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Munger's Guide to the Merchant of Venditio: A Summary of Locke's Four Examples on Price

Bibliographic reference:

Locke, John. 1661 / 2004. "Venditio." Locke: Political Writings (ed. By David Wooton). pp. 442-446. Hackett Publishing. http://books.google.com/books/about/Political_Writings.html?id=WYXB2hV1AE4C

For more background, see:

Dunn, John. 1968. "Justice and the Interpretation of Locke's Political Theory." Political Studies. 16(1): 68-87.

Huyler, Jerome, 1997. "Was Locke a Liberal?" The Independent Review, Vol. I, No.4, Spring, pp. 523-542. http://www.independent.org/pdf/tir/tir_01_4_huyler.pdf

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In "Venditio," Locke asks what is the "just price," or the price a moral person would charge another. In effect, he is asking how much a moral person is permitted to charge. This question connects to a long literature interpreting Aquinas, who himself was interpreting both the Bible and Aristotle. For Aquinas's answers to similar questions, you should look at Question 77 from Summa Theologica, the "Treatise on the Cardinal Virtues," which you can find here: http://www.sacred-texts.com/chr/aquinas/summa/sum333.htm

Locke gives four examples, each (I think) intended to illustrate a particular point. Overall, I read Locke as advocating for the claim that the market price is the just price. Then the problem is to figure out what the market price is.

He is careful to claim that the market price requires many buyers and many sellers, a surprisingly modern insight. Then he argues that the particular circumstances of time and place (to paraphrase the much later argument of F.A. Hayek, 1945, which can be found here: http://www.econlib.org/library/Essays/hykKnw1.html) are both practically relevant and morally admissible. Finally, he takes up the question of what the market price might be when there are not many buyers and many sellers.

Example 1: Same Grain, Different Years. A man sold grain last year for 5 shillings per bushel. This year, grain (identical grain) is selling for 10 shillings per bushel. Locke says there is "no extortion" to raise the price to 10 shillings, and in fact it would be impossible to sell at 5 shillings, because other people would buy it at 5 and resell it immediately at 10. All that is required, according to Locke, is that we should sell to anyone at the same price, the market rate. He admits that the "natural value" of the wheat is unchanged. But the "political or marchand" value has changed, because the "proportion of the quantity of wheat to the proportion of money in that place and the need of one and another" has changed. On the other hand, if I charged different amounts to different people, making "use of another's ignorance, fancy, or necessity to sell [products] dearer to him than to another man at the same time, [I] cheat him." Locke thinks then that there is one price, the market price, at a particular time and place. And that price is always just. It is unjust, however, to use desperation or need, or wealth, as a way to charge different prices to different people.

Example 2: My Kingdom For THAT Horse! If the market for a product is thin, or the product is unique, then the seller must himself decide what the "market price" is. Locke imagines that a man has a horse, and is not interested in selling the horse. Another man sees the horse, and asks how much it costs. The owner says the horse is not for sale. But the buyer persists. Knowing the horse to be "worth" no more than 20£, the owner says, "40£." And this is an honest price: the owner really would sell for 40£. Not surprisingly, the buyer loses interest. Later that same day, the owner sees a man who desperately needs a good horse, right now. Locke says the man has "such a necessity to have it that if he should fail of it, it would make him lose a business of much greater consequence, and this necessity [the horse owner] knows." Having established that the owner would sell willingly at 40£, Locke asks if it would be just to sell now at an even higher price, 50£ or more. The desperate buyer might well pay even more, of course, because he must have a good horse right now. Locke answers that if the owner sells at more than 40£, he "oppresses [the buyer] and is guilty of extortion whereby he robs him of 10£, because he does not sell the horse to him, as he would to another, at his own market rate, which was 40£, but makes use of [the buyer's] necessity to extort 10£ from him above what in his own account was the just value, the one man's money being as good as any other's. But yet he had done no injury to [the buyer] in taking his 40£ for an horse which at the next market would not have yielded above 20£."

This is a fascinating claim, one that will surely provoke both free market puritans and market skeptics. The logic is that the seller need not take a loss, so the exchange must be voluntary. Having established that the man would happily sell at 40£, we know that price is fair from the seller's perspective. But having established that "market price," the seller must sell to anyone who offers that price, and cannot justly discriminate based on the lack of other options for a particular buyer. Remember, Locke's argument has two parts: 1. The market price is always just. 2. If there are many buyers and sellers, the market price is observable and objective. But if there is only one seller, then that seller must construct a hypothetical bargain under conditions the conditions for deriving a market price are met.

In this instance, the seller has determined a price at which he would happily sell. It is far above the "market" value of the horse, but the seller is entitled to his own subjective assessment of the value of the horse, and need not sell at the price that might offered at an auction. Requiring that he sell at the auction price is requiring a supererogatory action, a sacrifice or gift. This is not required by Locke, in a market setting. However, once that price of willing sale is established, the seller must imagine that there are many buyers, and cannot use desperation or dire need to extort a price higher than the price at which we have already established that he would happily sell.

Example 3: The Grain Merchant of Danzig. A merchant in Danzig (Gdansk) has two ships loaded with "corn," which at the time Locke was writing as a generic word for grain. Imagine there are two ports where the ships might be sent: Ostend, where the market price for grain is 5 shillings per bushel, and Dunkirk, where the price is 10 shillings. The reason the price is higher at Dunkirk is that "there is almost a famine for want of corn." What should the merchant do?

The answer is that if ship is sent to Ostend, it should sell for the market price there, 5 shillings, and if a ship is sent to Dunkirk it should sell for the market price there, 10 shillings. Does the merchant act badly, if he chooses to send his ships to the port with the higher price? No, even though he is in a way taking "advantage" of the greater need in Dunkirk, provided that he sells at the market price in Dunkirk. In other words, he must sell to anyone in Dunkirk for the overall market price of 10 shillings, rather than to try to find the most desperate starving people and sell to them for 15 or 20 shillings.

Locke says "he that sells his corn in a town pressed with famine at the utmost rate he can get for it does no injustice against the common rule of traffic, yet if he carry it away unless they will give him more than they are able, or extorts so much from their present necessity as not to leave them the means of subsistence afterwards, he offends against the common rule of charity as a man." This is complicated; let's try to untangle it.

First, if he happens to send his ship to a port where there is a famine, and the people there have no money, charity (not market logic) may require that he give the grain away. It would be wrong to "carry it away" when people will die as a result.

Second, if people do have money, and there is an active market, he is fully justified in charging and receiving the market price, even though it is higher than at other ports where starvation is not imminent.

Third, combining these two imperatives, Locke appears to find a moral obligation to sell at the market price. The owner of grain does not have the option of refusing to sell, and he must not try to charge more than the market price. He is obliged to sell, just as a man with a life ring is obliged to throw it to a drowning person.

Taking these together, Locke is claiming that there is *no market obligation to sell at less* than the prevailing price (though there may be a *charitable* obligation to give it away, which is a different thing). And there is *no moral right to sell at more* than the market price. Therefore, the just price is precisely the market price, no more and no less.

Locke nails this down by pointing out that "if a Dunkirker should come to [Ostend] to buy corn, not to sell to him at the market rate [of 5 shillings] but to make him, because of the necessity of his country, pay 10 shillings per bushel when you sold to others [in Ostend] for five, would be extortion." What this means, of course, is that there is a tendency for the price to equalize as fast as first information, and then grain, can travel. Knowing that the price is lower in Ostend, grain will move from Ostend to Dunkirk, alleviating the famine in Dunkirk and raising the price in Ostend. Selling grain to a Dunkirker, in Dunkirk, for 10 shillings is not extortion, because everyone is paying 10 shillings in Dunkirk. But selling grain to a Dunkirker for 10 shillings in Ostend, just because he is from Dunkirk and needs the grain more, is extortion because you would sell to anyone else in Ostend for 5 shillings.

Example 4: Anchors—A Way. This is the most difficult example, and the one that causes the most disagreement in interpretation. The facts are simple: one ship in the open ocean comes upon another ship. Both ships are fully functional, in terms of sea-worthiness, crew, sail material, and rudders. But one ship has lost all its anchors in a storm. The other ship has "an anchor to spare," according to Locke. Whether that means the ship has two anchors, or five, is not clear. Let's assume it has two anchors, because that makes the whole thing simpler. And let's call the ship with an anchor "to spare" the seller.

A side note: A sailing ship with no anchor, in an era of dead reckoning navigation, is in big trouble. The ship can go, but it cannot stop. And if the ship is ever to approach shore, or spend a night near shore, or have a storm pass over, then the likely result is a wreck with the loss of the ship, the cargo, and all hands. At best, the captain might have to run the ship aground intentionally to avoid having it break up on rocks. Consider this account, from Judd (2009: 258):[1] "The James lost all its anchors and was blown toward Picataquam. When it was within 'a cable's length' of the rocks, the wind reversed direction and drove it back toward the Isle of Shoals, where it was almost smashed to pieces again. Fortunately, the wind died…" A ship without an anchor might force its captain to consider paying up to the value of the ship, and the lives of the crew, and the cargo.

Recognizing this, Locke asks:

> "What here shall be the just price that she [the seller] shall sell her anchor to the distressed ship? *To this I answer the same price that she would sell the same anchor to a ship that was not in that distress. For that still is the market rate for which one would part with anything to anybody who was not in distress and absolute want of it.* And in this case the master of the vessel must make his estimate by the length of his voyage, the season and seas he sails in, and so what risk he shall run himself by parting with his [extra] anchor, which all put together he would not part with it at any rate, but if he would, he must then take no more for it from a ship in distress than he would from any other."

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[1] Source: Judd, Peter H. 2009. Four American Ancestries: White, Griggs, Cowles, Judd, including Haring, Phelps, Denison, Clark, Foote, Coley, Haight, Ayers, and related Families , Aardvark Global Publishing.

Isn't that interesting? The seller captain has to think honestly, just as the horse seller did, of the price that would make him content with selling the anchor. Locke here compresses the two parts of the consideration, which in the horse-trading example were separate. For the horseman, the first step was to think of what price he would accept for a good horse, and then later he encountered someone else who desperately needed the horse. For the anchor, the captain is being asked to be honest and fair, trying to imagine what price he would accept for the anchor. Locke notes that he might not choose to sell, because an extra anchor is very valuable. But if he does sell, he *cannot take into account the desperation of the buyer*, but must sell as if there were other buyers available who were "not in distress and in absolute want of it."

The hypothetical bargain here is explicit: the seller must imagine that the buyer already has one anchor. Then the question is what price might the seller ask, and the buyer pay, for what for each of them would be a second anchor.

There is a potential problem with analysis, though it is not clear that Locke means just what I have attributed to him in other research.[2] The problem is best illustrated with an example, one that is not Locke's but mine.

Clearly, Locke's captain is not morally obliged to sell the anchor. The anchor is valuable, and anchors were often lost. But if the captain is to sell the anchor, he must do it under the terms of the hypothetical bargain that assumes the other ship has an anchor. The problem is that elevating the bargaining position of the other captain may well make that other captain worse, because a mutually beneficial bargain is now ruled out.

Imagine that the buyer would pay up to 2000£, a very high value, for a first anchor. But if the ship with no anchors had one anchor, the most he might pay for a second anchor is 500£. The seller, whose ship is larger and more valuable, performs the calculation that Locke requires of him, and "make[s] his estimate by the length of his voyage, the season and seas he sails in, and so what risk he shall run himself by parting with his [extra] anchor." The seller decides he would happily part with the anchor for 750£.

It is clear that a mutually beneficial exchange is possible. The seller would sell for 750£, and the buyer would pay up to 2000£.

However, the seller has read Locke, and knows that morality requires that he change the original bargaining setting. The seller must not sell for a higher price than if the other ship were "not in that distress." The seller reflects and recognizes that if the buyer had one anchor, the most he would pay is 500£. Since the most that the buyer would pay in the hypothetical bargain is less than the seller would accept, no moral transaction is possible.

The seller turns down the "offer" made by the buyer, in the hypothetical bargaining setting, and starts to sail away with both anchors.

Of course, the buyer thinks the seller is insane! The buyer runs along the deck of his ship as the

[2] For example, in Guzman, Ricardo A. and Michael C. Munger, 2012, "An Analytical Theory of Just Market Exchange." Otto "Toby" Davis Lecture, George Mason University, October 18, 2012.

seller passes, shouting, “I’ll give you £1000! What, a thousand? Did I say a thousand! Twelve hundred! I’ll pay £1250! £1500! Come back! I desperately need that anchor! My crew and I may die!”

Locke’s seller may have run aground, of course, on the shoals of the “non-worseness” principle. It would seem odd (and perhaps even cruel) to claim that because fairness requires that only “just” exchanges are allowed, an exchange that would benefit the other captain is ruled out, *when a mutually beneficial exchange was in fact possible*. Of course, it is possible to read this final example of the anchor in just the same way as was intended for the horse. Once the price is decided, the seller must charge no more than that price to anyone, even if they are in distress and would pay a great deal more. But that is already established in the horse-trading example.

I want to raise the possibility here that there is at least an ambiguity in the claim that it is wrong to charge more to someone in distress, if by refusing to do that a mutually beneficial exchange is ruled out. What I mean is something like this: I think sweatshops are wrong, so I refuse to buy from sweatshops. But that means that the people employed in the sweatshops lose their jobs. I get to satisfy my own moral intuition that sweatshops are wrong, but at the price of material harm to the very people my moral intuition is supposed to protect.

More generally, suppose that, in order for the stronger party to act morally, the weaker party must actually be harmed in some material sense. This possibility is accounted for by the “non-worseness” principle, described by Zwolinski (2008) interpreting Wertheimer (1996).[3] Zwolinski describes non-worseness this way: “In cases where *A* has a right not to transact with *B*, and where transacting with *B* is not worse for *B* than not transacting with *B* at all, then it cannot be seriously wrong for A to engage in this transaction, even if its terms are judged to be unfair by some external standard.” (p. 357).

Presumably, moral considerations require the stronger party to elevate the bargaining status of the weak, out of concern for the welfare of the weak. But then it would seem odd if this moral imperative cause substantial net harms to those very same weaker parties. In other words, there are problems with a moral requirement to help the weaker party that, given the chance, weaker parties would have preferred to have been exempted from.

My thanks to Dr. Ruth Grant for suggesting that I would be interested in Venditio. She was quite correct, in this as in all things. And thanks to Dr. Russ Roberts for being a close reader of texts, in this as in all things. Thanks, Ruth and Russ!

[3] Wertheimer, A. 1996. *Exploitation.* Princeton, NJ: Princeton University Press; and Zwolinski, Matthew. 2008. "The Ethics of Price-Gouging." *Business Ethics Quarterly*. 18(3): 347-373.