

THE METAPHYSICS OF LOCKE'S LABOUR VIEW

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What sort of argument would be needed to ground the claim that someone is justified in having *exclusive* control over some object or thing in the world? John Locke developed a theory about property that sought to justify such an exclusive private property right. The purpose of this paper is to evaluate John Locke's theory.

This paper is arranged as follows. Section I will set out Locke's labour view. Section II will address several possible objections to the labour view. Those objections are against the conceptual coherence of the argument, against the metaphysical implications of the view, and foundational criticisms of the moral significance of labour and of my relations with objects that are grounded in labour under certain conditions and circumstances. This section attempts to answer each of these objections in a Lockian spirit. These answers will include strange metaphysical moves. Section III raises further objections that are more significant because they cannot be squared with the labour view. The conclusion addresses itself to the question of what is left of the labour view.

SECTION I—THE LABOUR VIEW

According to Locke,¹ we own our body, our labour, and the work of our hands. This claim has come to be called the *self-ownership assumption*. From self-ownership, we can come to own external objects and things by the mechanism of labour. The argument is this: I own myself; my labour is a part of me, it is part of the self.

¹ All references to Locke are from J. Locke, *Two Treatises of Government* (Cambridge: CUP, 1960).

When I labour on something, I mix a part of my self with the external world—I externalize my self into the object (II. §27). For anyone to take this object would also be taking the part of me that is in the object, which amounts to her having a property in me, or slavery. Because all forms of slavery, including by consent, are wrong (II. §4), it follows that I have a right to own what I am in, the objects I have laboured upon.

We cannot, however, take just as much as we'd like, because we must respect what have come to be called the 'Lockian provisos'. These provisos are the waste and spoilage provisos, as well as the 'enough and as good for others' proviso (II. §§27, 31, 33, 46). They amount to this: when accumulating property, I can come to own (by mixing my labour) only that which I can actually use, else it become 'wasted' (for Locke, anything that is not actually used or put to use, like untilled land, is waste [II. §§37–8, 42, 45–6]); only so much as I can use without any of it spoiling; and only so much such that others are still left with 'enough and as good' (II. §27).² With a general understanding of Locke's labour theory, our second task is to define property. This task is a significant one, and the debate over whether or not property is sufficiently meaningful and coherent or an 'essentially contested' concept is not over.³

² It should be noted, in passing, that the reference to 'enough and as good left in common for others' is mentioned only twice by Locke, unlike the other provisos which are often repeated. This might be surprising given how much ink has been spilled on this proviso by subsequent commentators. Jeremy Waldron denies that this proviso has much significance at all, or at least not the sort of significance that many subsequent commentators attach to it. J. Waldron, *The Right to Private Property* (Oxford: Clarendon Press, 1988), 209–18. For reasons to think that this proviso is more important than Locke's passing references to it imply, see especially C. Wolf, 'Contemporary Property Rights, Lockean Provisos, and the Interests of Future Generations', *Ethics*, 105 (1995), 791–818.

³ For reasons to think it is 'the most ambiguous of categories' see R. H. Tawney, 'The Sickness of an Acquisitive Society', in *Property: Mainstream and Critical Positions*, ed. C. B. Macpherson (Oxford: Blackwell, 1978). Tawney writes, 'Property is the most ambiguous of categories. It covers a multitude of rights which have nothing in common except that they are exercised by persons and enforced by the state. Apart from these formal

However, A. M. Honoré⁴ has captured what many believe is the best account of what property amounts to. According to Honoré, property is a ‘bundle of rights’ with many particular ‘sticks’. These sticks, sometimes called ‘incidents’, are *rights* to (1) possess, (2) use, (3) manage, and (4) receive income; the *power* to (5) transfer, (6) waive, (7) exclude and (8) abandon; the *liberties* to (9) consume or destroy; (10) immunity from expropriation; (11) the duty not to use property harmfully; and (12) liability for execution to satisfy a court-ordered judgement.⁵

To say that P owns x is, on this analysis, to say that P has an *adequate number* of the rights adumbrated by Honoré.⁶ *Full* ownership includes *every* instance in the list. Waldron makes this idea clearer: ‘Ownership ... expresses the very abstract idea of an object being correlated with the name of some individual, in relation to a rule which says that society will uphold that individual’s decision as final when there is any dispute about what is to be done with the object. The owner of an object is the person who has been put in that privileged position’.⁷

characteristics, they vary indefinitely in economic character, in social effect, and moral justification’. For a more charitable analysis, see J. Waldron, ‘What is Private Property?’, *Oxford Journal of Legal Studies*, 5 (1985), 313–49. See also, P. Eleftheriadis, ‘The Analysis of Property Rights’, *Oxford Journal of Legal Studies*, 16 (1996), 31–54.

⁴ A. M. Honoré, ‘Ownership’, in *Oxford Essays in Jurisprudence*, ed. A. G. Guest (Oxford: Clarendon Press, 1961).

⁵ This is taken from J. C. Becker and T. W. Kelsey, ‘Philosophical and Political Foundations of Property Rights’, in *Property Rights: Interests and Perspectives* (Penn State University). (<http://extension.aers.psu.edu/pubs/PropertyRights2.pdf>) accessed Oct. 27, 2010, at 8, ff. 17. The original appears in Honoré, *Ownership*, at 113 ff.

⁶ There does not appear to be a good account of what is to be deemed an ‘adequate number’. This, then, is a vagueness that contributes to the claim that property is a meaningless (or at least deeply confused) concept.

⁷ Waldron, ‘What is Private Property?’, at 333. That this is not quite sufficient is shown by Pavlos Eleftheriadis: ‘The problem is this: if the owner of the thing is identified as “the person who is put in [this] privileged position”, and whose decision will be upheld “as final

SECTION II—OBJECTIONS AND RESPONSES

On a natural reading of Locke, what is mixed in with an object to make it my property is my labour. When Locke says that taking something I have laboured upon is stealing my labour, it looks as though for labour-theft to be possible, labour must be something *in* an object. There are at least two worries with this argument. For one, it does not appear to be plausible to say that we can literally mix our labour with anything at all. Our labour is an activity that might make it the case that two or more *other* things get mixed, but it, as an activity, cannot be so mixed. We can mix salt and water together to make saltwater, but the labour that mixes the salt and water is not a third element in the mixing. What gets mixed is just the salt and water, and not salt, water, and labour.

Jeremy Waldron criticizes the idea that labour is something that can be ‘mixed’ with anything. He writes,

On the face of it, the proposition,

(P) Individual *A* mixes his labour with object *O*

seems to involve some sort of category mistake. Surely the only things that can be *mixed* with objects are other objects. But labour consists of *actions* not objects. How can a series of actions be mixed with a physical object?⁸

when there is any dispute about how the object should be used”, then there is nothing to stop us from concluding that in any Western legal system everything is owned by the judiciary’. Eleftheriadis, ‘The Analysis of Property Rights’, at 35. There is a possible response. The task of a judiciary, on this view, would not be to determine what is to be done with an *x* the ownership of which is disputed. The judiciary’s task is to determine *who is to determine* what is to be done with *x*. This difference might be enough for Waldron’s definition to get around the objection.

⁸ J. Waldron, ‘Two Worries about Mixing one’s Labour’, *The Philosophical Quarterly*, 33 (1983), 37–44, at 40.

Later, he writes, 'It is not just that the idea of mixing one's labour treats labour as a *thing* which can be mixed with other things. It is rather that the phrase "mixing one's labour" is shown to have the logical form of "mixing one's mixing". And that just seems defective'.⁹ It is defective.

There is a second conceptual difficulty facing the labour view, assuming self-ownership is also not a category mistake.¹⁰ Locke's move from self-ownership to ownership of labour and the work of my hands, to ownership of external objects appears to equivocate on two distinct senses of 'property'. In one sense, we say that blue is a property of P's eyes, if P has blue eyes. The sense of property here is as a 'part of P'; blue is a part of P's eyes. In the other sense, property marks out what things belong to P. P's eyes 'belong' to P (they are a property of his), even if the blueness of the eyes do not belong to him (blueness is not the kind of thing that can be owned).¹¹ According to this objection, labour is like the blueness of the eyes.¹²

It is not, and cannot be, literally true that I own an activity or an action. I could not own my throwing, or my running. J. P. Day

⁹ Ibid. at 41.

¹⁰ The question 'who owns Sam?' is *disturbing*. The purported answer, 'Sam owns Sam', is convenient, but does not, as I see it, remove the disturbing element. Instead, the right answer might be, 'no one does. Persons do not fall into the category of things open to the ownership relation'. I maintain that this is the right answer, but this is controversial.

¹¹ This might be confused with the claim that colours cannot be owned, and this is why the 'blueness' of my eyes is not property in the right sense. This is not what is meant here. The question of whether or not colours can be owned has added significance given the existence of a patented colour. The French artist Yves Klein has a patent for 'International Klein Blue' or 'IKB' as artists call it (www.international-klein-blue.com).

¹² This objection may have originated with P. J. Proudhon. Lawrence Becker quotes Proudhon as follows: 'The word property has two meanings: 1. It designates the quality which makes a thing what it is... 2. It expresses the right of absolute control over a thing'. L. Becker, 'The Labor Theory of Property Acquisition', *The Journal of Philosophy*, 73 (1976), 653-64, at 656.

elaborates on this objection when he writes, 'For labour, or labouring, is an activity, and although activities can be engaged in, performed or done, they cannot be owned'. If it is responded that what we own is not the labour but the *capacity to labour*,¹³ Day has the following to say: '...it is no more significant to talk of *owning a capacity for work* than it is to talk of *owning work*. Powers are used or disused; they are not owned or unowned'.¹⁴ He summarizes the two senses of property as follows: 'It is necessary to distinguish *X is the property of A*, meaning *X appertains to A*, from *X is a property of A*, meaning *X characterizes A*'.¹⁵

To meet these objections, the labour view would need to be altered. A different interpretation of Locke's view is possible. The following passage might help:

The Labour of his Body, and the Work of his Hands, we may say, are properly his. Whatsoever then he removes out of the State that Nature hath provided, and left it in, he hath mixed his Labour with, *and joynd to it something that is his own*, and thereby makes it his Property. It being by him removed from the common state Nature placed it in, *hath by this labour something annexed to it*, that excludes the common right of other Men. (All emphasis mine, §27)

The first emphasis above is intended for the following reason: If what was meant was that labour was mixed in with the object, then a more natural way of phrasing the sentence would be 'and joynd to it *the labour* that is his own'. As it stands, we can read the

¹³ One example of this mistake in the literature comes from Karl Marx. Marx writes: '...labour-power can appear upon the market as a commodity, only if, and so far as, its possessor, the individual whose labour-power it is, offers it for sale, or sells it, as a commodity. In order that he may be able to do this, he must have it at his disposal, must be the untrammelled owner of his capacity for labour, i.e., of his person'. J. Elster, *Karl Marx: A Reader* (Cambridge: CUP, 1986), at 137–8.

¹⁴ J. P. Day, 'Locke on Property', *Philosophical Quarterly*, 16 (1966), at 212.

¹⁵ *Ibid.* at 214.

conjunction as referring to a ‘something’ that is not the labour in the first conjunct. This interpretation is strengthened by appeal to the second emphasized line above. If the ‘something’ in question were labour, we could reformulate the sentence to read ‘hath by this labour *labour* annexed to it,’ which does not seem right. The natural reading of the emphasized sentence is that what Locke means is for labour to serve as the *mechanism* that carries ‘something of me’ into the object, something that is not identical to labour.

This (re)interpretation may be false. The reason for this is not merely the weight of the commentators on Locke who have agreed that the literal mixing of labour into the object is the right interpretation of Locke. The sentence that immediately follows the above passage points us in this direction: ‘Labour being the unquestionable Property of the Labourer, no Man but he can have a right to what that is once joyned to, at least where there is enough, and as good left in common for others’ (§27). The ‘that’ in ‘what that is joyned to’ appears to refer to the first instance of ‘Labour’.

Even so, many have chosen to change ‘labour’ into something else, possibly because of the ‘labour is not property-in-the-right-sense’ and ‘labour cannot be mixed’ objections. Karl Olivecrona uses ‘spiritual ego’¹⁶ in the first instance, and ‘personality’ in subsequent references¹⁷ as the thing that is mixed in. Dudley Knowles, commenting on Locke’s view from a Hegelian perspective, also uses ‘personality’ as the thing that is mixed in.¹⁸

¹⁶ K. Olivecrona, ‘Locke’s Theory of Appropriation’, *The Philosophical Quarterly*, 24 (1974), 220–34, at 226.

¹⁷ *Ibid.*, at, for instance, 227.

¹⁸ Writes Knowles: ‘One’s work and labour represents the admixture of his person to the natural world. Through labour, a quality of the person becomes a quality of that bit of the world on which the labour has been expended’. D. Knowles, ‘Hegel on Property and Personality’, *The Philosophical Quarterly*, 33 (1983), 45–62, at 47. Stephen Munzer, who also elaborates and defends a Hegelian account of property, calls views like Locke’s ‘projection by embodiment’ views. He writes: ‘...the operative image is that property rights are *projections* of the body that result from *embodying* the person into external things’.

As does Andrzej Rapaczynski, using ‘personality’ throughout.¹⁹ This could be the ‘something of me’ that gets mixed in by the *mechanism* of labour. This would avoid both objections.²⁰ Because, for our purposes, we need not settle whether it is the ‘will’, ‘personality’, ‘spiritual ego’, or whatever else the ‘something of me’ refers to, we will call it ‘S’. S may be property in the same sense that my eyes are my property. It would not *characterize* me, but would *belong* to me. S is also not an activity, but precisely the kind of thing that, at least conceptually, could be mixed in with objects and things in the world. Finally, it can still be called a labour view because of the necessary (and sufficient?) role that labour plays in the transference of my S into an object or thing in the world.

This new labour view is *prima facie* plausible. Consider the following cases. Patricia, an artist, paints a picture. She feels like the picture captures something about her. It expresses something about her personality. It is not the labour that does this, but, through labour, something of her is ‘in’ the painting. Likewise, Quincy the farmer is proud of his crops. He feels like the soil is an organic part of him. He naturally moves from thoughts of who he is and what meaning his life has to thoughts of his corn fields and pastures, and he considers his farm to reflect something significant about him. Quentin, an acclaimed author, has just finished writing another novel. This novel is rich with emotion, and manages to convey

S. R. Munzer, ‘Property, Incorporation, and Projection’, *Nous*, 23 (1989), 291–306, at 295.

¹⁹ A. Rapaczynski, ‘Locke’s Conception of Property and the Principle of Sufficient Reason’, *Journal of the History of Ideas*, 42 (1981), 305–15.

²⁰ Olivecrona insists on this reading when he writes, ‘It would be absurd to contend that the ‘labour’ of killing a deer or picking an acorn from the ground is, in the exact sense of the expression, “mixed” with the deer or the acorn respectively. Locke cannot have meant it so. His meaning can only have been that the action of killing deer or picking the acorn was the means by which something of the spiritual ego was infused into the object’. Olivecrona, ‘Locke’s Theory of Appropriation’, at 226.

neatly how Quentin feels about the world. It took him a great deal of effort to write the prose, but he is pleased with the outcome, and feels like it is a true representation of his worldly outlook.

In each of these cases, the people in them consider the respective products of their work—the painting, the farm, and the work of authorship—to contain something of them in it. On the labour view, our thinking this is literally true, and not merely a metaphor. It is a metaphysical truth. Notice also that in each of the above cases, we called the person in question an ‘artist’, a ‘farmer’, and an ‘author’. We did not say ‘Patricia who sometimes paints pictures’, ‘Quincy who spends a lot of his time farming’, and ‘Quentin who writes novels’. Our language implies that some activities can be part of us in the sense that our identity is wrapped up in what we do. On one interpretation, this linguistic fact is a descriptive shorthand and nothing more. On the labour view, this linguistic insight is not merely a descriptive shorthand, but captures the truth of identity. We are, amongst other things, what we do. These conventional ways of speaking capture the metaphysical truth on the labour view.

This appeal to ordinary language has only limited application. The farmer may occasionally paint as a hobby, but that would not make him a farming painter. Perhaps if the farmer spent a significant amount of time on painting and invested himself in both activities, then he might be a painter/farmer. But he might not. His painting may be a very rare thing. He could do it once every six or so years. When we think of the activities that people identify themselves with and spend a great deal of time on, we think that it is ‘right’, ‘fitting’, or ‘appropriate’, that they should own the objects and things that are the consequence of *this* sort of labour. The tougher case for the Lockian is to argue not for the farmer’s claim to his farm, but to the farmer’s claim to the painting he has made that he does not identify with or, worse, *does not care about*.

THE SHALLOW LABOUR VIEW

Locke's metaphysical picture does not recognize a difference between what P labours on and cares about, and what P labours on and is indifferent about. What matters for ownership is that P expends labour on something. We can call this the *shallow labour view*. On the shallow view, the physical fact of labour transfers S into an object, and therefore makes it mine. It does not matter if I care about the outcome, or if I have patterns of concern for the object laboured upon. This seems wrong. Our claims to property should have something to do with what we care about, at least *prima facie*. If P does not care about the product of her labour, it is difficult to say that she should be granted ownership of it. If P kicks a stone, she has laboured on it, but if her purposes are merely to watch it fly, and not to secure a property in it, then it is hard to believe that we have reason to mark the stone to recognize the metaphysical fact of P's mixing.²¹

The Strong Identity Claim

Perhaps one rejoinder to the labour of indifference objection is to insist that whenever someone, P, labours on some object x and fails to extend patterns of concern to the object, then either she, or her circumstances, are subject to criticism.²² Suppose, for instance, that P fails to care about her son, Q, because she does not know or does not believe that Q is her son. If she knew he was her son, she would come to care about him, or be open to criticism. The same response

²¹ On the shallow view, we *always* have a reason to do this.

²² This may be the Marxian view. This is not the place to discuss this, but a few notes may be worth considering. For Marx, our species-being, or our 'essence,' is captured by labour. We do not care about our labour in modern contexts because we are alienated from the products of our labour. While Marx does not appear to want to draw any moral conclusions from this 'fact', many neo-Marxists do. They say that the modern system of capitalism is (morally) criticizable for allowing this alienation. Thus, for the Marxist, not caring about labour is not caring about our S (here meaning species-being), and this is a wrong-making feature of the capitalist system.

may be made on behalf of the labour view. The ‘why should P care?’ argument would run as follows.

1. P ought always to care about her S
2. P’s S can be in an object x
3. P’s labouring on x puts P’s S into x
4. If P has laboured on x, then P’s S is in x
5. If P’s S is in x, then P ought to care about x.

This argument hinges on the normativity of the identity claim. This claim tells us that, whatever or whoever else we care about, we ought to care about ourselves. It makes caring about me a moral requirement for me. This moral requirement is implausible if the claim that P should care about herself is the claim that she should care about *everything* that is P. Consider P’s fingernails, her skin, or her hair. Each day, P sheds skin flakes, as we all do. If P was required to care about her skin flakes because those flakes were a part of her, then this requirement would be absurd. The same is true when P cuts her fingernails, or gets a haircut. Some barbers do not ask their customers what they would like done with their hair clippings. They sweep up, mixing P’s hair with other people’s hair in the process, and do with it whatever they wish. If the identity claim were the strong claim that we ought to care about everything that makes P P, then P and the barber would be criticizable for not heeding this moral requirement. But to criticize barbers and their customers for this is silly. For these reasons, the strong identity claim is false.

The Weak Identity Claim

A weaker identity claim would not claim that everything that makes P P is something that P ought care about. This version of the thesis says that there is some privileged fact or facts about P that make P P, that P ought care about. We need not settle on one of the theories of personal identity for our purposes. All we need to say is that on the weaker identity claim we need not care about *everything* that

makes us us, but only some narrower set of facts about us. We can call this narrower set of facts the ‘essential self’. According to this claim, P is only criticizable if she does not care about her ‘essential self’; she is not criticizable if she does not care about her non-essential self (like her fingernails, hair clippings, or skin flakes). For the labour view to be plausible, it needs to capture the insight of the weaker identity claim. It needs to be true that the S that gets mixed into objects is part of the ‘essential self’.

If this is true, caring or concern would no longer be an external criterion for justifying P’s claim to x. The labour view would also be a theory of appropriate or proper concern. It would say to any of us that, when we labour on something, we ought always care about the object of our labour. This is so because (a) our S would be in the object, (b) S is part of our ‘essential self’, and (c) we should always care about (or we have reason to care about) our ‘essential self’. P may not know, or may not believe, the metaphysical truth. If she knew or believed that a privileged ‘something of her’ was in an object, she would come to care about it or be criticizable. Thus the labour of indifference objection proves not to be an objection at all.²³

THE DEEP LABOUR VIEW

Our new version of the labour view is still too shallow. It is shallow because it does not specify the *type* of labour that carries P’s S into an x. It says that labour of *any* sort is of the *right* sort. This opens the shallow labour view to the animals and robots objection. This objection runs as follows: Animals can labour in the sense of expending energy, and robots can move their robot parts in ways that resemble labour. If labour *simpliciter* mattered, then animals

²³ As Waldron puts it, ‘Once the labour has become embodied in the object, the labourer acquires an interest in the object—an interest as important as his interest in his labour—which he did not have before’. Waldron, *The Right to Private Property*, at 184.

and robots could come to own things.²⁴ The view that robots could literally own things is absurd. It may be retorted that robots do not have an S, that only creatures of a certain sort do. This is a good rejoinder to the robots objection. The view that non-human animals could own things is not obviously absurd, but it is deeply implausible. The truth of this view does not matter however, because it is not something to which Locke would assent to. He did not think that we can sensibly say that a beaver *owns* the beaver dam it constructed. This is so even though the beaver laboured on the dam.

Purpose

One popular, substantive possibility for the type of labour that matters is that it be *purposive*. A. John Simmons, for example, insists that not only must labour be purposive, the ‘aboutness’ of the labour matters as well. Simmons explains this position with reference to Locke: ‘It is our “intellectual nature” that makes us “capable of dominion” (I, 30); the laborer must be acting freely and intentionally not merely behaving. Labor for Locke, then, is action that is free and intentional, aimed or purposive (in the sense of intending to produce a result of use to self or others)’.²⁵ This ‘intellectual nature’ is what, on Locke’s view, excludes animals from the possibility of owning property. It also rules out classes of actions that can sometimes be described as ‘labour’. Accidental labour, unconscious labour (like our tossings and turnings at night

²⁴ This is Andrzej Rapaczynski’s objection. He writes, ‘Labor, by which a person transforms the environment, may be seen as having two distinct functions: it is an exercise of physical force similar to other forces which shape the course of natural events, and it is a “spiritual” operation which endows things with *value* (§§40, 42), imparting to them something which material objects do not possess by themselves (§43). If we confuse these two distinct functions of labor, we shall be forced to conclude that animals, certainly capable of exercising physical force to provide for their subsistence, and perhaps even machines are capable of owning property’. Rapaczynski, *op. cit.* at p. 307.

²⁵ A. John Simmons, *The Lockean Theory of Rights* (Princeton: PUP, 1992), at 271.

when we are asleep), and, in general, purposeless labour, will not count as the labour that morally matters. It will matter that the labour is organized toward the pursuit of some goal or end.²⁶

Value/Productivity

That the labour must ‘produce a result of some use to self or others’ may be a separate requirement, a requirement on the *outcome* of labour. This might be the requirement of creating *value*. Stephen Buckle and Adam Mossoff both make this an explicit requirement. Writes Buckle, ‘[t]he doctrine of the origin of property through labor will not be properly understood if it is not recognized that Locke thinks of labour as a rational (or purposeful), value-creating activity’.²⁷ Mossoff, citing Buckle approvingly, concludes that ‘the phrase ‘mixing labor’ is a term of art for Locke. It is his metaphor for productive activities’.²⁸

This may not add anything to the Lockian picture. If we believe that what creates value is labour, and if ‘productive’ means an activity that creates value, then we have the analytic, and possibly hollow, implication that *all* labour is productive. It would not be an additional criterion, but merely a clarification of the meaning of labour for Locke. This appears to be precisely Mossoff’s point,

²⁶ Lawrence Becker writes that, ‘Labor is first distinguished from mere intent, declaration, or occupation. It is next distinguished from play and accidental improvement. One then simply calls attention to the fact that labor is purposive’. L. Becker, ‘The Labor Theory of Property Acquisition’, *The Journal of Philosophy*, 73 (1976), 653–64, at 654. J. B. Baillie treats labour similarly when he writes, ‘...a labourer labours for some end beyond his actual physical toil, whether the end be the satisfaction of the end of the artist or the attainment of the means of comfort and subsistence for other members of society’. J. B. Baillie, ‘The Moral and Legal Aspects of Labour’, *The Philosophical Review*, 20 (1911), 249–64, at 251.

²⁷ S. Buckle, *Natural Law and the Theory of Property: Grotius to Hume* (Oxford: OUP, 1991), at 151.

²⁸ A. Mossoff, ‘Locke’s Labor Lost’, *University of Chicago Law School Roundtable*, 9 (2002), 155–64, at 160.

explaining the title of his article ‘Locke’s Labor Lost’ (what is lost to us is the original meaning of ‘labour’ for Locke).

This new understanding of labour as a productive activity makes all labour labour-of-the-right-sort, and this is difficult to believe. It is difficult to believe that there do not exist instances of activities that count as labour, but that fail to be productive. Surely, it can turn out that our labour was unproductive or counterproductive, even in cases where we predicted or sincerely believed that it would be productive. Alchemists laboured mightily, but in vain, attempting to make gold from various metals. Surely, at least *some* of the labour in pursuit of making gold was unproductive.²⁹

Perhaps the argument to be made is this. What matters, to justify original appropriation, is the creation of value through some individual physical activity. And perhaps the individual physical activity called ‘labour’ is ‘activity that produces value’, while ‘schmabour’ is the individual physical activity that fails at producing value. What we will need, then, is a criterion for distinguishing labour from schmabour; productive, value-creating activity, from non- or counter-productive activity that fails at creating value.

Distinguishing these two different types of physical activity is important for normative purposes. Failing to create value with an object, or, worse, making an object less or non-valuable makes it difficult to support original appropriation in the context of scarcity. After all, if goods are scarce, why should Patricia have a claim to *x*, when her plans are to make some scarce object or thing less or non-valuable? If *x* is a type of vegetable good for eating, and Patricia's plan is to soak it in bleach repeatedly making it good for nothing, why should we think that this physical activity grounds a claim to *x*? All Patricia has done is made the vegetable worthless, and it is

²⁹ There is value in knowing that alchemy is impossible, but this does not make all of the separate and expensive experiments valuable. Merely the set of experiments sufficient to establish this as a fact.

hard to believe that the rest of us have a duty to abstain from interfering with Patricia's plan to make this thing worthless, especially if there is some use that we could put the vegetable to.

The particular example does not matter. It may be controversial that soaking a vegetable in bleach makes it worthless. Perhaps there is some aesthetic or other value in doing this. What matters is that the activity cannot be worthless, and cannot lead to a worthless outcome. If soaking a vegetable in bleach does not count as a worthless activity with a worthless outcome, imagine a different possible activity that has these two features. Making something worthless does not ground a claim.³⁰

The outcome requirement and the formal requirement can be two aspects of what we mean by 'purposive'. To engage in purposive labour is to perform an action that is about owning, and to organize it toward the pursuit of a productive goal or end. What is meant by 'productive', specifically, can be left for a separate inquiry. We can say, however, that productive will include, as part of its meaning, value. That the activity either aims toward something valuable, or that the activity is, itself, valuable.

The labour must not only meet certain *formal* requirements, like being purposeful, nor merely certain *outcome* requirements, like being productive, it must also meet certain *content* requirements. If P lifts a rock and hauls it to some other place for the sake of exercise, her labour does not result in the transference of her S into the rock. If, however, she performs the same physical act with the intention of, say, having the rock be the first stone in the wall she is building, then this labour is the labour-of-the-right-sort for ownership. The content of the purpose must include something like a reference to the desire to come to own the thing laboured upon. It

³⁰ This manner of speaking makes it sound as though I am committed to the view that some things either are or are not worthless, independent of the judgement of the relevant people involved. Although I believe this, it is irrelevant here. Suppose that the vegetables are seen as worthless even for Patricia, who sees dipping them in bleach as a way to make them worthless.

must be the case that P *means* for her S to go into the x. This is Stephen Munzer's claim. He writes, 'The restated projection theory'³¹ stresses that the person's intention in interacting with the world is to gain property rights rather than to expend effort to some other purpose or to no purpose at all. If Alexei inscribes 'Alexei + Anna' inside a heart that he has gouged into a tree, he would rarely be claiming property rights in the tree or even in his drawing. Typically he would be proclaiming his love for or attachment to Anna'.³²

Projects

Along with the animal and robot objection, a reason to alter the shallow labour view is that labour unconnected to purposes appears to be morally inert. The deep labour view insists on purpose. On Simmons's reconstruction of Locke's view, it is a purpose featuring within certain kinds of plans or projects that morally matter. Purpose, as a necessary prerequisite for having a plan or project, is morally significant for this reason. Appealing to moral transitivity, we can make the following argument. Plans have moral status; purposes, as necessary requirements of projects have moral status;

³¹ By 'projection theory,' Munzer means a theory like the labour view we have here. We come to own things by projecting ourselves into objects. Munzer contrasts projection theories with the 'incorporation theories'. Samuel C. Wheeler III, for instance, holds an incorporation theory of property. He argues that we own things by incorporating them into us, including by analogy (like a house sometimes is 'part of us' like a turtle's shell is a part of it). S. C. Wheeler III, 'Natural Property Rights as Body Rights', *Nous*, 14 (1980), 171-93.

³² S. R. Munzer, 'Property, Incorporation, and Projection', at 301. One deep worry might be raised against this suggestion. For P to intend to have a property right in some object means that P is at least aware of the possibility of property, and so is already situated in a context with the institution of property. If Locke's view is to be understood as a pre-institutional justification of property, however, this account would merely beg the question. A possible way around this worry is to suppose that we have some proto-concept of property, call it q-property, that is the pre-institutional equivalent or basis of property in Honoré's sense.

and at least those instances of labour that are intended or aimed at the furtherance of a life plan or project have moral status.

The projects view is a claim not only about what has moral status, but also about what P ought to care about. This claim tells us that, whatever else we care about, we ought to care about our projects, and that, whatever else may be of moral significance, projects are. This is both because the *having* of a project seems to entail at least some amount of caring (otherwise, why have the project?), and because some set of these projects are a constitutive part of the identity that morally matters.

What sorts of projects matter? Many writers insist on life projects. Loren Lomasky, for instance, defines projects as those plans that look very far into the future, and are significantly constitutive of who we are.

Those ends which reach indefinitely into the future, play a central role within the various endeavors of the person, and which provide structural stability to his life I call *projects*.... An important genus of projects includes those directed at becoming and remaining a certain kind of person: being a man of one's word, a lover of beauty, a compassionless executioner.³³

John T. Sanders takes issue with Lomasky not on the grounds that a life project is what is required to ground moral claims, but in the depth or 'richness' of the life project required. Our life projects need not be so grand. They need not 'reach indefinitely into the future', but can be temporally more local. These less-significant life projects are still powerful because they make a difference to the people who have them.³⁴ In requiring a life plan, however, neither writer would be justifying the same scope of property claims as

³³ L. Lomasky, 'Personal Projects as the Foundation for Basic Rights', in *Human Rights*, eds. E. F. Paul, F. D. Miller Jr., & J. Paul (Oxford: Blackwell, 1984), 35–55, at 39–40.

³⁴ J. T. Sanders, 'Projects and Property', in *Robert Nozick*, ed. D. Schmidtz (Cambridge: CUP, 2002).

Locke does. It is difficult, after all, to describe picking acorns or taking a draught from the river as *life* projects, even if we can describe them with greater plausibility as *projects*. For our purposes, we need not dwell on this issue. We need to reject the life projects view if we want to retain the same justificatory scope. Let us agree, then, that mere projects or plans are all that are necessary to ground a property claim.

Quincy the author may wish to write a novel as a life plan of his. While toiling away, he finds that this particular paragraph that he just wrote is not really good. He removes the paper from his binder, and places it atop a big pile of other scribblings he was not happy with. Does Quincy have a property claim in those scribblings that he does not care about?³⁵ Quincy's *intention* is to write a novel consistent with some element in his (life) project. This is why Quincy is writing. But not all of the pieces of paper on his desk are going to be used for this purpose. This is why Quincy does not care about *these* pieces of paper.

The deep labour view would be implausible if the proper response was that Quincy's S was in the scribblings, and so he ought to care about the scribblings. But it need not have this implausible character. Consider Locke's example of hunting a rabbit (II. §30). Locke claims that, when P forms the intention to hunt a rabbit and laboriously organizes herself to accomplish this task, she owns the rabbit even prior to catching it. This means that her S is in the rabbit, even though she has not yet touched it. But suppose the day turns to night, without a rabbit in P's clutches. P abandons her intentions. On one version of the deep labour view, P's intentions plus labour at t_1 secure her property claim to the rabbit for as long as the rabbit lives, or as long as P lives, or forever.

³⁵ By 'not caring' I mean, literally, *indifference*. Someone might care about something they wrote, but plan to throw away, in the sense that they are ashamed of it and do not want the scribbling to see the light of day, or be read by anyone. This would not count as indifference.

This is the *static* deep labour view. It is implausible because anything that takes my fancy, however momentarily, would have my S in it provided I intend to own it, and put forward at least some labour on behalf of my intention. On another version, P's S is in x provided the purpose with respect to x remains. This is the *dynamic* deep labour view. When P gives up her intention to get this rabbit, her S leaves the rabbit—it is no longer hers.

On the static view, the historical fact of purpose plus labour results in a permanent mixing of S into the x in question. The static view admits that purposes are only relevant for the *genesis* of a property relation, with alterations in subsequent purpose(s)-with-respect-to-x, including abandonment, affecting no change in the S-in-x. The dynamic view claims that the S-in-x is linked to the purposes of P, such that changes in P's purpose(s) with respect to x affect the S-in-x. Abandoning all purposes with respect to x either 'releases' the S from the x, or causes the ceasing to exist of S-in-x. For this reason, the dynamic view is symmetrical at both the 'birth' and 'death' stages of S-in-x.

The case of Quincy's scribblings can be described on the dynamic view as follows. Quincy intends to write a novel, and this is the reason for his writing these pages in front of him. Some of the pages contain, to Quincy, mere scribblings, while other pages contain writing consonant with his overall project, writings that will form part of his novel. Quincy's decision that *these* scribblings will not be part of his novel removes his S from them. Provided Quincy has no other purposes for the scribblings, he has no property claim to them. His position with respect to the scribblings is analogous to P's position with respect to the rabbit once she has abandoned her intention to hunt the rabbit. Both return to the commons. And neither are criticizable for not caring.

Labour organized in the pursuit of a (life) project is labour-of-the-right-sort for the transference of P's S into x. Labour apart from purpose does not transfer S into x. There is reason to believe that

the dynamic deep labour view is not a different view from Locke's view. To see this, consider one interpretation of the property relation between an object x , and P's servant's labour on x (II. §28). It cannot merely be by way of P's labour alone, as a physical act, that a 'something of P' enters into an object, because that would preclude what P's servant laboured upon from becoming hers. If we lean on purpose, we can say that it is precisely because P's servant acts *in accordance with P's will*, or in accordance with P's purposes, that transfers 'something of P' and not of the servant into the objects and things laboured upon. On a simple reading of Locke's servant example, the servant is a slave. The servant's labour would mix with the object, but P would have a claim to the object. On the dynamic view, it is P's S that enters the object through the servant's labour. Just like in the rabbit example, it is not necessary for P to physically touch the object for her S to enter it. On this reading, the servant acts as an *agent* for the principal, P, and does not count as a slave, provided the servant could choose to act in an agent capacity.

This can apply to animals as surely as it can to servants. Whenever some animal I own does something that *I* want it to, that may be something I have a claim to. On the dynamic view, it is P's S that enters certain objects and things through an animal's labour. Female pigs get excited by the scent of truffles because a chemical in the truffles is similar to the sex attracting chemical in swines. Some people take these pigs out to find truffles, and this is good reason to think the truffles are theirs. More obvious is the case of 'truffle dogs' who are trained to smell out truffles (pigs cannot be relied on not to eat the truffles they find, while dogs don't have a taste for truffles). It is not difficult to believe that these truffles become the property of the people intending to find them by using the dogs for their purposes.

Transfer

The dynamic view can also help us account for the consensual transfer of an object *x* from *P* to *Q*. Rapaczynski writes, ‘...if property rests on an *actual* and essentially *irreversible* embodiment of the owner’s individual personality, then the possibility of alienation and exchange of property seems to be precluded altogether’.³⁶ The reason for this is because it would amount to slavery which, please recall, is always unacceptable for Locke, even by consent. When *P* consents to give *x* to *Q*, either her *S* is in *x*, or it is not. If it is in *x*, and remains in *x* while *Q* has it, *P*’s consenting to the transfer would amount to consenting to (partial) slavery. This would illustrate an unresolved tension within Locke’s view. If *P*’s *S* is not in *x* when *Q* has it, then this would avoid the slavery objection. We have said that when *P*’s purposes or intentions with respect to *x* are extinguished, so, too, does the *S*-in-*x* ‘extinguish’. Justified transfer on the basis of consent may be an instance of purpose-transformation that affects a change in *S*. When *P* genuinely consents to a transfer of *x*, it may be the case that she ceases to have purposes for *x*. This ‘releases’ the *S*. This is another reason to insist on the dynamic deep labour view. It allows for Locke’s account to avoid the tag of justifying (partial) slavery.

There is precedent in the literature for talk of ‘releasing’ or ‘withdrawing’ one’s personality or will (*S*) through consent.³⁷ This is so particularly for Hegel’s idiosyncratic justification of property.³⁸ We need not explore Hegel’s theory here, only mention

³⁶ Rapaczynski, ‘Locke’s Conception of Property and the Principle of Sufficient Reason’, at 308.

³⁷ Rapaczynski (Ibid. at 313) writes: ‘But, what other writers on property tried to do was to show that one’s entering into a contractual exchange agreement involved “releasing” the object owned, in the sense of “removing” one’s personality from it and freeing it for someone else’s’.

³⁸ For more on Hegel’s theory of property, see D. Knowles, ‘Hegel on Property and Personality’, *Philosophical Quarterly*, 33 (1983), 45–62. See also M. J. Radin, ‘Property

it to make plain that this feature of our view is not unprecedented.

S being purpose-bound thus amounts to three claims. For one, S is bounded by purpose in the sense that labour must meet the *formal requirement* of being purposeful; for two, S is bounded by purpose in the sense that it meets the *content requirement* of being ‘about’ coming to own what is laboured upon (and not about exercise, or expressing love, and so on); and, for three, S is bounded by purpose in the sense that it meets the *persistence requirement* of S persisting in x only on the condition that a purpose for x does.³⁹ Insisting on S being purpose-bound helps us to formulate the projects-based ‘why should P care?’ argument.

This argument runs as follows:

1. P ought always to care about her purposes
2. S is purpose-bound
 - a. S only enters x through purposeful labour (formal requirement)
 - b. S only enters x when using it is part of the purpose (content requirement)
 - c. S remains in x provided the purpose for x persists (persistence requirement)

and Personhood’, *Stanford Law Review*, 34 (1982), 957–1015. Radin writes at 973–4: ‘Hegel’s property theory is an occupancy theory; the owner’s will must be present in the object. Unlike Locke’s theory of appropriation from the state of nature, occupancy in Hegel’s view does not give rise to an initial entitlement which then has a permanent validity. Rather, continuous occupation is necessary to maintain a property relationship between a person and any particular external thing...’. The claim here is that, if the S is purpose-bound, then, just like Hegel’s view, the Lockian view is not a ‘permanent view’, what is here called the static view, but dynamic in ways very similar to Hegel’s. See also C. J. Berry, ‘Property & Possession: Two Replies to Locke—Hume and Hegel’, in *Nomos 22: Property*, ed. J. P. Roland and J. W. Chapman (New York: NYUP, 1980), 89–100. Berry writes at 97: ‘The final modification is by alienation ... This entails the withdrawal of the property-defining will...’.

³⁹ The use of ‘a purpose’ is importantly vague. It leaves unanswered whether or not it must be the original purpose, a relevantly similar purpose, a purpose that was not the original purpose but was foreseen, or could have been foreseen, or just any purpose whatsoever. This important question will need to be answered, but not here.

3. P has laboured on x in a way that satisfies 2.
4. If P has laboured on x in the right way, then P's S is in x
5. If P's S is in x, then P ought to care about x.

It is hard to believe that I should care about something I have no purposes for, even if I have laboured on it. On the static view, I should care because of the metaphysical fact that my S is in some x and remains there, quite apart from whether or not I have any further intentions or purposes for x. The dynamic view says that the metaphysical facts are purpose-sensitive. And it is not difficult to believe that I ought to care about something I have purposes for.

We might wonder whether the identity-based 'why should P care?' argument is different or the same as the projects-based 'why should P care?' argument. It might not be different. This is because the projects view is itself a view about personal identity. It says that at least part of who we are is a function of the projects that we have. There may, however, be times when they come apart. To reconcile the two views fully we may need to make difficult choices. Recall that, on the identity view, we said that S is part of our 'essential self', and that this is the reason the 'why should P care?' argument was plausible. S being purpose-bound would mean that, whenever my purposes for some object x change in a relevant way so, too, does something 'essentially' about me change. This would amount to the view that very slight differences in my purposes make very big differences to who I am. But my decision to give you this acorn cannot plausibly be seen as amounting to an essential change in who I am. To avoid this, we can insist that S really only goes into those objects and things that are very intimately bound up with who we are. This claim would amount to saying that only life projects, and not merely projects, count as justifying property because life projects *are* this intimately bound up with who we are. We would accept a farmer's claim to his farm, but be forced to deny his claim to the painting he does as a hobby, or to surplus acorns he might

pick that are not required for his survival. This is an implication we should want to avoid.

Alternatively, we can abandon the weaker identity claim in favour of the strong identity claim that says we ought care about whatever makes us us. We abandoned this claim earlier for good reason. Some things that make us us just are matters of non-criticizable indifference. We should thus accept the following. Life projects and the weaker identity claim are (always?) co-extensive and have greater weight in the ‘why should P care?’ argument. P’s caring is overdetermined, because P has two good reasons for caring about an x fitting the description of being part of a life project, and being part of her essential self. In addition, we should agree that mere projects are sufficient to ground the claim that P ought to care about x, although this reason has less weight. To capture this, we might distinguish ‘kinds’ of S. When the farmer farms, his purposes are very intimately tied up with who he is. This is not so when he paints as a very rare hobby (let us stipulate that this is true from within the farmer’s own point of view). While farming, what gets mixed in is an S imbued with greater importance. Let us call this S S^l . When painting, what gets mixed in is merely S. Because S is purpose-bound, however, if the farmer decides to abandon farming in favour of painting, this would change what was a mere S into S^1 in the relevant paintings and painting-associated objects and things, and vice versa in all the objects and things importantly associated with farming, including the land. It would be an *essential* change in who he is, and it would be an alteration not in mere projects but in a *life* project.

SECTION III—FURTHER OBJECTIONS

Life projects have greater weight than mere projects. Because this is so, raising objections to the life projects view is objecting to the strongest version of this view. We can object to this view.

The argument from moral transitivity above is *general*. It says that, whatever else has moral status, life projects do and, when they do, that transfers moral status to the purposes and labour performed on their behalf. But it is not true that everything that can be described as a life plan or project has *the right valence*. While all life projects might have moral status, not all life projects will have positive moral status. For every life plan to have positive moral status requires a thoroughgoing subjectivism, and we may wonder just how subjective this account can be without straining our credulity. Suppose that Pauline wishes to count all of the blades of grass in her front yard as her life project. To this end, she acquires very many things that, she hopes, will help her complete the project within her lifetime. Counting blades of grass does not appear to be a life plan or project worthy of pursuit. If we conclude this, we may conclude that the *particular* life plan does not have positive moral status, and so the transitivity from *this* life plan, to purpose, to labour does not occur in her case. Pauline has no claim to own the things she has acquired for *this* purpose.

To be sure, we should be fairly liberal about life projects. After all, what gives one person's life meaning and significance can differ, sometimes very much, from what gives someone else's life meaning and significance. This is not a reason to be liberal about all life plans, all the time. This may be a reason to give *prima facie* deference to the individual's subjective assessment of what sort of life is worth living. But it is hard to believe that this deference should be more than merely a *prima facie* deference, that it should be *total* deference. We may say that we do not know what life plans or projects are the sorts that matter, but we may claim to know that at least some instances are definitely of the right sort, and at least some instances are definitely of the wrong sort.

We can offer a few cases that are as definite as any cases may be. The case of logical and metaphysical impossibilities may be such definite cases. It is not possible to square a circle, or to have our

cake and eat it too. It may be Quentin's life project to square circles. Because it is impossible, it is difficult to believe that we should respect it. Whatever life plans or projects are worthy of deference and maybe respect, attempting the logically impossible is not. Quentin should know better, we might say. So, too, should Quincy, who is mixing celery and oregano in a blender because he believes that this concoction will make him capable of flying under his own powers. This impossibility is a contingent impossibility. It is impossible given the way things are. The contingently impossible should also fall out of the category of life plans that morally matter for grounding ownership claims.

The contingently impossible not counting morally is a controversial claim. It is controversial because sometimes we do not know what is or is not impossible. Alchemists were alchemists because they believed that making gold from other metals was not impossible. It is hard to criticize people who make conscientious errors, or who are not acting negligently in the pursuit of what will turn out to be contingently impossible. Quincy should know better, but Quagmire, the alchemist in the middle ages, would not be blameworthy for failing to know better. We do not need to settle this more difficult issue. We can simply say that those plans that involve a criticizable ignorance about what is contingently impossible do not count from a moral point of view, while leaving open the question about non-criticizable ignorance in the pursuit of the contingently impossible.

In addition, some life plans may have negative valence, be *immoral*. David O. Brink gives us the example of Ludwig, who works at a Nazi camp. His plan is to kill as many Jews as possible. This plan is a plan that will not ground a property claim to the objects Ludwig labours upon. Lomasky is in agreement. 'Just as I earlier acknowledged that not all projects are of equal worth, I now want to disavow that all projects should be taken as sacrosanct, untouchable. Hitler's remarkably consistent commitment to

genocidal havoc deserved to be squashed'.⁴⁰ Another (non-Nazi-related) example would be John Wilkes Booth's plan to assassinate Abraham Lincoln. He may care very much about the revolver he has, let us say, constructed himself. Even so, we should be willing to take away the gun, and pay no mind to his property claims. It is not that we justifiably violate his existent property claims to the gun, it is that the life plan undermines his property claim in the first place.

The above cases are aimed at the *content* of life plans. The claim we are making is that the logically, metaphysically, and contingently impossible life plans are not worth having, and therefore do not ground ownership claims. In addition, immoral life plans are also not worth having and are not the sort of life plans that would ground ownership claims. We can also criticize the *method* or *procedure* used to fulfill a life plan.⁴¹ Consider again Pauline the grass-blade-counter above. Her plan is neither immoral, nor impossible. But suppose Pauline counts blades of grass by growing corn. She believes that the number of corn stalks that grow will be directly proportional to the blades of grass in her front yard. She plans to count the corn stalks, multiply by a factor of six, and

⁴⁰ Lomasky, 'Personal Projects as the Foundation for Basic Rights', at 53–4.

⁴¹ There is good reason to believe that an additional requirement is necessary—the minimal choice requirement. This requirement would require P to have actually chosen, counterfactually chosen if asked, or at least not have no (personal) reason to choose the project in question. This requirement would be a procedural requirement in determining what content a life project is to have. The reason we might be inclined to accept this requirement is because sometimes people just 'fall into' a way of acting and behaving which, at least with respect to some subset of the actions, can be described as a life project. It is hard to believe that such 'projects' should be counted as having moral status because choosing it appears to be a necessary condition of its having moral significance. But this, I take it, is more controversial than my other three requirements, and we do not need to be exhaustive in our criticism to make the general criticism stick. For more on why this might be a requirement, see, for instance, H. Frankfurt, 'Three Concepts of Free Action,' esp. at §III, and 'Identification and Externality', both in *The Importance of What We Care About* (Cambridge: CUP, 2004).

believes this will accurately determine the precise number of grass blades on her lawn. Even if we are open to the possibility that counting blades of grass is a worthwhile life project, surely it will matter that the person so engaged is instrumentally rational in her manner of accomplishing her ends.

The deep labour view is not deep enough. To deepen it further, we need to ensure that labour is labour-of-the-right-sort, within a (life-) project-of-the-right-sort. Thus it must be purposive labour aimed at a project of the sort that is worth having, or at least is not *not* worth having. We said that it is not implausible to suggest that S was purpose-bound. This is what saved the labour view against several objections, and what helped square Locke's view with his allowing the transfer of ownership. It made purposes *internal* to the metaphysical picture. It does not look like we can do the same with worthy projects. What would it mean for S to be worthy-project-sensitive? How could it be the case that, for instance, while P fails to realize that her project is impossible, her S does? It cannot. This means that the criterion of a worthy project acts as a proviso, much like the waste, spoilage, and 'enough and as good for others' provisos. If we do not accept this proviso, then the Lockian mixing view is implausible.

CARBON-COPY IMMEDIATE REPLACER

On the labour view, what matters is the precise object or thing we have laboured upon. If Q were to replace an object or thing P has acquired through labour, this would always be a moral problem. Suppose someone had a carbon-copy immediate replacer (C-CIR). The C-CIR replaces whatever object is zapped with it with an exact duplicate. It cannot be discerned from the original, it is identical in almost every way—the only difference is that it is made of different

bits of carbon. Should it matter if the C-CIR is used on some objects?⁴²

The object so replaced is just as good as the original. This is one reason to think that the use of a C-CIR should make no difference to anyone. There are reasons to think that use of the C-CIR sometimes yields objects which are not ‘just as good as’ the original. In the case of persons, we would not think that a carbon-copy (or clone) replacement of our daughter (with the same thoughts, apparent memories, habits, feelings, and so on) would be ‘just as good as’ our daughter. What we want is not someone who is just like our daughter, but our daughter.⁴³

This objection to some instances of duplication is a good objection because, for some things, originality matters. We care that our daughter is the same daughter, and not an exact duplicate. The same can be said for at least some objects. I care, for instance, that the journal I wrote my thoughts in is *the* journal, and not a duplicate. Similarly, we care that a painting of the Mona Lisa is *the* Mona Lisa, the original, and not a masterly duplicate. We would think this even if the duplicate were not merely a really good approximation, but an exact duplicate.

This would be a satisfactory rebuttal to the carbon-copy objection if all objects and things were the sorts of objects and things for which originality matters. Not all objects and things are like this. Many objects and things are instrumentally useful in such

⁴² This example is more abstract than perhaps it needs to be. G. A. Cohen, for instance, asks us to imagine that his rolling pin rolls down a hill and through Robert Nozick’s open kitchen door landing in a pile of his rolling pins. Supposing Cohen comes and asks for his rolling pin back, does Nozick need to give him back the *exact* rolling pin? On the Lockian labour view, that looks to be required. G. A. Cohen, *Self-Ownership, Freedom, and Equality* (Cambridge: CUP, 1995).

⁴³ Harry Frankfurt insists that, if you were to replace his daughter with an exact duplicate, that would matter to him. What he wants is not someone who is just as good as his daughter, he wants *his* daughter, the *particular* individual. See H. Frankfurt, ‘On Caring’, in Frankfurt, *The Importance of What We Care About*, 150–88.

a way that an exact carbon-copy duplicate would make no difference of *any* kind. Ordinary toilet paper is like this.⁴⁴ So is carpet. One way to see this would be to consider the regular use of a C-CIR. Suppose the C-CIR was more generally available, and it was common for people to use it. Let us now say that we can, at some cost, assess whether or not the carbon bits that make up some object are the original bits of carbon, and not exact duplicates. For the labour view to be true, it should always matter, and we should be willing to expend at least some resources to determine the originality of all objects and things that we have a property in from fingernail files to toilet paper to Rembrandts. This view is false. We should not be willing to expend any resources at all to determine the originality of certain objects and things. This is true in the case of ordinary toilet paper and ordinary carpet. This is reason to abandon the labour view in the case of objects whose originality does not matter. I suggest that this is the case for the *vast majority* of objects.

CONCLUSION

The metaphysical picture includes the existence of ‘S’. S is deeply mysterious and undetectable. We might think S is useful. This is reason to believe in S. But if we can account for all the facts without appeal to an S, we probably should. We should not multiply the number of things in our universe without good reason. We do not have good enough reasons to believe in S.

One reason to believe in S is on the basis of the weaker identity claim. We said that we ought care about our S because S is part of our ‘essential self’. We said that it can go ‘in’ to objects, and we can think that this explains our identification with certain objects. This explanation is doubly defective. For one, an explanation seeks to

⁴⁴ If the toilet paper was, for instance, hand-made by Gandhi, then it would not be ‘ordinary’ toilet paper. It would be ‘special’ toilet paper for which originality may matter.

explain what we do not know by appeal to something we do know. If a dictionary defined what to us is a mysterious word by appeal to what to us was another mysterious word, we would not think that we have at least understood the first mysterious word. We have understood neither. Because S is mysterious, it does not explain the mysteriousness of the sense of identification we have with some objects. In addition, there is no pressing need to explain psychological identification by turning to the metaphysical fact of S. *All* we need is a story about the connections that form between our memories, our emotional centres, and other mental states in the presence of an object we feel this identification with. Again, the S is unnecessary for this purpose.

Above, we made the claim that S being purpose-bound strengthens the projects-based 'why should P care?' argument. The trouble with this claim is that it looks as though our caring about S is parasitic on our caring about our purposes. Consider this. We care about the weather. A thermometer is 'weather-bound'. When it is cold outside, the thermometer tells us this, and when it is hot outside, it tells us this too. But we do not care about the thermometer when we care about the weather. What we care about is *just* the weather. If we care about the thermometer, it is for other reasons (like epistemological reasons, for instance). The same claim can be made on behalf of purposes. Thus, we don't need a purpose-bound S to explain our caring about certain objects. Purposes alone will do.

S does not need to feature in a projects-based story of property, and neither is it necessary to account for the weaker identity claim. It appears as though the only good reason for S is for the aesthetic reason that it allows us to move from something we do own (S), to something we do not (x), by appeal to the fact that what we own is in what we do not (S-in-x). To see that this is not a good reason, we need merely recall that, as of yet and to my knowledge, there is no

good rejoinder to Robert Nozick's tomato juice example. Nozick's example is as follows.

Why isn't mixing what I own with what I don't own a way of losing what I own rather than a way of gaining what I don't? If I own a can of tomato juice and spill it in the sea so that its molecules (made radioactive, so I can check this) mingle evenly throughout the sea, do I thereby come to own the sea, or have I foolishly dissipated my tomato juice?⁴⁵

Notice that responding to this example by appeal to the waste and spoilage provisos won't do. To be sure, the tomato juice examples appear to be cases of waste, but that is decidedly beside the point.⁴⁶ The point is not found in the details of the argument, but in the general claim that we do not know why mixing one thing we own with something we do not results in our owning what we do not, rather than in losing what we do own.

WHAT'S LEFT OF THE LABOUR VIEW?

As we have seen, there do not appear to be good reasons to believe in S. Does this make the labour view false? Not necessarily. What it makes false is Locke's particular version of the labour view, which appeals to the metaphysical fact of mixing. But there are other ways of capturing what is, surely, highly intuitive and attractive about Locke's labour view. If we work on something in a way that is not instrumentally irrational, with some purpose in mind that features in a life-project-of-the-right-sort, surely that is a

⁴⁵ R. Nozick, *Anarchy, State, and Utopia* (Oxford: Blackwell, 1974), at 174–5.

⁴⁶ If someone insists that it is *not* beside the point, we can appeal to Locke's insistence that determining what is and is not useful is entirely up to the labourer. Writes Waldron: 'But what counts as use and what counts as useless destruction is for *the owner* to decide: briefly, anything he takes to be useful to himself counts as a use of the object however wasteful it may seem to someone else'. Waldron, *The Right to Private Property*, at 161. Thus, we can change the example by stipulating that the labourer thinks the sea with the tomato juice is more useful, at least to him.

reason to let us have the object worked upon. In addition, if, through labouring on something, we come to identify with some object such that our possession of it would make us better off, then that is also *a* reason to let us have the object.

Finally, it is difficult to avoid the intuitive response to someone who claims to own something. ‘What did you *do* to get it?’ Many of us think that doing something (labouring) on an object is a necessary requirement of having a just claim to owning it. This means that we cannot cavalierly dismiss possible variations of a labour view from consideration on the grounds that Locke’s labour view is false.⁴⁷

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