

PROPERTY

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CLASS 6:
PERSONHOOD

Class Outline

- Property and the Human Body
- Rights of Publicity

“...all ships and merchandise, of what nature soever, which shall be rescued out of the hands of any pirates or robbers, on the high seas, shall be brought into some port of either state, and shall be delivered to the custody of the officers of that port, in order to be taken care of and restored entire to the true proprietor, as soon as due and sufficient proof shall be made concerning the property thereof...”



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“...every man has a property in his person: this no body has a right to but himself. The labour of his body, and the works of his hands, we may say, are properly his.”

--Locke, Second Treatise on Government (1691)

“There shall never be in this state either slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted.”

Property Rights in Body Parts

Res nullius (not
the subject of
ownership)

“Property lite”
(entitlement)

Property only once separated
from the body (Moore)

Property subject to restraints (yours
but you can't sell it)

Full blown property (buy, sell, lease, gift)

The Right of Publicity: Privacy Right or Property Right?

Courts who take the privacy view consider the right of publicity to be “personal” in nature, and thus incapable of surviving death.

Alternately, courts who view the right of publicity as a property right are more likely to allow post-mortem claims, since they can survive the person.



Ula Hedwig, back-up singer












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