



# THE PROPERTY SPECIES

mine, yours, and the human mind

BART J. WILSON

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*Mine, Yours, and the Human Mind*

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Published in the United States of America by Oxford University Press  
198 Madison Avenue, New York, NY 10016, United States of America.

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CIP data is on file at the Library of Congress  
ISBN 978-0-19-093679-2 (pbk.)  
ISBN 978-0-19-093678-5 (hbk.)

1 3 5 7 9 8 6 4 2

Paperback printed by Marquis, Canada  
Hardback printed by Bridgeport National Bindery, Inc., United States of America

*To Ryan, love of mine*

*Nobody ever saw one animal by its gestures and natural cries signify to another, this is mine, that yours.*

Adam Smith

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# Acknowledgments

I have accumulated a number of intellectual debts, not all of which I can acknowledge here. The book pays homage to three in particular. Vernon Smith has taught me the meaning of being a scholar, always encouraging me to read broadly and work narrowly. By his example I also learned how to learn from proving myself wrong in the laboratory. In 2008 Matt Ridley gave me a draft of his manuscript that became *The Rational Optimist*. I now realize that it took a biologist to focus my attention on the most important foundational observation in the study of economics, namely that human beings are the only species to routinely truck, barter, and exchange one thing for another thing. Adam Smith clearly understood that, though he punted on explaining why, and we still don't know why. But I anticipate. Deirdre McCloskey's *Bourgeois Era* trilogy opened my mind to the possibility that ideas are what make property possible. I treasure her words of encouragement to treat words as data and evidence.

I am indebted to Joy Buchanan, Peter DeScioli, Taylor Jaworski, Erik Kimbrough, Karl Schurter, Adam C. ("Contemporary") Smith, Vernon Smith, and Andrew Smyth. As my coauthors on several economic experiments on property, our many stimulating and fun conversations prepared me for this undertaking. Brennan McDavid patiently guided me through my Latin translations, but all errors are my own. Sarah Skwire generously helped me read Middle English and asked me the right questions to refine my discussion about prepositions. I hope I've convinced her.

For comments and questions on my arguments, I thank seminar participants and conferees at the Center for Law and Philosophy at the University of Surrey, Nuffield College at the University of Oxford, the University of Alaska Anchorage, the University of Arizona, the University of Wisconsin-LaCrosse, the Risk Management Department at Pennsylvania State University, the University of Alabama, the Fowler School of Law and the Economic Science Institute at Chapman University, the 2018 Southern Economic Association Annual Conference, the 2018 Gruter Institute Annual Squaw Valley Conference, and the Philosophy, Politics, and Economics Society Inaugural Conference. A grant from the Templeton Foundation to

the Center for the Study of Governance and Society made a seminar trip to King's College London possible in October 2018. The faculty of the Smith Institute for Political Economy and Philosophy at Chapman University deepened my reading of E. M. Forster's essay entitled "My Wood." Students in Vernon Smith's and my Spring 2019 law school seminar diligently worked through the manuscript and helped me refine it.

Three times I presented portions of the book to accommodating audiences at the Property and Environment Research Center, which generously supported me as a Julian Simon and Lone Mountain Fellow during the summers of 2016–2018. I worked on early versions of the chapters during the spring and summer of 2017 when I visited the Department of Economics at the University of Alaska Anchorage as the Rasmuson Chair in Economics. Approximately forty high school teachers at the Alaska Council on Economic Education Spring Forum provided a fun and lively test of the book's ideas, and a lunch conversation at the Katirvik Cultural Center in Nome heightened my appreciation for the connections people make with their tools. Jonathan Fortier and the Institute for Humane Studies generously organized and hosted a manuscript workshop in April 2019. I thank the attendees for their thoughtful discussions and careful reading.

Many valuable conversations have improved the argument and exposition, for which I heartily thank Terry Anderson, Tom Bell, Dan Benjamin, Danny Bogart, Caroline Breshears, Sarah Brosnan, Tom Campbell, Malte Dold, Gian Marco Farese, Price Fishback, Jonathan Fortier, Josh Hall, Kyle Hampton, Tony Hernandez, Lydia Hopper, Bradley Jackson, Peter Jaworski, Taylor Jaworski, Ryan Johnson, Lynne Kiesling, Erik Kimbrough, Donald Kochan, Mark LeBar, Deirdre McCloskey, Brennan McDavid, Molly McGrath, Roger Meiners, Alec Moss, Jan Osborn (who deserves special mention for generously and meticulously commenting on several drafts over several years of an article and then book), David Pervin, David Rojo Arjona, Ron Rotunda, Eric Schliesser, Sarah Skwire, Henry Smith, Vernon Smith, Ilya Somin, John Thrasher, Wally Thurman, Kevin Vallier, and Bas van der Vossen.

For research support, I gratefully acknowledge the work of Logan Hayward, Heather Joy, Brendan Starkey, and, especially, Trent Gerdeman and Mary Howard, whose conversations helped formulate the experimental design in chapter 8. Sherry Leysen at the Hugh and Hazel Darling Law Library at Chapman graciously gave me extended access to "Library Use Only" copies of Grotius's dusty texts. I am grateful to Jeff Kirchner, whose creative, robust software programming made not only the experiments in

chapters 4 and 8 but also nearly all of my research programs in experimental economics possible. He also designed the figures in chapter 9. I must also thank Megan Luetje for recruiting and paying the participants in the experiment, and Brecker Brees, Kat Brown, Nick Callen, Nate Everett, Kyle Joye, Danny Liu, Akash Miharia, and Alexandra Webb for coding the responses to the postexperiment survey.

Finally, I thank my partner, Ryan, for his genuine interest and moral support while working on the project, and for regularly reminding me that Stephen King writes 5,000 words a day. The reference to horror supernatural fiction, I think, is incidental.

*Bart J. Wilson*  
*Orange, California*  
*July 2019*



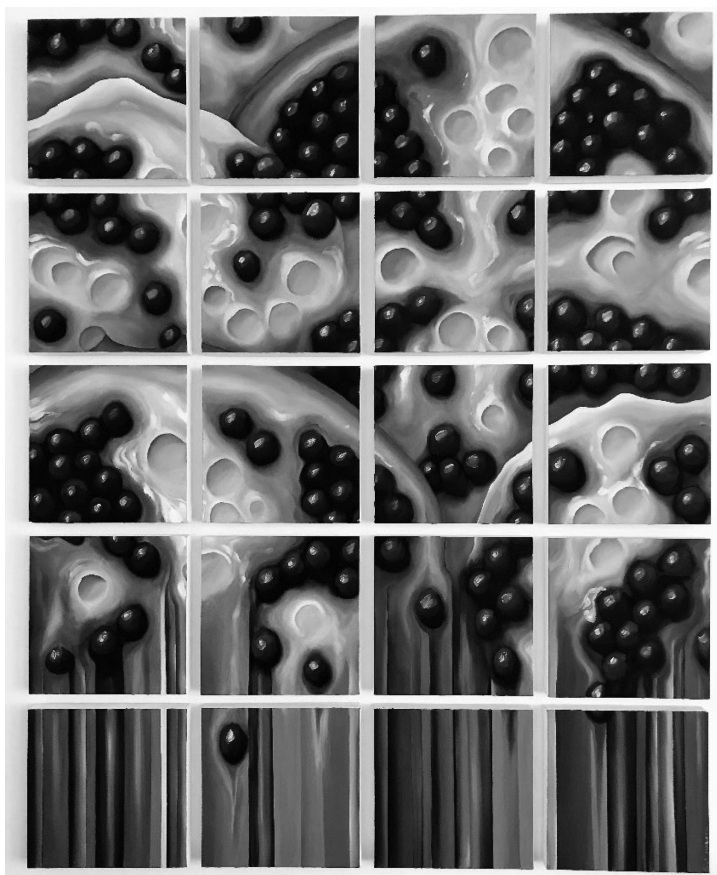
## Cover Art Note

*Sentinels* is a 2018 painting (acrylic and spray paint on canvas) by Gus Harper from Santa Monica, California.



Gus Harper  
*Sentinels*, 2018

I met Harper in 2008 at his gallery show when he had been creating and selling art for eight years. Two years later, he painted *Pomscape Grid Painting* for me, a four-by-five-piece grid of one-foot square canvasses.



Gus Harper  
*Pomscape Grid Painting, 2010*

Magnifying the organic world into a recognizable abstraction, our minds interpret his early grids of flowers, plants, and fruits as icons reminiscent of works by Georgia O’Keeffe (1887–1986). Harper’s creations explore, in his words, “the beauty of everyday life by changing the scale and context” of the ordinary world around us.\* When our minds impose a force of gravity on the previous image, the pomegranate bleeds vivid colors and melts into a further abstraction of feeling. Such impositions of our minds on the quotidian world of things are key to how property works.

\* Personal communication, January 31, 2019.

*Sentinels* is one of two paintings that Harper created after reading a draft of the first three chapters of the book. Inspired by prehistoric cave paintings in France, which re-present to our minds representations from the minds of human beings who lived 17,000 years ago, the cave wall in Harper's painting connects the minds of its humans to their ancient ancestors' minds whose traditions bequeathed to them 400,000 years' worth of accumulated knowledge on how to create a spear.

Our minds classify the intricately stenciled patterns in the foreground as distinct objects emerging from below a white background that tops the canvas. Lacking a complete shaft, the prominent downward-facing point in the foreground is but a point and not a spear. What makes a point, hafted to a shaft, a spear and not simply a point, a shaft, and some haft collocated in time and space? Our imposing minds.

The human form further in the background is complete, and one with a spear. With proximity, the complete spear in the foreground becomes a distinctly shaded object within the proud hunter's grasp. What happens when he puts the spear down? Is he still one with it? The book explores the significance of such questions for comprehending property and, ultimately, our humanity.





## Bibliographic Note

For excerpts in chapter 3, I thank Elsevier for permission to use “Language Games of Reciprocity,” *Journal of Economic Behavior and Organization*, 68 (2008), pp. 365–377. I am grateful for permission from Springer Nature to use “Further Towards a Theory of the Emergence of Property,” *Public Choice*, 163 (2015), pp. 201–222, as the basis for chapter 4 and the last four paragraphs of chapter 6. The antepenultimate paragraph in chapter 4 is verbatim from “Becoming Just by Eliminating Injustice: The Emergence of Property in Virtual Economies,” in *Justice* (2018), edited by Mark LeBar, Oxford University Press, pp. 67–91 (which itself was also drawn, with permission, from the aforementioned *Public Choice* article).



# Prologue

Within arm's reach of where I write sit a pen and a cup. Someone made these things for people like me to use, and someone made and used the tools to make the pen and the cup for people like me to use. Both the pen and cup are themselves tools that extend the powers of my hands to do things that I cannot physically do with my body alone. While many animals use tools, and a few animals make and use tools to make a tool, only human beings make and use tools to make and use derivative tools like those that are needed to make pens and cups.<sup>1</sup> From the Machiguenga of the Amazon Basin jungle to the !Kung of the Kalahari Desert, a common characteristic of human tools is that there appears to be an invisible connection between an individual person and the tool.<sup>2</sup> In a legendary tale, such a connection means that only King Arthur could pull Excalibur from the stone. In our unenchanted world, if I leave a pen or cup on the table at a faculty meeting, people tend to ask questions like "Is this someone's pen?" or "Whose cup is that?" Such queries are an attempt to establish some sort of connection between someone in the room and the thing. The answer can be as simple as "It's mine," and its utterance completes the connection sought between a person and the object. Even though professors can always use an altitude-proof pen, and everyone uses some sort of container to help them satisfy their thirst, people, as a general rule, do not seize every fine pen or durable cup they see and could make good use of. In a world filled with things that humans have made, there is an order, a pattern, to how they engage them and one another.

This book is about how human beings perceive the world of useful things, and how and why they act in the orderly way that they do regarding them. To an economist the source of this regularity needs some explanation if we are to tackle the grander question, as it is typically posed to first-year students of economics, of how a society allocates scarce goods to people with inherently unlimited wants. Jurists, and the lawspeakers before them, have been pondering the rules governing the order of people and things for time out of

<sup>1</sup> Donald Brown (1991).

<sup>2</sup> Allen Johnson and Timothy Earle (2000).

mind, and philosophers from the ancients to the present have reflected on the justifications for connections between people and things. Comparatively recently, anthropologists and archeologists, and even linguists, have studied the relationships between people and the things they make and use. How does such a connection work, and why do human beings make them? What composes the connection between a person and a thing? The book is a cross-disciplinary synthesis, with a distinctly biological eye, about the ordinary details we take for granted regarding people and the world of things they use.



In the hurly-burly room of a primary school, teachers frequently ask questions like “Whose mittens are these?” and “Whose scarf is this?” For the seven-year-old who shouts “Mine!” and then grabs the Hello Kitty mittens en route to the playground, the ordinary exchange of words makes perfect sense. What more is there to think about? It’s time to play in the snow.

Consider what the children and we take for granted in such a scene. While many of the children look at the mittens when the teacher speaks, only one responds, and the teacher expects that only one student will respond to his question. Having spotted the mittens, the girl in the matching Hello Kitty coat also expects to be the only child to respond to the teacher’s question. Even the students who have not yet located a pair of mittens do not say anything and do not grab for them. Amid the clamor and scramble for hats and jackets and boots and scarves, there is a semblance of order, a pattern that determines the nature and timing of the children’s encounters with a host of inanimate things and with one another.

A closer look at the classroom reveals that the students heed the physical differences of some objects in the classroom and ignore others. A student can tell the difference between a red pencil sitting on a desk and a yellow pencil inside a backpack. But for a student needing to complete a math exam, a pencil on the desk and a pencil in the backpack are both pencils. Both are writing implements, nondistinctively so. Other things in the classroom, like garments for covering hands, are distinctive. A pair of Hello Kitty mittens on a wall hook and a pair lying on the floor are not interchangeable. They may be physically identical in every way, but even if the pair on the floor is closer, a child distinguishes the two so as to grab the pair on the hook before heading out to the playground. Only the child who entered the classroom with the Hello Kitty mittens now on the floor calls the pair on the floor “mine.”

The children's minds structure the world of classroom things in a particular way. They perceive distinctive differences in some things but not in others. In other words, the children have different sets of expectations regarding the physical things they perceive in the classroom. From the point of view of the children, their actions adhere to a schedule that constitutes a set of expectations about their actions, and such expectations order what they do, their responses to the external stimuli of sights and sounds in the classroom. If the pair of mittens on the floor is "not mine," the child's schedule calls for leaving them on the floor and walking over to the pair on the wall hook. If the pair of mittens on the floor is "mine," and the teacher asks, "Whose mittens are these?," the scheduling pattern indicates yelling "Mine!" When dealing with mittens at this place, time, and circumstance, the children act in a certain manner. The central question is what composes "a certain manner" of connecting a particular child to a particular thing at this place and time.

The biological-sounding terminology of scheduling, appropriated from the linguist-turned-anthropologist C. F. Hockett, will prove a useful way to organize someone's information about a particular person in a particular community regarding some *thing*. It has the added feature of shaking us out of our comfort zone and giving us a perspective, rather different from our everyday, first-person view of how we human beings deal with one another regarding things. Like a biologist from Mars, we can think of every animal's body, human children's included, as containing a program of actions and events regarding things, a *schedule*. Such a schedule orders the organism's actions as it interfaces with its environment and what the environment offers the organism.

For example, a red-winged blackbird (*Agelaius phoeniceus*) calls out to indicate its presence when perched on a tree. A short and simple vocalization deters nearby birds looking for a limb on which to rest. If a bird nevertheless approaches, the resident prepares to fight the interloper. During courtship and mating, however, the red-winged blackbird's schedule calls for vocalizations that are longer and more complex; that is, the male bird sings to attract a female. If a potential mate approaches, the seduction continues with tail feathers spread and shoulder patches fluffed.

We can think of an organism's body, its nervous system, as running a continuous software program that receives neurophysical inputs from the external world. The software program classifies and organizes these inputs and then gives as output what, if anything, is to be done. If the program classifies the inputs as constituting courtship season, then a male red-winged blackbird

produces a long and complex song to attract a mate. If the program classifies the inputs as not constituting courtship season, then the male produces short and simple vocalizations to deter interlopers. The important thing to recognize in this example is that the organism's body contains a *schedule* such that sufficiently similar events in the external world produce a *pattern* of actions to be carried out by the organism. Every April during breeding season male red-winged blackbirds sing to attract mates, and every August after breeding season they vocalize to deter interlopers.

Whether a red-winged blackbird or a first-grader, the timing of an organism's actions adheres to a scheduling pattern that constitutes a set of expectations about what the organism will or will not do, the state of affairs and probable results of the actions, and the appropriate responses to the external events. I use the term *scheduling pattern* to compactly refer to the idea that an organism's body classifies neurophysical inputs of events in the external world to produce a set of expectations regarding an orderly pattern of actions that the organism will undertake in the external world. My goal is to think of a human animal's scheduling pattern as an explanation for why it does what it does in particular circumstances involving certain things.

As an economist, such thinking does not come naturally to me, nor does it, I imagine, come easily to social scientists more generally, philosophers, or legal scholars. It requires us to think of a person's schedule regarding other people and things as being a *physical phenomenon*. Our human scheduling regarding things is located in both the individual animal itself and the animal's environment. The part literally in the animal is, of course, that which is in our genes, our physical bodies, and in the totality of knowledge given by perception and accumulated in our bodies. The part literally in our environment is that which is in other organisms and the physical world of things.

Notice that I do not say that our physical bodies are the sole cause for what humans do. I say much more modestly that, like all animals, our physical bodies supply us with one of two important causes for human scheduling. Our bodies store our accumulated experiences, and all that we know by experience is given to us by our genetically supplied perception. A common genetically scheduled biology means that there are some universal features about humans, including, at least conceivably, how humans perceive and know the connections between people and things. It could also conceivably mean that when it comes to scheduling patterns regarding things, humans are like other primates, or other mammals, or even birds. At this point we do not know if either specifically human genes, or both human and nonhuman

genes, or neither explains human behavior regarding things, though the scheduling terminology allows us to put the question marks deeper down.

The second important cause of human scheduling resides in the people and things that surround us. Some birds and many mammals, especially primates, socially transmit practices from one generation to another. Mentors teach the next generation how to attract mates, forage for food, and even make and use tools. Such a cause is physical in that the mechanism resides in things external to the individual organism. It is thus also conceivable that some human communities may pass down different practices regarding people and things, including not having any practices about some things at all. How, then, do we know if it is the first physical cause in our mammalian bodies or the second physical cause in our environment that explains the human scheduling pattern that connects people and things? Or—here’s a crazy idea—perhaps the answer lies to some degree in both us and others. As Hockett so wonderfully puts it, “That is not yet known, and the scheduling terminology reminds us of our ignorance.”<sup>3</sup>



Up until this point I have purposely avoided using a key term that every reader is surely expecting given the title of the book. Over twelve years ago, almost on a whim but certainly as an afterthought, I started working on “property rights.” Except for the subset of economists who specifically work on them, everyone takes property rights for granted, or more precisely, treats them as a given or a constraint in their analysis. In 2006, my colleagues, Sean Crockett and Vernon Smith, and I received comments from a blind review on a project exploring how people discover exchange and specialization in virtual world economies.<sup>4</sup> The reviewers questioned why our undergraduate participants found it difficult to specialize and trade virtual tokens with one another for real cash (as much as \$28.00 to \$31.50 for a little over an hour’s work). They surmised that because our software did not explicitly enforce contracts between the participants, they must have been worried that their counterparts would not fulfill their promises to deliver the goods.

It turned out the chat room transcripts revealed that no one ever complained about such a problem, but the question got us thinking. We had

<sup>3</sup> C. F. Hockett (1973, p. 48).

<sup>4</sup> Sean Crockett, Vernon Smith, and Bart Wilson (2009).



taken for granted that our virtual world perfectly enforced property rights. The participants in the original experiment discovered that they could freely move items *to* other people, but they could not move them *from* other people. What would happen if we relaxed that unexamined assumption? What would happen if we changed nothing else in the experiment, not even the instructions, except that people could now discover how to move items both to and from each other?

All hell breaks loose is what happens (virtually speaking, of course, in case members of my institutional review board are reading).<sup>5</sup> Even though all of our participants lived in a Western, educated, industrialized, rich, and democratic society, their first weird impulse was not to give things to other people, but to take them.<sup>6</sup> Items flew around the screen from one person to the next. In their public chat room, they frequently talked about “war.” From my view in the monitor room, it certainly looked like chaos. Only about one out of six independent groups established stable possession of the virtual goods and then specialized and exchanged with one another to create the maximum possible wealth. Another one out of six sessions on average would eventually establish stable possession, but it was much slower, and the session ended before they could exploit more than half of the potential gains from trade.

My coauthors, Erik Kimbrough and Vernon Smith, and I were surprised at how easily we could create such a poor and nasty and brutish world with supposedly civilized participants. (They could not virtually kill one another, or their lives would have probably been solitary and short too.) By this time in my career I had conducted a couple hundred laboratory sessions about economics, and Vernon probably several thousand since he started running them in 1956, and we had often seen beautiful, orderly, and prosperous behavior, even when the default expectation of our discipline was for our human subjects to be selfish and inefficient. The sudden vicious appearance of chaotic and poor human societies shocked us.

We first looked for the problems that the different groups faced. Often there would be one bad apple in a group of eight who would prey upon the others without remorse. We wondered what would happen if we gave the participants a way to shun remorseless predators. Some of our colleagues noted that our experiment did not allow people to trade resources with people with the virtual ability to protect them from plunder. Others said that

<sup>5</sup> Erik Kimbrough, Vernon Smith, and Bart Wilson (2010).

<sup>6</sup> Joseph Henrich, Steven Heine, and Ara Norenzayan (2010).

the experiment did not allow people to perfectly commit themselves to refrain from taking things from one another. If we added one of these features, that would solve the problems.

None of it worked. If anything, the externally imposed mechanisms made things worse. Shunning bad apples encouraged isolation from potential trading partners, and the group was thus quite poor; instead of a benevolent protector we observed an unrepentant mafiosa, even though we chose her for the position because she was not inclined to take things before she got her powers; and permanently committing not to take things from others only exposed such community-minded people as suckers to those who scorned such a commitment. In short, we failed in session after session, treatment after treatment, to systematically introduce the means to produce an order regarding people and things. We learned that there is a huge difference between imposed and emergent solutions.

In retrospect, the problem was that we had focused our attention, as is the case in almost every public policy debate, on the ugly failures of the human world, and not on the wonder of its extraordinary and uncommon successes. The scientific failure was an aesthetic one. We had failed to admire the beauty of the rare and orderly way some groups of people acted with regard to things. Notwithstanding the current pessimism at the dawn of the Anthropocene, this book is about the wonder, surprise, and admiration of the human propensity to orderly conduct ourselves with regard to the external things of the world. It is about property, which is, as the eighteenth-century Scottish economist and sociologist Adam Ferguson brilliantly described many human institutions, “indeed the result of human action, but not the execution of any human design.”<sup>7</sup>



I postponed introducing the words *property* and *property rights* because familiar words, particularly social and economic ones, come with the baggage of preconceptions. After running my first experiment on “property rights,” I started reading John Locke and David Hume for some philosophical insight, and I noticed something curious. They never use the phrase *property rights*, a term pervasive in modern economics, philosophy, and law. They talk about “property” and about “rights,” but never the compound “property

<sup>7</sup> Adam Ferguson (1767, p. 205).

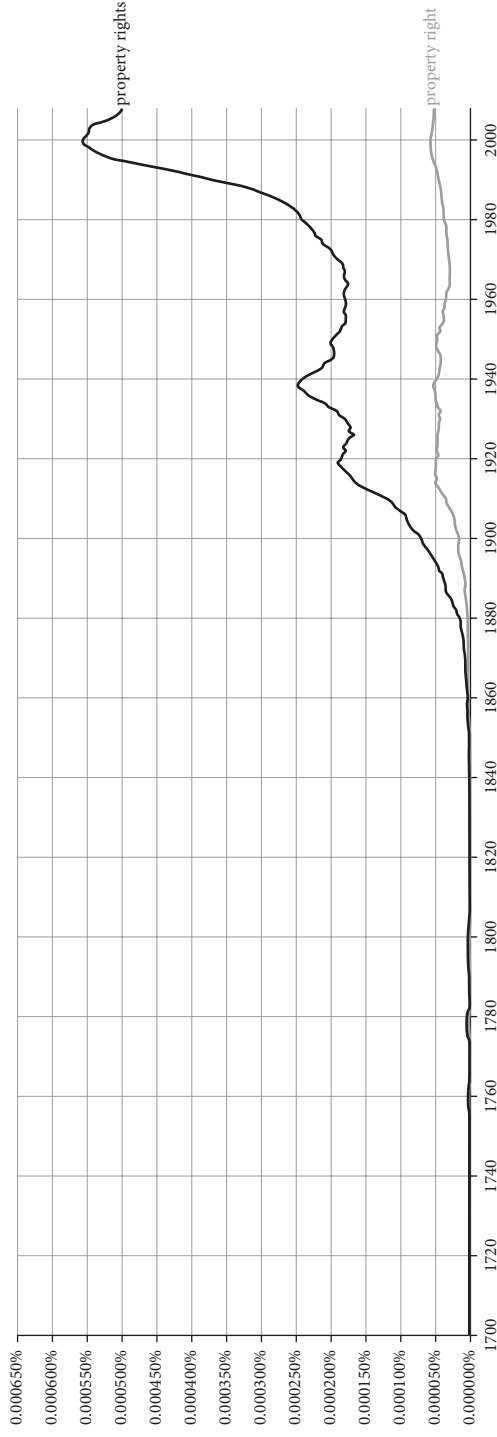


Figure P.1. Google Ngram of *property right* and *property rights*.

Source: Google Books Ngram Viewer (<http://books.google.com/ngrams>).