Killfile All the Lawyers?

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Cornell Computer Science Colloquium
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In the midst of the Industrial World, you weary giants of the past, I come from Cyberspace, the new home of Mind.

I ask you of the past to leave us alone.
A world without law?
I. Sealand

Sealand, HavenCo, and the Rule of Law
2012 University of Illinois Law Review 405
Two related questions

- What was HavenCo’s relationship to law?
  - National law
  - International law
  - Sealand law
- Why did HavenCo fail?
A paradox

• HavenCo existed to undermine national laws
  • “Our customers don’t want to break the law; they want a different set of laws they can comply with.”

• But it was completely dependent on international law
  • Otherwise, the Royal Navy could just blow it up

• These can be reconciled only if law is an autonomous system of binding rules independent of politics
Sealand law

- Sealand nationalized HavenCo
  - HavenCo couldn’t object without fatally undermining its claim to be free of national laws
- Sealand is a rule-of-law failure
  - An absolute monarch surrounded by courtiers
  - Frequent but irregular state violence
  - No judiciary, free press, political parties, etc.
II. Blockchains
The double-spend problem for land

• Alice owns Blackacre
• Alice conveys to Bob
• Alice conveys to Carol

Who owns Blackacre?
In 1250

• Alice conveys Blackacre to Bob by going onto the land and handing him a clod of dirt

• If Carol sues, a jury will be asked whether Alice gave Bob a clod of dirt

• (If Bob wins, Carol can sue Alice.)

• This is a distributed system with terrible records. Fraud and mistake are easy.
In 1650

• Alice conveys Blackacre to Bob by signing and sealing a piece of paper (a “deed”)

• If Carol sues, a jury will be asked whether Alice gave Bob a signed and sealed deed

• These are better records, but they’re still not great. Fraud and mistake remain easy.
In 1850

- Alice conveys Blackacre to Bob by signing and sealing a deed
- Bob then records the deed at the land records office: it’s bound and indexed
- If Carol sues, a jury will be asked whether Bob’s or Carol’s deed was recorded first
- Centralization creates better records.
“[T]he official records become an unimpeachable source of information about the status of land ownership; the law counts the record owner, and only the record owner, as the true owner. … The characters to muck up this crystalline system by now should be sounding familiar: ninnies, hard-luck cases, and the occasional scoundrels who take advantage of them.”
Anatomy of a land scam

- Alice conspires with Carol. Immediately after Alice conveys to Bob, she conveys to Carol, who records before Bob does.

- Or Dave searches for unrecorded grants, then swoops in and buys second but records first.

- Or Alice conveys to Eve first, but Eve waits to record until after Bob searches.
Result: recording first only helps the innocent

- Pure *race* statutes are the law in 3 states
- In the other 47, a subsequent purchaser with *notice* of a prior unrecorded sale takes nothing
  - This foils Carol and Dave and maybe Eve
  - But the records are no longer definitive
Other non-record risks

- Filing mistakes
- Indexing problems
- Forged deeds
- Fraud in the factum ("Sign this ‘petition’")
- Fraud in the inducement ("I’ll ‘pay’ $1M")
- Adverse possession
Blockchains are crystals

- Armor-plated against errors *in the blockchain*
- Brittle against errors *outside the blockchain*
Know-it-all contracts

• Smart contracts securely transfer digital assets to parties under specified conditions

• A blockchain can’t verify that a concrete foundation has been properly poured

• Most contractual complexity is an attempt to deal with the complexity of real life
III. Moderation

_The Internet Is a Semicommons_

_The Virtues of Moderation_
17 Yale Journal of Law and Technology 42 (2015)

_Anarchy, Status Updates, and Utopia_
35 Pace Law Review 135 (2105)

_No ESC_
The Recorder (Nov. 10, 2017)
Where is the Wikitorial?

Unfortunately, we have had to remove this feature, at least temporarily, because a few users submitted inappropriate material.

Thanks and apologies to the thousands of people who logged on in the right spirit.
The inevitability of moderation

- Congestion (DDOS)
- Cacophony (spam)
- Abuse (harassment)
- Manipulation (fake news)
Moderation is hard: Usenet

- Usenet distributed user communities (newsgroups) across infrastructure (servers)
- Neither newsgroup readers nor server operators were well positioned to fight spam
- Killfiles, cancelbots, private servers, and moderated newsgroups all failed at scale
- Big platforms have defensible boundaries
Moderation is hard: Reddit

- Reddit’s initial “constitution” was libertarian
- Subreddit moderators have near-absolute authority; offended users should leave
- But some subreddits were awful: /r/jailbait
- Others were bad neighbors: /r/The_Donald
- In response, Reddit has changed its content policies, its ranking algorithms, its harassment rules, its linking rules, its doxxing rules, its brigading rules …
Detailed Listing
Korfield (224,160) Moderate 3584m

Teleport to this location

Opening bid: LIN 1,800

My Maximum Proxy Bid: LIN

(Enter LIN 1,800 or more)

Place Your Bid

0 Bids

Price per m²: LIN 0.50

Open Date: Nov 14, 2017 12:00:00 PM PST

Close Date: Nov 16, 2017 12:00:00 PM PST

Note: Please ensure your computer clock is set correctly

Time Remaining: 1d 3h 9min 18s
CHESTER COUNTY COURT OF COMMON PLEAS
CIVIL COVER SHEET

1. CASE CAPTION: MARC BRAGG, ESQ. v LINDEN RESEARCH, INC., a corporation, and PHILIP ROSEDALE, an individual

2. PLAINTIFF(s): (Name, address)
MARC BRAGG, ESQ.
230 WEST MARKET STREET
WEST CHESTER, PA 19382

3. PLAINTIFF'S or (circle one)
DEFENDANT'S COUNSEL: (FILING ATTORNEY)
(Name, firm, address, telephone and attorney ID#)
JASON A. ARCHINACO, ESQ. (Plaintiff Counsel)
WHITE AND WILLIAMS, LLP
THE FRICK BUILDING, SUITE 1001
437 GRANT STREET, PITTSBURGH, PA 15219
(412) 566-3520 PA ID 76691

4. DEFENDANT(s): (Name, address)
LINDEN RESEARCH, INC. 1100 SANSOME STREET, SAN FRANCISCO, CA 94111

PHILIP ROSEDALE, 2717 PACIFIC AVENUE,
SAN FRANCISCO, CA 94115-1129

5. ARE THERE, ANY RELATED CASES?
(see C.C.R.C.P. 200B )
☐ Yes ☑ No
IF YES, SHOW CASE NOS. AND CAPTIONS:

6. IF THIS IS AN APPEAL FROM A DISTRICT JUSTICE JUDGMENT, WAS APPELLANT ☐ PLAINTIFF OR ☑ DEFENDANT IN THE ORIGINAL ACTION?

7. CASE CODE: ☑ 3 DESCRIPTION: (see reverse side) EQUITABLE RELIEF

8. IS THIS AN ARBITRATION CASE? ☑ Yes ☐ No YES JURY TRIAL DEMANDED
(Arbitration Limit is $50,000. See C.C.R.C.P. 1301.1)
The law of moderation

• Except for copyright and obscenity, platforms can do whatever they want

• Section 230: no liability for allowing user-posted content, and no liability for removing “objectionable” content in good faith

• Terms of service: “We can do whatever we want, and you agree to arbitrate all disputes.”
Threats

Global credibility standard - Details on method of violence

Details on method of violence that take the content beyond a generic threat of death or violence

Violating:
- I’m going to kill you John, I have the perfect knife to do it!
- Let’s destroy Paul’s car, I have baseball bats we can use!
- I’m going to slap John
- I’m going to shoot Paul
- Bomb the FB Dublin office

Non violating:
- I’m going to kill you John!
- Paul, you car is absolutely disgusting, I’m going to destroy it!
- Fuck off and die Kevin!
- Destroy the FB Dublin office

« I’m going to burn you »: look at the context (fire or making a fool of someone?)
The story of law (simplified)

- The king metes out justice as he sees fit
- The king delegates the work to his officials
- Clerks write out the same writs over and over
- Judges start following precedent
- The precedents are written down and codified
- The king can’t make arbitrary changes
The story of moderation (simplified)

- Zuck metes out justice as he sees fit
- Zuck delegates the work to customer support
- Customer support sees issues over and over
- Customer support starts following precedent
- The precedents are written down and codified
- Zuck can’t or won’t make arbitrary changes
Conclusion
Yes, law is an exercise of power and a mechanism for self-government, but it’s also …

I. A source of stability against arbitrary power
II. A repository of solutions to difficult problems
III. A set of institutions that provide consistency and adapt intelligently to unexpected cases
You can’t escape

- Every community depends on power
- Every community generates conflicts
- Law channels power and resolves conflicts

Those who cannot remember law are doomed to recreate it.