fight to protect it, seems so far removed from legitimate homesteading as to be totally unrelated to it.

Mosquito (2017B) then makes much of the fact that there are rich individuals, and corporations, who and which now own vast holdings of terrain, too large to have homesteaded all of the property in question. Several of them are in the several millions of acres. He states: “These individuals *own* such properties by the millions of acres; the government *controls* such properties by the millions of acres. If size matters, well these landowners can hold their own. The individuals have roads and buildings (*or not*) sufficient for the purpose of the property; the government has roads and buildings (*or not*) sufficient for the purpose of the property. In other words, the amount of labor mixed with land is dependent on the property owner’s view of the best use for the land. There is no formula. The individuals have rules about who can and can’t enter the property; the government has rules about who can and can’t enter the property. This needs no explanation, and certainly not in the context of immigration. So...what’s the difference between government controlled land and privately owned land (within the context of this discussion)?”

His clear implication is that there is none. But this will not suffice. First of all, there is all the difference in the world between private and government land. As Rothbard (1978) puts it, “the State as a criminal band,”¹³ while private individuals are not. Secondly, The Mosquito (2017B) is conflating the normative and the positive. It cannot be denied that these individuals do indeed own their vast acreages, as a matter of extant law. So much for

¹³ See fn. 4, *supra*

the positive. But, if they did not homestead these territories, nor pay others to do so for them, then, according to normative libertarian law, they are not the proper owners of it. Therefore, extrapolating from these examples to government ownership and control is fraught with philosophical danger.

Then, too, this scholar's position is subject to a whole host of *reductio ad absurdum*.

If we can extrapolate from his promiscuous use of libertarian homesteading theory, the Mosquito would support the Chinese in their insistence upon a 12 mile area of ownership, merely because, traditionally, cannon could fire for that distance. The point is, the Chinese did nothing, nothing at all, at least nothing that could be regarded even by an extremely stretched homesteading theory, to "mix their labor" with these surrounding waters, at least not more so than any of the other nations in the surrounding area. "An extremely stretched homesteading theory" is an apt description of the Mosquito's position. No. I take that back. His perspective is an outright rejection of homesteading *per se*. But without homesteading as the very basis of licit property titles, the entire edifice of libertarianism collapses.

Here is another *reductio*: according to the Mosquito, there is no such thing, there cannot be any such thing, it would be a logical contradiction for there to be any such thing as, "previously unused, unowned state of nature." For as long as there are governments around to claim ownership of what would otherwise be considered virgin territory, it just plain cannot exist. This, too, is highly problematic.

This author must confront several questions, as well. Precisely when did the US government attain proper libertarian ownership of the wilds of Alaska and Wyoming, given that no human being came within hundreds of miles of it? How did they attain these

ownership rights, compatible with the libertarian theory that the Mosquito so eloquently supports in all of his other writings?

III. Conclusion

I stand foursquare with Mr. Mosquito in not wanting to be over-run by hordes of rape-fugees, truck-fugees, bomb-fugees. We both have children and grandchildren for who we wish a safer gentler world, entirely separate from such goings on elsewhere, and, now, all too often,¹⁴ in our home territory. Where my learned friend and I depart is that he wishes to attain this end via the violation of the NAP, and I am attempting to strive mightily to achieve this goal while not jettisoning the libertarian perspective. Crossing the U.S. border illegally is not per se a violation of rights, at least not of the libertarian variety. This can be done, compatibly, as demonstrated above, by doing so and settling in virgin territory, of which there is much. Therefore, any policeman who stops and immigrant from homesteading such land violates his rights. Thus, any border control is necessarily incompatible with the freedom philosophy. But will not the open borders position open up the domestic population to being swamped? No, not if another part of the basic libertarian edifice is also implemented: homesteading of every square inch of the target country: land, roads (Block, 2009), parks, waterways (Block and Nelson, 2015).

There are two obstacles to this happy occurrence, one relatively easily overcome, the other all but impossible to attain.

First, much of this terrain is sub-marginal. There is a good and sufficient reason why much of the Rocky Mountains and the interior of Alaska are uninhabited: the marginal revenue productivity of this topography is at present negative. It costs more to occupy this

¹⁴ Once is too much

geography than it is worth. But this does not apply to victims of terrorism fleeing to the U.S. for their very lives. They would give their eye teeth to settle in the midst of even the most rugged parts of Wyoming, for example. If they are to be precluded from so doing in any significant numbers, then the sub-marginality of this land must be changed. And, under a regime of free enterprise, this is precisely what would happen. People like Mosquito, and other libertarians who wish not to be inundated by foreign hordes, would make it so. The psychic benefits associated with safety would overcome the present sub-marginality of the land. Individuals and groups would homestead that land even though the monetary profits would be negative.¹⁵

Second, this one-two punch of (legally) open borders combined with total private property rights requires an entirely libertarian society. This, given present political economic realities, is not “all but impossible to attain.” Rather, it is totally impossible, with no “all but” about it. We live in a country in which Hillary, Bernie and Donald were all contenders for president in 2016. For us to attain a libertarian society, not only would Ron Paul have to be president, but he would have to have the support of both houses of congress and numerous state legislatures to boot. This will not bloody likely happen. Therefore, open borders, it cannot be denied, will result in the domestic population being overcome.

¹⁵ The argument against this is that such activities would be subject to the market failure of public goods. Each person would wait for others to do this; no one would engage in such acts. That is the extreme version of this doctrine. The more moderate version is that too little, too late, of this would occur under a regime of economic freedom, and we would still be swamped by immigrants. For a refutation of this objection, see: Barnett and Block, 2007, 2009; Block, 1983C, 2000, 2003; Cowen, 1988; De Jasay, 1989; Holcombe, 1997; Hoppe, 1989; Hummel, 1990; Osterfeld, 1989; Pasour, 1981; Rothbard, 1985, 1997B; Schmidt, 1991; Sechrest, 2003, 2004A, 2004B, 2007; Tinsley, 1999. Rothbard's (1997B, 178) *reductio absurdum* of the public goods argument is as follows: “A and B often benefit, it is held, if they can force C into doing something. . . . [A]ny argument proclaiming the right and goodness of, say, three neighbors, who yearn to form a string quartet, forcing a fourth neighbor at bayonet point to learn and play the viola, is hardly deserving of sober comment.”

I do not give two hoots about that eventuality, much as I love not only my children and grandchildren, and, indeed, this country and its people. My only concern in this essay is to clarify the libertarian position on this troublesome matter. If we are to attain the exalted libertarian society mentioned in the previous paragraph, we must be meticulous in understanding this philosophy, wherever it leads us. If we are to make compromises, let us do so while fully understanding what the pure libertarian position is. Mosquito, and all other libertarians who favor controlled borders, thus do a disservice to our political economic position. In my view, the last best hope for all of our children and grandchildren, is libertarianism, in its most pure version. Jettison that, for whatever reason, and we do damage to our progeny. From a utilitarian point of view, we do greater harm to them by being unclear about what libertarianism is all about, than by seizing temporary relief. From a realpolitik point of view, we libertarians can afford to take an unadulterated position. We are not in charge of immigration policy. Our views will be little noted, and certainly not implemented, by the powers that be

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