The Voluntaryist

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Copyright Before (Statutory) Copyright: A Voluntaryist Perspective on a Statist Development

By Carl Watner

Would there be the equivalent of statutory copyright protection in a voluntaryist society? Would copyright as we know it today in 21st Century United States have developed in the absence of coercive government? While it is impossible to categorically answer "Yes" or "No" to such hypothetical questions, a study of history reveals several facts. First, statutory copyright developed in conjunction with the English government's desire (from the time of the introduction of printing in England to the early 18th Century) to censor heretical and seditious publications. Statutory copyright was also generated by the demands of members of the Stationers' Company to create a monopoly for themselves by using the government to protect them from competitors. Finally, despite many claims to the contrary, statutory copyright, as we know it today, did not evolve as a natural right under the umbrella of the English common law. As Lyman Patterson observed, statutory "[c]opyright was not a product of the common law. It was a product of censorship, guild monopoly, [and] trade-regulation statutes, … ." [1]

As indicated in the Addendum at the end of this article, both libertarians and statists have written volumes about both the propriety and/or illegitimacy of ownership of intellectual property. Although I offer the following definition of intellectual property rights, the discussion in this article is confined to copyright because the history of statutory copyright is well-researched and it has received the most attention from commentators. Intellectual property rights may be defined as claims to intangible things. "Intellectual property rights are rights in ideal objects, which are distinguished from the material substrata in which they are" actually found. [2] Copyright refers to a creator's right to control the reproduction of concrete objects which embody the ideal object which he or she has created. Under statutory copyright an author may rightfully exercise control over those who desire to copy his work once it has been made public. The rightful owner of paper and a printing press may not "use his own property to create another copy of [the author's] book. Only [the author] has the right to copy the book (hence, 'copyright')." [3]

The Author's Right Throughout History

In Western civilization, by the 1st Century B.C., the "[c]opying and duplication of manuscripts had [become] … a profitable business." [4] Although no ancient law ever embraced the concept of intellectual property rights, "public opinion [usually] 'stigmatized' plagiarism as a crime." [5] Historical "sources provide much evidence for [concern with] literary theft or plagiarism. Literary theft involve[d] affixing one's own name to someone else's writings or inserting someone else's writings within one's own text without acknowledgement. What was being stolen in the ancient world was credit, honor, and reputation, rather than property." [6] As passed down through the centuries, the moral rights of the author came to embrace: 1) the right of paternity (the right to be identified as the author of a work); 2) the right of integrity (protection against unauthorized changes or mutilations of one's text); and, 3) the right to withhold publication. The first two "moral rights of authorship have always been regarded as inalienable and perpetual" in contrast to the limited rights created under statutory copyright. [7] As one observer put it, "Opposition to [statutory] copyright in the narrower sense does not imply opposition to the moral rights of authorship, which are ancient legal concepts. … [T]he right to control the reproduction of creative works" was never "regarded as implicit in the concept of authorship" prior to the invention of printing. [8]

The concept of authorship as we know it today evolved over many centuries. "The identity of the scribe, compiler, commentator, or author of a manuscript was … unimportant to the medieval reading public. … No attempt was made to identify the author or scribe of a medieval text, or even its title. Manuscripts were referred to by the opening words of the text, following a tradition that dated back to the cuneiform clay tablets [of] Babylonia." [9] "In the Middle Ages the owner of a manuscript was understood to possess the right to grant permission to copy it, and this was a right that could be exploited, as it was for example, by those monasteries that regularly charged a fee for permission to copy one of their" codices. [10]

One of the earliest documented disputes over the copying of a monastically-owned parchment involved a warrior-monk, Colmcille (also known as St. Columba [521-597 AD]), and Finnian of Moville, who had brought the first copy of the Vulgate to Ireland "after a visit to Rome" around 550 A.D. "The Vulgate was the definitive Latin translation of the Bible done by St. Jerome about 100 years earlier." [11] When Colmcille

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Potpourri from the Editor's Desk

No. 1 **"What The Hell Is He?"**

In August 2013, your editor had the good fortune of visiting southern Alaska on a Tauck Bridges tour with his extended family. Tauck is an international and domestic travel tour operator that has a very interesting entrepreneurial history. In 1924, Arthur Tauck, Sr. "accidentally dropped a cigar box of dimes while working as a bank teller and was dismissed from his job. Undaunted, and being an enterprising young man, he designed sturdy aluminum coin trays and went on the road as a salesman." While selling coin trays in North Adams, Massachusetts, he enjoyed "the incredible foliage of the Berkshire Mountains," and came up with the idea of taking touring clients and vacationers along on his sales trips. "Realizing that his own vehicle was too small to accommodate tourists, coin trays, and luggage, he rented a seven-passenger 1924 Studebaker touring car. The first tour began on July 12, 1925 with six passengers."

Who would have ever imagined that the "dismissal of this young man from a bank in New Jersey" would lead to the founding of a new travel industry? After ten years in business, and in the midst of the Great Depression, Tauck went to Washington, D.C. to testify before the Interstate Commerce Commission, which had initiated the regulation of "buses, trucks, railroads, and other forms of transportation. Arthur Sr. went to Washington to explain how his business operated: he put together tour packages, sold tickets to individuals, then chartered buses to transport them." The I.C.C. had no category under which to regulate Tauck. "He was not a carrier and he was not an operator. Baffled, one commissioner exclaimed, 'What the hell is he?' The so-called Grandfather Act of 1935 defined a 'broker' as a bus pick-up point, or terminal, at which tickets were sold for two or more competing bus carriers. Eureka! 'We'll make him a broker,' they declared. And so, Tauck Tours was given License # 1, the first tour broker license in the travel industry."

Today, Tauck is celebrating its 90th year as a continuously-owned, four generation family business which "offers more than 100 itineraries, across seven continents, and to more than 70 countries."

So what are the lessons to be learned from its proud history? First, neither Tauck, nor anyone else, knew in advance what was to be the outgrowth of his initial idea. The spontaneous order of the free market is based on consumer sovereignty: if you sell what the customer wants at a price at which he is willing to purchase it, your business will grow. Second, not only should there have been no federal government or Interstate Commerce Commission, but Tauck should have realized how absurd, impertinent, insolent, presumptuous, and ridiculous it was for bureaucrats to regulate his business when they didn't even know what it was, couldn't describe it, or even categorize it.

- information taken from the WORLD OF TAUCK, a history of "One Family, One Company, One Passion," distributed January 2014.

No. 2 **"Do People Really Fight Over Religion?"**

Every conflict, every dispute, is always, ultimately, about who gets to control a given disputed resource. That is why every law, every right, is ultimately about property rights: deciding who the owner is, or should be. There is no way around this. This is why it is frustrating when mainstream thinkers and even some libertarians talk vaguely about "human rights"; it opens the door to legal invasions of property rights. People confusingly say that people fight over religion; they do not. They fight over others' bodies and the physical things, the scarce means (land and so on) that the others have or want to use. If I threaten to kill you if you do not convert to Islam, I am really asserting a property right in your body: I am asserting the right to decide whether to stick a sword into your belly. The libertarian says: you have the right to control what gets stuck into your body. Religion is just an excuse for the property invasion; it is the motivation or reason for the invasion. But it is impossible to own religion and it is literally impossible to "fight over religion." It is always, always, always about property rights.

- Stephan Kinsella Interview in THE DAILY BELL, July 20, 2014.

No. 3 **"A Free Society Depends on Freedom-Loving People"**

To me the only thing that matters if you are interested in a free society, the *only* thing that matters, is do you have a significant percentage of the people with whom you live that have in their hearts and minds a desire for freedom. That's all that matters. I don't care what is written down. You got people you live with who are for freedom, you are going to have a free society, and the reverse is true as well.

- From Marc J. Victor's Casey Summit 2013 speech on Casey's DAILY DISPATCH, August 14, 2014. V

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visited Finnian at his Irish monastery, he surreptitiously attempted to copy the text. He was discovered by Finnian who demanded the copy which Colmcille had made without his permission. This led to a lengthy dispute between the two men, which became known as the "Battle of the Book." Ultimately, it was determined by Ireland's Brehon law that Colmcille had no right to copy the parchment, even though he offered the following modernistic argument:

> I haven't used up Finnian's book by copying it. He still has the original and that original is none the worse for my having copied it. Nor has it decreased in value because I made a transcript of it. The knowledge in books should be available to anybody who wants to read them and has the skills or is worthy to do so; and it is wrong to hide such knowledge away or to attempt to extinguish the divine things that books contain. It is wrong to attempt to prevent me or anyone else from copying it or reading it or making multiple copies to disperse throughout the land. In conclusion, I submit that it was permissible for me to copy the book because, although I benefited from the hard work involved in the transcription, I gained no worldly profit from the process, I acted for the good of society in general and neither Finnian nor his book were harmed. [12]

This episode exemplifies the fact that during the Middle Ages, and up to the time of the invention of moveable type (circa the mid-1400s), each owner of a manuscript had the right to control its reproduction. "When the first printers began their work" they, too, had to pay for the "privilege" of copying parchment manuscripts. However, a "monastery which had received compensation from a printer in Venice for the use of a particular parchment, felt itself under no obligation to decline a similar application from rival printers in Lyons or Basel." Printers had no way to prevent this unless "they found the means to purchase the manuscript outright." [13] Since this was often impossible to accomplish, printers sought special protection (in order to monopolize their sales) from their local governments, which themselves desired to encourage the fledgling printing industry, as well as to control its output.

> Don't ever think you know what's right for the other person. He might start thinking he knows what's right for you.
>
> - Paul Williams in DAS ENERGI

Printing "Privileges" and Copyright

Thus emerged "the earliest genuine anticipations of [statutory] copyright." These were known as printing "'privileges' and first appeared in fifteenth-century Venice." These "privileges" were exclusive rights issued by the Venetian state "to individuals for limited periods of time to reward them for services or to encourage them in useful activities. … The first and most famous 'privilege' was a monopoly on printing itself granted in 1469 to John Speyer, the man who probably introduced printing to Venice." [14] Speyer's "privilege" expired after a number of years, but it was followed by Venetian decrees which granted to various other printers the right to produce all books of a given class or in a particular language, or the right to print the work of some author of a past generation or the right to print some ancient classic. Such "privileges" were not granted unless the texts were approved by the government and/or the ecclesiastical censors. [15] This form of government monopoly not only prevented other printers from printing these classes of protected books, but attempted to limit the spread of heretical and seditious ideas. In 1501, aware of the fact that printing (as opposed to hand copying) led to a more rapid and widespread circulation of often dangerous ideas and information, "Pope Alexander VI issued a bull against the unlicensed printing of books and in 1559, the Index Expurgatorious, or LIST OF PROHIBITED BOOKS, was issued for the first time." [16]

A similar pattern of government and church protection followed in England. "During almost the whole of the period from 1557 to 1709, a time of continuous religious struggle, censorship was a major policy of the English government." [17] Government and religious leaders were concerned that liberal and critical ideas in newly published "books could corrupt the people into questioning the integrity of the state." [18] As the menace of printing spread, the English Crown used its sovereign powers to license both printers and the books they printed. "The charter of the Stationers' Company … granted its members (the leading publishers in London) an officially state-sanctioned monopoly over the printing of books, and provided for the burning of prohibited books and the imprisonment of anyone printing unauthorized books." [19] The right to print was limited to members of the printers' guild, and in 1586, the Star Chamber (a special prosecutorial and enforcement arm of the government) issued a decree to curtail the "enormities and abuses among the contentious and disorderly persons" who were printing and selling books. [20] Although the powers granted to the Stationers' Company provided its members with great economic benefits, its primary purpose was "the establishment of a more effective system for government surveillance of the press." [21]

Originally formed as a private organization in 1403, the Stationers' Company received its Royal Charter in 1557. Although its agents "were legally empowered to seize 'offending books' that violated the standards of content set down by the Church and State," the

Stationers' Company also offered its members an extended monopoly over works entered into its Register. The Stationers' Register was a record book which allowed members of the Company "to document their right to produce a particular printed work." The Stationers' copyright (though it was not originally referred to as such) was granted by the Company to members who paid a fee to register their right to publish a given work. [22] It was a private affair of the Company and was strictly regulated by Company ordinances. "The scope of the copyright was the right to publish a work, and no more, for the stationers' copyright was literally a right to copy." The stationer's right to print a given work "was deemed to exist in perpetuity." Authors, not generally being members of the Company "were not eligible to hold [a] copyright." [23] An author's work "could be copied and recopied without his permission." William Shakespeare (1564-1616), for example, "made his bargain with a printer, and if he parted with his manuscript for a price he surrendered all further rights in it." His only control as an author was as the owner of the manuscript he had written. "He did not sell the right to print to the stationer; he sold the manuscript. Once the manuscript was sold, all his rights in the work ceased." [24]

Copyright and the Common Law

The common law played no part in these historical developments. It took about 50 years for the English Crown to "catch-up" with the new technological development of moveable type. By 1530, Henry VIII had regulated foreign printers, issued his first list of prohibited books, and began licensing books and printers. There was continual government regulation of the press until the expiration of the Licensing Act of 1694. At that time, the Stationers' Company began its struggle to incorporate its version of private copyright into national law. Given the cessation of government control over printing, what did the common law say about an author's right to control the copying of his work? The common law of this era (1694-1710) did not recognize an author's legal right or standing to restrict the copying of his or her work. [25] Finally in 1710, the first piece of modern legislation to embrace the basic elements of statutory copyright, as we know it today, was passed by Parliament. Known as the Statute of Anne it allocated to authors, or to the lawful buyers of their manuscripts, an exclusive right of publication that lasted fourteen years. If the author was still living at that time, his copyright protection was extended to a second term of 14 years, after which his work fell into the "public domain." [26]

After the passage of the Statute, the Stationers' Company continued to attempt to incorporate its version of perpetual private copyright into law primarily to protect the competitive position of its own members. Numerous lawsuits were instituted and adjudicated after the passage of the Statute of Anne in an effort to determine whether the common law had ever recognized an author's intellectual property right in his work, and, if so, whether this right continued in perpetuity. In the case of Millar v Taylor in 1769, the majority of judges on the King's Bench decided "the author, as the first producer of a work, has a right in that work prior to any statutory rights that may have been granted through a copyright statute. This right, like any other property right is perpetual, cannot be taken away by the state and is defensible in the common law." [27]

Another lawsuit known as Donaldson v Beckett reached House of Lords in 1774 on appeal. The direct question was whether or not to overturn an injunction against the Scottish bookseller, Donaldson, who "specialised in printing books no longer protected by [the Statute of] Anne." (Beckett led a group of English booksellers who had bought the expired statutory copyright to the work in question.) The injunction against Donaldson was removed since a majority of peers in the House of Lords held that the "copyright as a statutory right takes precedence over any other rights that an author may have." [28] This decision voided the holding in Millar v Taylor, which had upheld an author's perpetual common law copyright in his work. Much confusion has been generated by the fact that the Law Lords, an advisory group to the House of Lords, agreed with the finding in Millar v Taylor that "authors did have a common law right, and that it continued" after the expiration of an author's statutory copyright under the Statute of Anne. Despite these conflicting legal opinions, the injunction against Donaldson was removed and what had been alleged to be the common law's perpetual copyright (under Millar v Taylor) was voided by Parliamentary legislation. [29]

The only evidence in favor of the allegations that copyright had existed at common law were arguments echoed by the Stationers. But how could it be maintained that an author's copyright was recognized at common law when for over 300 years there had been nothing but government intervention in the field of printing? [30] As Lord Camden in the Lords' debate over Donaldson v Beckett observed, all the arguments in favor of common law copyright "were founded on patents, 'privileges,' Star-chamber decrees, and the by-laws of the Stationers' Company; all of them the effects of the grossest tyranny and usurpation; the very last places which I should have dreamt of finding the least trace of the common law." [31]

Some Alternatives to Statutory Copyright

So, given that there was no historical development of an author's copyright in his work under the common law, how might an author attempt to protect and market his work in a voluntaryist society? For one answer to this question, we might look at the role of the haskamah in Jewish history. The first haskamahs appeared in the

early 1500s. They were printed in the front or back of a book as a sort of imprimatur given by a well-known scholar or rabbi to a book or treatise. This eventually evolved into a method used by late-medieval, European-Jewish communities to promote learning by encouraging the printing of books, and as a "precaution ensuring that nothing would be printed to which the local Christian authorities might object." [32] Although the majority of Jewish theorists uphold the concept of intellectual property and endorse the idea that copyright infringement is "a violation of the Torah's prohibition against stealing" the haskamah represented a time-limited version of printer's copyright. [33] As the ENCYCLOPAEDIA JUDAICA explains it, "it became customary to preface books with approbations containing a warning against trespass in the form of an unauthorized reprint of a particular book within a specified period." This was in the nature of a protection of printer's rights and sometimes only extended to the country where the book was printed; but often "extended the operation of the ban to printers everywhere. In most cases the period of prohibition varied from three to 15 years, but was sometimes imposed as long as 25 years." These prohibitions were "mainly justified on grounds of the printer's need for an opportunity to recover his heavy outlay through the subsequent sale of the printed product, … ." [34] Those who refused to respect the haskamah could be excommunicated and banished from the local community.

As one vocal libertarian critic of intellectual property rights has written, "it is difficult to predict what extensive contractual regimes, networks, and institutions will arise," in the absence of the state. "Various enclaves or communities may well require their customers, patrons, or 'citizens' to abide by certain I[ntellectual] P[roperty]-like rules." [35] Although the haskamah is just one example of how a voluntary community of believers handled the problem, there are at least a few other historical examples of how authors and printers might be compensated in a free society. "During the nineteenth century, there was no copyright protection for the publishers of foreign books in America, yet American publishers deemed the right of first publication sufficiently valuable to justify the voluntary payment of royalties to British authors in order to secure a first edition. In fact, English authors often received more from the sale of their books by American publishers than from their British royalties." [36]

"In addition to being first on the market, there are other means available to a Publisher to secure his position without copyright protection. The contract with the author may reserve exclusive rights to new introductions, additions, and revisions by the author to subsequent editions issued by the first publisher. Moreover, the first publisher can obtain prepublication orders from interested groups and individuals, a business method which [has been] used [in the past (1966)]. Finally, the authorization of the first edition by the author may be a marketable asset, at least among those readers who strongly believe in the right of an author to the fruits of his creation. This device [was] used to promote an authorized soft cover edition of the LORD OF THE RINGS trilogy of J. R. R. Tolkein, which [wa]s in competition with a copied edition that p[aid] no royalties to Mr. Tolkein." [37] Another 21st Century innovation is the Creator-Endorsed Mark, which is offered as an alternative to statutory copyright. "The Creator-Endorsed Mark is a logo that a [publisher or] distributor can use to indicate that a work is distributed in a way that its creator endorses - typically, by the distributor sharing some of the profits with the creator." Lacking any statutory copyright protection, "someone could distribute the work without the author's permission and without the Creator-Endorsed" logo, but probably at least some members of the consuming public would prefer to support the author by purchasing an author-endorsed edition. [38]

> Good ideas don't require force.
> - Frank X. Salinas

If any type of author's copyright is to survive in a voluntaryist society it is most likely to be based upon very clear and unambiguous agreements. As Wendy McElroy put it, she is an advocate of free market copyright that is enforceable by virtue of an explicit contract. "I am not anti-copyright. I am anti-state." [39] Nevertheless, it seems totally unlikely that "private contract" could "be used to recreate" the effects of modern statist laws. [40] "Purchasers can be bound by contracts with sellers to not copy or even re-sell the thing." [41] However, what of the obligations of third parties who have no contractual relationship with the author or purchaser? Are they bound "not to copy," and, if so, on what basis could they be held liable for breach of contract? Perhaps public opinion, as in all manners, could be organized to weigh in on the issue. What position might insurance companies take (on enforcement of 'no-copy' contracts), and how might a boycott campaign affect those 3rd parties who refused to honor authors' rights?

Regardless of what contractual alternatives might arise in the absence of statutory copyright, the fact of the matter is that "for at least three thousand years, musical and literary works have been created in pretty much every society, and in the complete absence … of any kind of [statutory] copyright protection." [42] Authors do not enjoy the protections afforded by statutory copyright in a state of nature. "Copyright depends on state power." [43] As we have seen, "Copyright emerged in different European countries only after the invention of the printing press." It did not originate "to protect the

profits of authors from copyists or to encourage creation, but rather as an instrument of government censorship. Royal and religious powers arrogated to themselves the right to decide what could and could not be safely printed." [44] Statutory copyright, as we know it today, did not evolve from the common law. It is a statist development that clearly emerged "from the exercise of state power." [45]

> "It is better not to live at all than to live without honor. ... This is a conclusion which I have drawn from my own practical experience, and which has proved practical for me in the sense that in extreme situations it simplifies decisions that I have to make about myself."
>
> - Vaclav Havel, DISTURBING THE PEACE (1990), p. 144.

Author's Addendum:

As readers may know, there are two opposing 'camps' within the libertarian movement with regard to the question of intellectual property (IP) rights. Lysander Spooner (1808-1887) and Andrew Joseph Galambos (1924-1997) represent those who favor the recognition of intellectual property rights, while Benjamin Tucker (1854-1939) and Stephan Kinsella (b. 1965) represent those who claim such rights would not and should not be respected.

Those on the Galambos side of the fence favor something akin to what has been achieved by statutory protection of intellectual property but would reach this goal by means of contract rather than by government legislation. Protection of intellectual property rights would come "from social pressure (the community's sense that ideas are property, that it is wrong to steal, and that copying without permission is stealing someone's property) and then from the private judicial system, which would be restitution-based." Since Galambos believed "that there must be protection of intellectual property for there to be a durable [and flourishing] voluntary society," he proposed a dual program in attaining full IP protection. "Innovators would [first] disclose their innovations to a private registration company, and the innovations would be then made available for use … by a process of individually negotiated terms and payment amounts, and later by releasing them to wide[r] distribution, with voluntary payment for use." [46] Ideas would not be "locked away forever," as some of his critics claim.

Those on the Kinsella side of the fence argue that ideas cannot and should not be owned. There is no basis in libertarian homesteading theory for protecting or recognizing IP rights because IP is not a scarce, tangible product, and can be used by many people at the same time without conflict. As Kinsella concludes, "a system of property rights in 'ideal objects' necessarily requires violation of other individual property rights, e.g., to use one's own tangible property as one sees fit." [47] A right to copy prevents an innocent owner from using his paper and printing press in reproducing certain documents. Furthermore, there is no practical reason for IP rights because several thousands of years of history show that literary and musical works have been produced without their creators being statutorily protected.

But the fact of the matter is: we cannot know how IP rights (if they are to exist at all) would develop in the absence of the State because the nation-state has permeated the lives of mankind for the last 600 years. It is only in the last 150 years that the idea that private defense agencies could supersede the State has surfaced, so there is no reason to expect a quick and easy answer to the IP question. I would expect that the same insurance companies that would play such a pivotal role in a voluntaryist society would figure out how to insure some forms of IP. The purpose of this article has been to inquire as to whether IP rights ever existed historically and customarily at common law. A future article will have to undertake the task of comparing and analyzing the pro and con arguments for and against IP rights.

End Notes

[1] Lyman Ray Patterson, COPYRIGHT IN HISTORICAL PERSPECTIVE, Nashville: Vanderbilt University Press, 1968, p. 19.

[2] N. Stephan Kinsella, "Against Intellectual Property," 15 THE JOURNAL OF LIBERTARIAN STUDIES (2001), pp. 1-53, at p. 3.

[3] ibid., p. 8.

[4] Harold C. Streibich, "The Moral Right of Ownership to Intellectual Property: Part I," 6 MEMPHIS STATE UNIVERSITY LAW REVIEW (1975), pp. 1-35, at p. 5.

[5] ibid.

[6] Pamela O. Long, OPENNESS, SECRECY, AUTHORSHIP, Baltimore: The Johns Hopkins University Press, 2001, p. 10.

[7] Julio H. Cole, "Patents and Copyrights: Do the Benefits Exceed the Costs?" 15 THE JOURNAL OF LIBERTARIAN STUDIES (2001), pp. 79-105 at p. 95.

[8] ibid., p.96.

[9] Robert K. Logan, THE ALPHABET EFFECT, New York: St. Martin's Press, 1987, p. 212.

[10] Mark Rose, AUTHORS AND OWNERS: THE INVENTION OF COPYRIGHT, Cambridge: Harvard University Press, 1993, p. 9.

[11] Ray Corrigan, "Colmcille and the Battle of the Book: Technology, Law and Access to Knowledge in 6th Century Ireland," at oro.open.ac.uk/10332/1/G1K11_Colmcille_final.pdf, at p. 5 of the pdf. University College London Seminar, September 19, 2007, London, UK. Also see Stephan Kinsella, "First Alleged 'Copyright' Dispute: 560 AD, Celtic Ireland; Battle Ensues; 3000 People Die," Mises Economic Blog, May 10, 2011 at http://archive.mises.org/16871/first-copyright-dispute-560-ad-celtic-Ireland-battle-ensues-3000-people-die/.

[12] Corrigan, op. cit., p. 6.

[13] Geo. Haven Putnam, BOOKS AND THEIR MAKERS DURING THE MIDDLE AGES, Volume II, 1500-1709, New York: Hillary House Publisher Ltd., 1962 (reprint of the 1896-1897 edition), p. 485.

[14] Rose, op. cit., pp. 9-10.

[15] Putnam, op. cit, pp. 486-488.

[16] "History of copyright law," from Wikipedia, the free encyclopedia. See Section 2, "Early privileges and monopolies," paragraph 1 at en.wikipedia.org/wiki/History_of_copyright_law.

[17] Patterson, op. cit., p. 6.

[18] Julius Jay Marke, "Copyright versus Intellectual Property," UNIVERSITY OF TENNESSEE LIBRARY LECTURES, Lecture 28, 1976, p. 2.

[19] Edward Samuels, THE ILLUSTRATED STORY OF COPYRIGHT, New York: Thomas Dunne Books, 2000, p. 14.

[20] "History of copyright law," from Wikipedia, op. cit., Section 2, paragraph 6.

[21] Rose, op. cit., p. 12.

[22] "Worshipful Company of Stationers and Newspaper Makers," from Wikipedia, the free encyclopedia, Section 1, History, paragraph 3 and "Stationers' Register," from Wikipedia, paragraph 1.

[23] Patterson, op. cit., p. 5 and p. 9.

[24] Leo Kirschbaum, "Author's Copyright in England before 1640," 40 PAPERS OF THE BIBLIOGRAPHICAL SOCIETY OF AMERICA, 1946, pp. 43-80 at pp. 43-44.

[25] Lee Marshall, BOOTLEGGING, London; Sage Publications, 2005, p. 8, and Howard B. Abrams, "The Historic Foundations of American Copyright Law: Exploding the Myth of Common Law Copyright," 29 WAYNE LAW REVIEW (1983), pp. 1119-1191 at p. 1138.

[26] Marshall, op. cit., p. 11 and Michele Boldrin and David K. Levine, AGAINST INTELLECTUAL MONOPOLY, Cambridge: Cambridge University Press, 2010 (first paperback edition), p. 30.

[27] Marshall, op. cit., p. 13.

[28] ibid., p. 15.

[29] For a contrary interpretation, see Lysander Spooner's defense of intellectual property rights. Spooner noted that the decision in Donaldson v Beckett did "not stand as a decision that an author had not a perpetual copyright at common law; but only as a decision that, if he had such a right at common law, that right had been taken away by statute." Lysander Spooner, THE LAW OF INTELLECTUAL PROPERTY (1855), reprinted in Charles Shively (editor), THE COLLECTED WORKS OF LYSANDER SPOONER, Weston: M & S Press, 1971, pp. 212-213.

[30] It is interesting to note that Lysander Spooner agreed that the common law had not been given a chance to set a precedent. He argued that if it had, then - on the basis of natural law - it would have upheld an author's perpetual copyright in his work.

[31] Joseph Lowenstein, THE AUTHOR'S DUE: PRINTING AND THE PREHISTORY OF COPYRIGHT, Chicago: The University of Chicago Press, 2002, p. 21.

[32] "Haskamah," in Volume 8, ENCYCLOPAEDIA JUDAICA, Second Edition, Detroit: Thomson Gale, 2007, p. 444 and pp. 451-452.

[33] Rabbi Nachum Menashe Weisfish, COPYRIGHT IN JEWISH LAW, Jerusalem: Feldheim Books, 2010, p. xxii.

[34] "Haskamah," Volume 8, op. cit., p. 451.

[35] Kinsella, op. cit., p. 41.

[36] Robert M. Hurt, "The Economic Rationale of Copyright," 56 AMERICAN ECONOMIC REVIEW (1966), pp. 421-439 at p. 427.

[37] ibid., pp. 428-429.

[38] Stephan Kinsella, "The Creator-Endorsed Mark as an Alternative to Copyright," Mises Economics Blog, July 15, 2010 at http://archive.mises.org/13286/the-creator-endorsed-mark-as-an-alternative-to-copyright/.

[39] Wendy McElroy, "The Basics of Copyright," Daily Anarchist, September 1, 2012, at http://dailyanarchist.com/2012/09/01/the-basics-of-copyright/.

[40] Kinsella, "Against Intellectual Property," op. cit., p. 34.

[41] ibid. p. 41.

[42] Boldrin and Levine, op. cit., p. 30.

[43] Tom Bell, INTELLECTUAL PRIVILEGE: COPYRIGHT, COMMON LAW, AND THE COMMON GOOD, Arlington: Mercatus Center, George Mason University, 2014, p. 71 and p. 75.

[44] Boldrin and Levine, op. cit., p. 30.

[45] Tom G. Palmer, "Intellectual Property: A Non-Posnerian Law and Economics Approach," 12 HAMLINE LAW REVIEW (1989), pp. 261-304, at p. 267.

[46] Richard Boren, a student of Galambos, provided these quotes in personal communications, September 2014.

[47] Kinsella, op. cit., p. 44. V

What Voluntaryism Means To Me

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argument. People must come to the conclusion that the State is not a necessary social institution. Rejection of the political means and violence is premised on the voluntaryist insight that governments depend on the cooperation of those they rule. Etienne de a Boetie, a mid-16th Century Frenchman, was probably the first to call attention to this observation: If enough people withdraw their consent, the State will fall of its own accord. The Voluntaryist Statement of Purpose explains it thusly:

"Voluntaryists are advocates of non-political, non-violent strategies to achieve a free society. We reject electoral politics, in theory and in practice, as incompatible with libertarian principles. Governments must cloak their actions in an aura of moral legitimacy in order to sustain their power, and political methods invariably strengthen that legitimacy. Voluntaryists seek instead to delegitimize the State through education, and we advocate withdrawal of the cooperation and tacit consent on which State power ultimately depends."

9. Thus, graphically displayed, there would be a large circle labeled "libertarians." Then there would be a smaller circle within the libertarian circle, which would be labeled "anarchists," and within the anarchist circle would be yet a smaller circle labeled "voluntaryists," for those anarchists who reject electoral politics and embrace peaceful change.

10. I think that H. L. Mencken pretty well summarized my sentiments, when he wrote in THE FORUM of September 1930:

"I believe that all government is evil in that all government must make war upon liberty and that the democratic form is at least as bad as any of the other forms. But the whole thing may after all be put very simply:

I believe it is better to tell the truth than lie;

I believe it is better to be a free man than a slave; and

I believe it is better to know than to be ignorant." . V

> You own yourself. ... Life is meaningful because human beings are responsible for what they do with their lives. ... The principle of self-ownership means we must treat all other beings with absolute respect for their [self-ownership] rights. You literally have no claim whatsoever on the lives of others. You can only relate to them when, where, and how they want you to; otherwise, you must let them be. You must treat them with respect for their self-ownership or not at all.
>
> - Peter Breggin, THE PSYCHOLOGY OF FREEDOM (1980), pp. 237-239.

What Voluntaryism Means To Me

By Carl Watner

I don't have any special qualifications to define 'voluntaryism,' except that I have been publishing THE VOLUNTARYIST newsletter since its inception in 1982, and am a long-time student of the concept. Both in historical tradition and in contemporary usage, voluntaryism coincides with my personal philosophy of non-violence and non-participation in politics. With special thanks to all the voluntaryists of the past who have contributed to this tradition, I offer the following personal statement of belief:

1. I condemn all invasive acts and reject the initiation of violence. This is what many today call 'libertarianism.'

2. I assert that the State acts aggressively when it engages in taxation and coercively monopolizes the provision of public services. Many disagree with this assertion, but those who agree with it would generally label themselves 'anarchists.'

3. This anarchist insight into the nature of the State - that the State is, inherently and necessarily, an invasive institution - serves to distinguish the anarchist from the libertarian for my purposes here. In other words, not all libertarians are anarchists, since some libertarians view limited taxation and limited government as non-invasive and legitimate.

4. I hold the doctrine, which is common among anarchists, that all the affairs of people should be conducted on a voluntary basis. I do not argue for the specific form that voluntary arrangements will take; only that force be abandoned so that individuals in society may flourish.

5. The burden of proof is on those who attempt to justify the State (in whatever form) since they are trying to prevent people from peacefully using their own property in accord with their own desires.

6. Although it is not incumbent upon them to do so, some anarchists try to present their vision of a future stateless society. Based on these 'visions,' we find many different types of anarchists. Two chief issues which have divided anarchists historically and theoretically are the questions of 1) how property will be owned in a stateless society; and 2) what means will be used to remove the State from our lives.

7. I am an individualist-anarchist because I recognize the validity of the self-ownership and homesteading axioms. The individualists advocate private ownership - both in property for personal consumption, as well as in the means of production. Collectivist-, communist-, and syndicalist- anarchists, on the other hand, support some sort of communal/community ownership of the means of production.

8. Like all voluntaryists, past and present, I commit myself to shunning participation in the electoral system, and also reject violent means of fighting or sabotaging the State. Violence is no substitute for a convincing

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