Ecology or “Anarcho”-capitalism?

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Can "absolute" private property rights protect the environment?

According to Libertarians, only private property can protect the environment. Rothbard claims that "if private firms were able to own the rivers and lakes… anyone dumping garbage… would promptly be sued in the courts for their aggression against private property… Thus, only private property rights will insure an end to pollution-invasion of resources" (Rothbard, *For a New Liberty*, page 256).

This ignores one major point, why *would* the private owner be interested in keeping it clean? Why not just assume that the company makes more money turing the lakes and rivers into a dumping site, or trees into junk mail. Its no less plausible, in fact more likely to happen in many cases. Its just another example of Libertarianism's attempt to give the reader what he or she whats to hear.

But, of course, the Libertarian will jump in and say that if dumping was allowed, this would cause pollution which would affect others, who would sue the owner in question. Maybe, is the answer to that. What if the locals are slum dwellers and cannot afford to sue, or if they are afraid that their land-lords will evict them if they do so (particularly if they also own the polluting property in question)?

But, beyond these points lies the most important one. Namely, is the option to sue about pollution *really* available in the free market? Rothbard thinks it is. Taking the case of factory smoke in the 19th Century, he notes that it and "many of its bad effects have been known since the Industrial Revolution, known to the extent that the American courts, during the… nineteenth century made the deliberate decision to allow property rights to be violated by industrial smoke. To do so, the courts had to — and did — systematically change and weaken the defences of property rights embedded in Anglo-Saxon common law… the courts systematically altered the law of negligence and the law of nuisance to *permit* any air pollution which was not unusually greater than any similar manufacturing firm" (Rothbard, op cit, page 257).

In this remarkably self-contradictory passage, we are invited to draw the conclusion that private property *must* provide the solution to the pollution problem from an account of how it clearly did *not* do so! If the nineteenth century USA — which for many Libertarian's is a kind of "golden era" of free market capitalism — saw a move from an initial situation of well defended property rights to a later situation were greater pollution was tolerated, as Rothbard claims, then property rights cannot provide a solution to the pollution problem.

It is, of course, likely that Rothbard and other "Libertarians" will claim that the system was not pure enough, that the courts were motivated to act under pressure from the state (which in turn was pressured by powerful industrialists). But can it be purified by just removing the government and placingcourts into a free market? The pressure from the industrialists remains, if not increases, on the privately-owned courts trying to make a living on the market.

The characteristically Libertarian argument that if X was privately owned, Y would almost certainly occur, is just wishful thinking.

Does economic power affect pollution controls?

The last section notes that wealth can affect how environmental and other externalities are delt with in a capitalist system. This critique, however, ignores other important factors in society,

such as the mobility of capital and economic power. These are important weapons in ensuring that the agenda of business is untroubled by social concerns, such as pollution.

Let us assume that a company is polluting a local area. It is usually the case that capitalist owners rarely live near to the workplaces they own, unlike workers and their families. This means that the decision makers do not have to live with the consequences of their decisions. The right libertarian argument would be that those affected by the pollution would sue the company. We will assume that concentrations of wealth have little or no effect on the social system (which is a *highly* unlikely assumption, but nevermind). Surely, if local people did sue, the company would be harmed economically — directly, in terms of costs, indirectly in terms of new, eco-friendly processes. Hence the company would be handicapped in competition and this would have obvious knock-on effects for the local (and wider) economy.

Also, if the company was sued, it could just up and move to an area which would tolerate the pollution. Not only would existing capital move, but fresh capital would not invest in an area where people stand up for their rights. This, the natural result of economic power, would be a "big stick" over the heads of the local community and when combined with the costs and difficulties in taking a large company to court would make sueing an unlikely option for most people. That this would happen can be seen from history, where multi-national have moved production to countries with little or no polluation laws and court cases take years, if not decades, to process.

Of course, in a "libertarian" society companies which gather lists of known "trouble-makers" would be given free reign. These "black-lists" of people who could cause companies "trouble" (ie by union organising or sueing employers over "property rights" issues) would often ensure employee "loyality", particularly if new jobs need references. Under wage labour, if you cause your employer "problems", your position can become difficult — being black-listed will mean no job, no wages, and little chance of being re-employed. Continually sueing in defense of your "absolute" property rights would soon fall into this category (assuming, of course, you could afford the time and money). Hence a working class person would be a weak position to defend their "absolute" rights in "libertarian" capitalism due to the power of employers within and without the workplace.

All these are strong incentives *not* to rock the boat, particularly if employees have signed a contract which ensured that they would be fired if they discussed company business with others (e.g. lawyers, unions).

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