

BOOK REVIEW

WATER CAPITALISM: THE CASE FOR PRIVATIZING OCEANS, RIVERS, LAKES, AND AQUIFERS

WALTER E. BLOCK AND PETER LOTHIAN NELSON, EDs.
LANHAM, MD: LEXINGTON BOOKS, 2015, 302 PP.

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This collaboration between Block (free-market economist) and Nelson (free-market engineer) offers a little bit of anarcho-free-market-*everything* with which to engage the interested reader. Block, as always, brings his combative spirit and formidable reasoning abilities. He is ready to take on all comers including, at one point in the book, his own co-author! Nelson's interesting case-studies highlight particularly well what happens when property rights and market forces are suppressed—whether on land or on water.

The book is a fusion of two complementary tomes, a circumstance that can often make for choppy reading. At times, it is hard going.

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But the pilgrim who perseveres will in time be rewarded with many interesting insights, as well as a glimmer of what a consistent free-market water-rights regime would (or should) look like.

The first half of the book is a theoretical section of sorts, laying down the case for free-market economics in a property-rights context. This is followed by several interesting case studies that reinforce the theoretical discussion at the tract's beginning. A marvelous list of provocative topics is covered (albeit briefly for most of the topics). These mostly pertain to water-rights issues, but often the range broadens and discussion strays into more generalized property issues (e.g. the shameful treatment of Cliven Bundy [re. p. 40]). Here also is where the authors re-state their free-market roots, adding a second crucial concept: the problem of "*government failure*" which waxes in importance as the case studies are reached. These authors are not bamboozled by the sight of bureaucrats bringing gifts to the private sector, and they also understand about free lunches.

Chapter One sets the tone with a ringing call to "Privatize oceans and all other bodies of water!" A primary purpose of the chapter is to suggest that, in a free-market system, it is almost always possible to find successful policy solutions in/on water (and elsewhere) without resorting to the use of government force (e.g., ch. 9). One simply needs to be creative and have an honest desire to try to solve problems *sans* government. To get the discussion rolling, the authors spar with an imaginary skeptic about the book's message.

For additional emphasis, the authors throw in a generic argument for free markets, originating from Aristotelian thought and also based also on the idea that young children from a very early age recognize property rights. The authors see private ownership as natural and appropriate to humankind. Accordingly, they say, the socialists who claim "property is theft" are literally, exactly, and morally wrong. In such a way are the decks cleared for thinking about the morality of markets without entering an extended debate with the inevitable socialist critics.

The authors are *very* optimistic—likely too much so—with their claim that privatization of the Earth's waters will necessarily bring about, in effect, a new *Golden Age* on Earth (your reviewer's term, not the authors'). Sure, we will do better in developing our watery

resources if we apply hefty doses of capitalism to the problem (e.g., pp. 3–4; and pp. 22–25). But these thoughts seem to this reviewer to be largely beside the point. Having to work in water or on water—as opposed to dry land—is a significant “tax” on productive watery activities. We are land creatures, not “Aquamen.” In general, it is considerably more expensive for us to conduct production operations in watery environments (whether it is in a murky swamp, or on the sea-bottom, hundreds of feet down). The authors do not take too seriously this important factor. I would say that they understate the problem. Instead, they assume rather breezily that there is no such “tax” on watery productive activities. Down a few pages, the authors seem to recognize this issue. However, it still seems to this reviewer that the authors understate the difficulty of what they are proposing. This reviewer, therefore, is skeptical.

Chapter 2 asks the reverse of the question in Chapter 1: Why privatize anything? The authors first “school” us readers a bit more regarding free-market arguments to make sure we are prepared for the discussions to come. The morality of free markets, with its non-coercive principle, is seen as superior to coercion (on land or on water). Free-market institutions have dominated collectivist ones whenever and wherever the two systems have competed. Everywhere we look, better-managed resources are to be found where private-property models are allowed to take root. These are sentiments that many a free-market social scientist can endorse with gusto.

As for the land, so for the waters: Ethically, privatization is everywhere peaceful, ethical, and according to the authors, the best system to resolve disputes. Even better, productivity will be higher if there is private-water ownership.

Chapter 5 takes on these issues of privatization, homesteading, and abandonment. Rules are suggested for watery abandonment of derelict (abandoned) properties; plus other interesting suggestions. Surprisingly, the chapter is not “pragmatic,” but philosophical as it seeks ways to solve the various problems discussed in Chapter 5’s material.

Chapter 6 works through several mundane problems involving the existing law governing the seas: Admiralty Law, Law of Salvage, and also of interest: a brief discussion of free-market salvage rules

that might work well. It might have better, perhaps, to combine the discussion of the Law of the Sea into a single chapter.

This chapter lays out a part of the authors' theory of private property. Water rights, as well as their opposite—the harmful existing law governing much of the seas. The Lockean theory will be familiar to most free-market readers of this book; the Law of the Sea, perhaps less so. Chapter 6 also covers abandonment of homesteaded property.

Chapter 7 is where the authors begin to unfold the core of their case for the privatization of those waters currently “in government hands.” The fundamental argument is the *homesteading* one. Property rights are (or should be) established by a homesteader who substantially *mixes his labor with* available natural resources (thus claiming the right to control those resources). In a proper society, the authors suggest, water rights would not be established by a global centralized bureaucracy (or, alternatively, a local one). Instead, such rights would be earned mainly by the sweat of the brow. There is both a practical and moral aspect to this argument (as the authors argue above).

In Chapter 7, the authors bring interesting hints and suggestions that ought to help bring more free-market thought into the mainstream. For example (extrapolating from the authors [see p. 56]), specialists might envision designed GPS-enabled buoys that might be used to track especially-high value fish (such as Bluefin Tuna and Swordfish. Meanwhile, underwater electric fences might keep those fish safely penned up.

In this Brave New World of water-entrepreneurship, the authors seem to suggest that maintaining effective control over a three-dimensional “water plot” might be relatively easy—if the legal framework were there to support it, and if society saw the virtues of such an approach. The next steps would be effective education and advocacy in favor of such a legal framework. The authors' vision extends to fully operational underwater electric fish pens. Gated underwater plots of large size would be maintained to hold them. Such hopeful speculations make for interesting reading!

Next, the authors set down before us crucial questions that they seem to accept as representative of the large numbers of many similar questions that would need to be resolved if a fully-self

contained water rights regime were to come to pass. These are watery property-rights-related questions that need to be answered successfully, in the context of water rights, in order for a successful rules-based consistent market society is to grow and take root.

Many of these “watery rights” questions have been solved on land. They are to be thought of as difficult questions, not yet resolved, but which are crucial in solving any attempt to make a consistent property-rights-based system on the waters (or on land). Now the challenge would be to extend the reasoning on land so that “land law” can be can be appropriated to this more aggressive application.

Some reasonable answers to these kinds of questions are provided by the authors. Other questions are posed in a way that makes manifest the difficult challenge inherent in asking these questions. The results of these “thought-experiments” are sometimes quite provocative (e.g., discussion of the possibility of ownership/control of different depths of waters). It begins to look like some of these questions are quite interesting, likely answerable, and, even more, worth answering.

Turning to other matters: problems, such as the “water cycle,” (i.e., water evaporating into clouds and later dropping as precipitation at random spots, thus making assignment of property rights to water extremely difficult) are discussed at some length in Chapter 7. The problem, as the authors see it, is that this poses difficulty for those trying to tag every “piece” of water as being “mine” or “yours” causing problems for market forces. Also, there is considerable discussion of the concept of defining oceanic ownership and how it could be defined, and unfortunately not much in the way of solutions.

Chapter 8 is a rather long chapter focusing mainly on property issues of rivers. It addresses an interesting case (p. 76–77) where an owner’s access to his property is blocked from all sides by adjacent property owners (e.g., he has ownership in midstream but he lacks a legal access point to his “plot”). To make things a bit more challenging, let us assume that his not-so-friendly neighbors are unwilling to negotiate an access point. What, then, would then ensue? Our authors, armed with confidence in market forces, would expect creative solutions by the “players” in the “game” in finding an appropriate access point.

Other issues discussed are property rights in a situation where the course of a river is altered—how would a successful compromise ensue? Strategies for protection from floods in many cases could include something as simple as placing structures on stilts (as in the U.S. Gulf Coast). This long but informative chapter finishes up with discussion of free-market fishing rights and the consequences of erosion.

Chapter 9 covers free-market lakes and related topics. It is interesting chiefly because it concerns actual private ownership of lakes and happily, the discussion here seems less speculative and more concrete. We have, after all, numerous examples of successful management of small lakes.

As a lake community develops, it is particularly interesting in this chapter to see how the authors, starting with a small virgin lake with little commerce and with only-sketched-out property rights, takes the reader forward to a situation where well-defined, sophisticated property rights regimes. Other topics in this chapter include a discussion of fishing rights in rivers and the divvying up costs of erosion between interested injured parties; and the relatively rare case of changes of river course and how it might be managed.

Chapter 10 addresses the control and care of aquifers that often involve damage by one party to another where one party pulls out enough water to negatively and significantly affect a second party's aquifers. This is another "tragedy of the commons" scenario, sporting technical problems with a public good tilt. In a free market situation, first arriving parties should have priority.

Chapter 11 sketches out the mainstream perspective on ocean management, the so-called "CITES" approach based on the Convention on International Trade of Endangered Species of Wild Fauna and Flora. The authors strongly rebut, citing cases where on land where such models have far worsened conditions of flora and fauna living under these policies. They also present free-market alternatives. Overall, this is an engaging chapter.

Chapter 12 discusses the history of piracy. The authors are cautiously optimistic that the market and private property can solve the problem. Chapter 13 presents six quite interesting case studies. Case A: This discusses water rights in the lower portion of the Florida peninsula. The authors argue that one of the primary

complications stem from poorly-laid-out-private-property water rights. Case B covers efforts in flood protection going back to the 1880s. The authors emphasize the hidden subsidies in such a policy and a libertarian alternative. Case C analyzes a severely damaging 2014 chemical spill on the Elk River. The authors question whether or not regulatory relief would really be likely to prevent another such a disaster. Why should it? In contrast, in a fixed free-market property rights regime, the party responsible would be strictly accountable to all injured parties. Regulation would be unnecessary. Case D concerns California's Central Valley Aquifer. The authors argue that the problem is *too little capitalism*, not too much. The authors point out that property rights are a muddle in the aquifer area, creating severe "tragedy of the commons effects." Case E: Canada, with tremendous water reserves, refuses to treat their water supplies as an economic good. Water in Canada is not privately owned. The authors explore this strange feature of the "Canadian Mind," which has a very strong aversion to the sale of water to parched areas elsewhere. Case F concerns Somalia, Yemen, and the Gulf of Aden, and how the introduction of strong property rights in the Gulf of Aden would substantially reduce piracy and other problems in this fairly "wild" area.

Other interesting features of the book are: delightfully thorough references, a written debate between the authors (an unusual twist), a critique of a number of several other popular free-market books featuring a focus on water rights, which the authors see as straying too far from the free-market vision that the authors emphasize; and last but not least, a very pretty cover.