§1. Recap: the toy flute

P1 The toy flute is the product of Carla’s labour.
P2 If the toy flute is the product of Carla’s labour, then it is her property.
C The toy flute is Carla’s property.

Carla’s labour is only one of the factors of production. We also need to consider the wood that Carla made the toy flute out of.

Suppose the wood was previously Anne’s property. And suppose that Carla acquired the wood from Anne in a free exchange. Then it is plausible that the wood was Carla’s property. But this doesn’t get us much further.

We need to consider the person who owned the wood initially.

If we subscribe to self-ownership theory, then we think that everyone initially owns themselves. The trouble is that the wood was never a part of Carla, or of anybody else for that matter.

§2. The labour-mixture theory

T1 ‘Though the earth, and all inferior creatures, be common to all men, yet every man has a property in his own person: this no body has any right to but himself. 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 joined to it something that is his own, and thereby makes it his property…’

(John Locke, Second Treatise of Government)

Call this the labour-mixture theory.

P1 If X is my property, and Y is nobody’s property, and I mix X with Y, then Y becomes my property.
P2 My labour is my property.
C If Y is nobody’s property, and I mix my labour with Y, then Y becomes my property.

Nozick objects to P1.
‘…why isn’t mixing what I own with what I don’t 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... mingle evenly throughout the sea, do I thereby come to own the sea, or have I foolishly dissipated my tomato juice?’

(Robert Nozick, Anarchy, State, and Utopia, p.174-175)

Why does labour-mixture only work in the case of objects that are not already somebody’s property?

If X is my property, and I mix X with Y, then Y becomes my property.

This would imply that the toy flute is Carla’s property even if she stole the wood from Bob!

If X is my property, and Y is nobody’s property, and I mix X with a part of Y, then this part of Y is my property.

If X is my property, and Y is nobody’s property, and I mix X with a part of Y, then Y is my property.

‘If a private astronaut clears a place on Mars, has he mixed his labor with... the whole planet, the whole uninhabited universe, or just a particular plot?’

(Robert Nozick, Anarchy, State, and Utopia, p.174)

§3. The proviso

‘It being by him removed from the common state nature hath placed it in, it hath by this labour something annexed to it, that excludes the common right of other men: for this labour being the unquestionable property of the labourer, no man but he can have a right to what that is once joined to, at least where there is enough, and as good, left in common for others.’

(John Locke, Second Treatise of Government, my italics)

Nozick agrees.

‘A process normally giving rise to a permanent bequeathable property right in a previously unowned thing will not do so if the position of others no longer at liberty to use the thing is thereby worsened.’

(Robert Nozick, Anarchy, State, and Utopia, p.178)

The Nozickean proviso...

‘Everybody is at least as well off as they would have been otherwise.’ =
‘Everybody is at least as well off as they would have been if nobody had taken control of Y.’

T6 ‘…it allows a single individual in a state of nature to engage in an enriching acquisition of all the land there is if she compensates all others by hiring them and paying a wage that ensures that they end up no worse off than they would have been if they had continued to live the meager hand-to-mouth existence of hunters and gatherers on nonprivate land.’

(Michael Otsuka, Self-Ownership and Equality)

But is it possible for someone to take control of ‘all the land there is’? And if so, why is it morally unacceptable for someone to do so?

T7 ‘…it is manifestly unfair that a first grabber be allowed to acquire a much greater share than others…’

(Otsuka, Self-Ownership and Equality)

An alternative proviso…

‘Everybody is at least as well off as they would have been otherwise.’ =
‘Everybody is at least as well off as they would have been if they had taken control of Y instead.’

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<thead>
<tr>
<th></th>
<th>No control of the field</th>
<th>Anne controls the field</th>
<th>Bob controls the field</th>
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<tr>
<td>Anne</td>
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<td>Bob</td>
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Can Nozick give any reason to think that the relevant counter-factual is the one where the field had remained uncontrolled, rather than the one where Bob controlled the field instead?

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The proviso gains some of its plausibility from the intuition that taking control of a piece of land, or an object, is morally permissible if everybody wins or, at the very least, nobody loses.

But in this case, if Anne gets there first, and takes control of the field before Bob, everybody loses!

T8 ‘Nor was this appropriation of any parcel of land, by improving it, any prejudice to any other man, since there was still enough, and as good left; and
more than the yet unprovided could use. So that, in effect, there was never the less left for others because of his enclosure for himself: for he that leaves as much as another can make use of, does as good as take nothing at all. No body could think himself injured by the drinking of another man, though he took a good draught, who had a whole river of the same water left him to quench his thirst…

(John Locke, Second Treatise)

‘Everybody is at least as well off as they would have been otherwise.’ =
‘There are still at least as many perfectly Y-like objects as there are people.’

T9 ‘Let us suppose, that nature has bestowed on the human race such profuse abundance of all external conveniences, that… every individual finds himself fully provided with whatever his most voracious appetites can want… It sees evident, that, in such a happy state… the cautious, jealous virtue of justice would never once have been dreamed of. For what purpose make a partition of good, where every one has already more than enough? Why give rise to property, where there cannot possibly be injury? Why call this object mine, when, upon the seizing of it by another, I need but stretch out my hand to possess myself of what is equally valuable?’

(David Hume, Enquiry Concerning the Principles of Morals)

For Hume, scarcity is a necessary condition of property.

Suppose I take control of Y. If there are still as many perfectly Y-like things as there are other people, then there is no reason for anybody to object to my taking control of Y. But if there are still as many perfectly Y-like things as there are other people, what reason do I have to object to anyone taking control of the Y that I had previously taken control of?

§4. Conclusion

Bibliography