
RESEARCH REPORT

Excerpt from Richard Roe. A Memoir of a Legal Person

Tyler Coburn

School of the Art Institute of Chicago, US
tyler.coburn@gmail.com

In March of 2019, I published *Richard Roe*, a book that claims to be the memoir of one of the oldest legal persons in English case law. The conceit is fairly ridiculous, for Roe is hardly enough of an individual to give a consistent account of his life. Invented by the law to mask the identities of untold agents, he can do little more than perform as a consummate mouthpiece. He is most himself when he is spoken through.

Richard Roe speculates about the law. It asks what a person could be, seeking to understand the benefits afforded by such representation. How could New Zealand's 2017 Te Awa Tupua Bill, granting personhood to the Whanganui River, precipitate a movement for greater legal agency of the nonhuman world? It also considers how personhood has expanded to detrimental effect. The 14th Amendment, ratified in 1868 to grant citizenship and equal protection of the laws to "all persons born or naturalized in the United States" (including former slaves), was later used by lawyers of Southern Pacific Railroad to argue for the personhood of corporations.

As both examples reveal, the person has no intrinsic relationship to the human. Moreover, since the writings of Roman jurist Gaius, the criterion for personhood has been self-possession: the ability to be master of oneself. Few throughout the ancient and modern worlds could be said to enjoy this status. If the 1948 Universal Declaration of Human Rights finally extended personhood to everyone, it also universalized this proprietary model of selfhood with which thinkers like Roberto Esposito and Saidiya Hartman take issue. In Esposito's opinion, human rights must begin not at the individual and their domain but with a non-personal, impersonal type of community.

The following is an excerpt from the second chapter of the memoir, which looks at those historically excluded from personhood or otherwise disenfranchised: the debt peon, the slave, and the worker who brings their hide to market, as Marx writes, with "nothing else to expect but—a tanning."

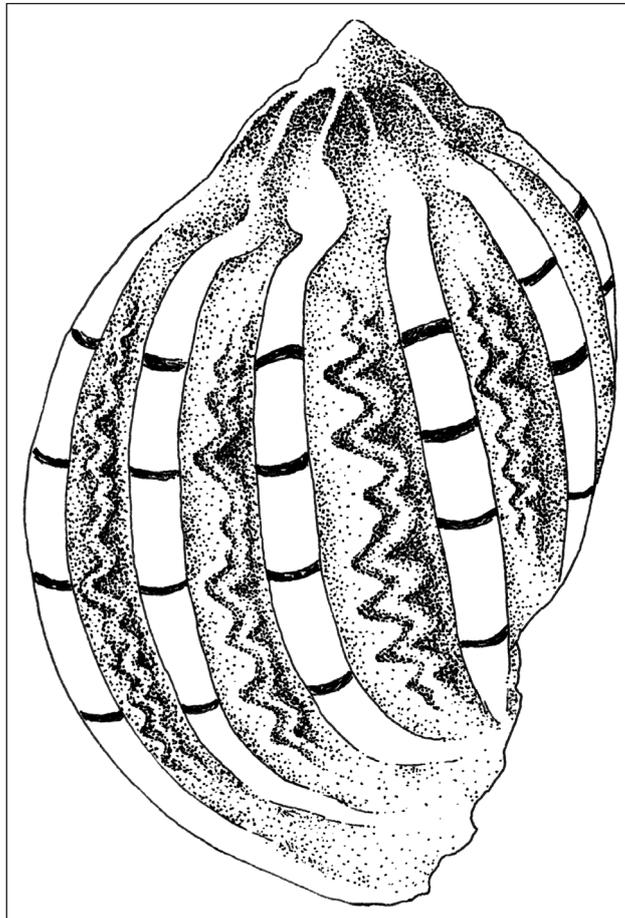
§ PUBLICK AUCTION, At the house of the late Richard Colden, Esq., in Smith-Street, corner of King-Street, ... the sale of all his neat and elegant household and kitchen furniture, consisting of mahogany desks and book cases, buroes, chest drawers, card, dining and dressing tables, beds and bedsteads, plate, china, an elegant Axminster carpet, etc. etc. A valuable iron chest, with a handy young negro girl, about 13 years old. Also, a neat riding Chair.

§ "Man is born free, and everywhere he is in chains." Despite its pretense of universality, Rousseau's famous statement was not meant to include the *actual* slaves so essential to the 18th Century European economy. Many philosophers of this era, as Susan Buck-Morss has shown, also turned a blind eye; bondage could serve as a metaphor for tyranny, as a description of the state of nature, as a hardship of the ancients ... in any way but the obvious.

For some, this contradiction could be explained away by the norms of proprietorship, for man was seen to possess himself, his family, his household, and its related "effects." Certainly, at least a few saw no problem at all: That Locke could characterize slavery as "so vile and miserable an estate of Man [...] that 'tis hardly to be conceived that an *Englishman*, much less a *Gentleman*, should plead for't," while holding shares in a company involved in colonial policy, demonstrates the profoundly magical thinking of the time.

Hegel was an exception. Buck-Morss offers evidence that the philosopher, a daily reader of the newspaper, followed the events of The Haitian Revolution while drafting the dialectic of master and slave. This dialectic (if one were to hazard a summary) shows how the supposed freedom of the master is dependent on the labor of the slave, while that labor fosters the self-sufficiency necessary for authentic freedom. “The *truth* of the self-sufficient consciousness,” he states, “is the *servile consciousness*.”

- § Before giving too much credit, Buck-Morss describes Hegel’s growing conservatism in later life, from his assertion that the “gradual abolition of slavery is [...] wiser and more equitable than its sudden removal,” to his dismissal of Africa as a “land of children.” His lectures on the philosophy of history relied ever more on “Europe’s conventional scholarly wisdom on African society.” He accustomed himself to the echo chamber.
- § Even as Enlightenment philosophy ignored the reality of colonial slavery, notions of liberty and personhood entangled with property and bondage. “Slaves were defined as property,” in David Brion Davis’s summation, “and property was supposedly the foundation of liberty.”
Those with a claim to this foundation, unsurprisingly, were but a sliver of the species. “Manhood and whiteness,” to Saidiya Hartman, “were the undisclosed, but always assumed, norms of liberal equality.” Echoing the writing of Esposito, Hartman argues that any truly “emancipatory figuration of blackness” first requires that the link between liberty and property is broken.
- § When we leave this sphere of simple circulation, or the exchange of commodities ... a certain change takes place, or so it appears, in the physiognomy of our *dramatis personae*. He who was previously the money-owner now strides out in front as a capitalist; the possessor of labor-power follows as his worker. The one smirks self-importantly and is intent on business; the other is timid and holds back, like someone who has brought his own hide to market and now has nothing else to expect but—a tanning.



§ There are many ways to be not enough a person and not entirely a thing. The ground is slippery and treacherous.

In Ancient Rome, freemen owing debts had their personhood suspended, obliging them to toil as bond slaves, or *nexi*, on behalf of their creditors. *Nexi* were often valued more highly than other slaves given their incentive to labor: If they worked enough to pay their debts, they could regain their legal standing; otherwise, they would be sold, killed, or cut into pieces and divided up.

§ In the wake of the Enlightenment, Hartman contends, “the vocabulary of freedom”—and the ethos of self-possession—“effectively yielded modern forms of bonded labor.” The *nexus* returns as the debt peon. And emancipation proves to be what Marx ironically called a “double freedom”: the freedom to sell one’s labor power as one lacks (*is free from*) the means of production. The worker can chose to bring their hide to market, but all this demonstrates is their capacity for self-submission. Capitalism, in brief, “entails the personification of things and the reification of persons.”

§ I’ve spent a lot of time with you
invested so much in you
I don’t have more to give

You’re living on borrowed time
You’re wasting my time
You’re no longer worth my while

This excerpt will also be part of the book Richard Roe, published this year by Sternberg Press, Berlin. The above material contains quoted, unquoted, unattributed, and paraphrased text from Bill Brown, Richard Colden, Jean-Jacques Rousseau, Susan Buck-Morss, John Locke, Oxana Timofeeva, Georg Wilhelm Friedrich Hegel, David Brion Davis, Saidiya Hartman, Karl Marx, and George Lakoff—and an illustration by Ana Rivera.

Competing Interests

The author has no competing interests to declare.

Author Information

Tyler Coburn is an artist, writer and teacher based in New York.

How to cite this article: Coburn, T. 2019. *Excerpt from Richard Roe. A Memoir of a Legal Person. MaHKUscript: Journal of Fine Art Research*, 3(1): 2, pp. 1–3. DOI: <https://doi.org/10.5334/mjfar.50>

Published: 15 July 2019

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