



You & Yours

Personhood and Property

Simon Cushing

Phables

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series edited by

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Summary

A dialog amongst popular theories of personal identity set against a court battle over inheritance, with a little bit of science fiction thrown in.

Aknowledgements

Versions of this were presented to audiences in Florence and Flint, which just about covers all bases.

Biography

Simon Cushing is the editor of anthologies on *Love* and *Heaven* and a co-editor of *The Philosophy of Autism*. He is also a published poet (Milverton Weekly News, 1979).

You & Yours

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Picture this: you and your wealthy brother are out walking in the wilderness. You're idly considering pushing him off a cliff or into some handy bog, because you happen to know that he has no will and you'll inherit everything as his only living relative, when you both see a bright light in the sky. Something hurtles through the clouds and crashes over the next hill. You both approach cautiously to see what appears to be for all the world like an alien spacecraft. As you get nearer, a door slides open in the side. With your bolder brother in the lead, you enter. Inside it appears curiously empty. No sign of life, just a small platform with what looks like controls on a raised dais next to it. Again your brother takes the lead (how you hate him!). He stands on the platform and reaches out and presses several buttons on the control panel. Suddenly there is a loud popping noise and your brother's clothes, even his beloved red "Make America Great Again" hat, drop to the floor, empty of sibling. Too astonished to realize your wish has been granted, you are about to run out when you hear thumping behind what you now see is a door on the far side of the craft's interior. Nervously you approach it and see that there is a button on

the side. More in a trance than brave, you press the button. It slides open, and there is your brother – stark naked, but exhilarated. “That was AWESOME!” he says. “I teleported!” Before you can get a word in, he says “I’m going to do it again!” and dashes over to the platform. He pushes his clothes aside and mashes the buttons on the controls. This time, there is a flash but no noise, and your brother doesn’t move. But nonetheless, again you hear banging on the door next to you. You open it again, and there’s your brother, with a goofy grin until he sees his doppelganger. “Who the fuck is that?” they both say at once, coarse and uncouth as ever.

As your now twin brothers start to squabble over who gets to wear the clothes, thoughts race through your head. At first, you are hit by disappointment. Not only did your brother survive, now it’s going to be twice as hard to get rid of him. But then, suddenly, your mood improves dramatically. You will get what you want without getting your hands dirty! Because your brother no longer exists. At least, according to the general consensus in the literature on the preservation of personal identity over time. The reasoning goes like this. Let’s call your original brother, pre-teleportation, A and the two current versions B and C. We have the following options: first, both B and C are A. Second, just B is A and C is not. Third, just C is A and B is not. Fourth, neither B nor C is A. The first one is a non-starter: they can’t both be your brother – you only have one. Furthermore, by the logic of identity if $B=A$ and $C=A$ then it follows that $B=C$, but as B and C are currently fighting with each other, that is obviously not the case. The second and third options are of a piece: if B and C are identical, then each has equal claim to be your brother, so it would be simply arbitrary to pick one and not the other. So that just leaves us with the fourth option: neither B nor C is A. So your brother has ceased to exist, and you are safe to claim his inheritance as his sole family member.

You put this to the squabbling B and C, and, no surprise, they are having none of it. One of them, who has managed to grab the underpants and T-shirt, pipes up first. “But I’m the original! I was standing on the pad the second

time when I pressed the button and suddenly that guy appeared in that little room over there! He's obviously a copy! I never moved!"

At this, the other one, currently clad in shorts and a MAGA hat, looks blindsided, but then turns on him and says "I'm the original! Prove I'm not! You can't, can you? Every scar or mole you've got, I've got too. Even the tattoo of Pepe the Frog on my left buttock." "What matters is who was by the control panel when the other one - you - appeared in that room," says the one we shall call "B" - "and the fact that I got my underpants on proves it was me. Nobody would reach for anything else first, so the fact that I got them proves I was closest to the pile of clothes!"

It's your turn to smile smugly at this point. "Look, you may be right. But it turns out it doesn't matter. You both seem to agree that the person who popped into existence in the little room is a copy and not my brother. But you both did that, remember? The button was pressed twice."

B is outraged: "But the first time doesn't count! I teleported then! That's not the same! My body was moved - his body was just made from scratch!"

You reply: "Think about it: if a body can be made from scratch once, then that's almost certainly what happened both times, right? Otherwise where did the copy come from - what material was used to make it - I mean him. And look at all the dust you've stirred up fighting over your clothes. I'm willing to bet that's all that's left of my brother. My dear, dear, departed brother..." At this you stifle a sob, but when you look up, both brother-copies are looking at you with open contempt. It's pretty obvious they know what you're up to.

Cut to a courtroom, a few weeks later. The twins are representing themselves before a judge. Your lawyer presents your case first.

"It is our contention that the two people in court today who resemble my client's brother Horace Dent are, in fact, clones, produced in some mysterious

way by alien technology, who merely believe themselves to be Mr. Dent. There is no precedent in law for what happened, but we argue that neither resembling a dead individual nor believing oneself to be him thereby makes oneself that person, however vividly one does so. The individuals before us are like unfortunate newborns, convinced they are somebody they cannot be. Nonetheless, my client has generously offered to give each one a yearly stipend of \$50,000 in the memory of his dear departed brother whom they so closely resemble.”

In response, brother B (underpants brother, now wearing a grey suit) speaks first. “Your honor, first, let me introduce myself. I am Horace Dent. My greedy brother here is trying to argue that the fact that there are two of us means that neither can be the original. In response I will argue that (1) I am the original brother, who (2) teleported a brief distance because of the alien technology you see before you” (the dais and a floor panel from the little room have been set up in the courtroom as exhibits), “but (3) my doppelganger over there” (pointing to C, who has lost the MAGA hat and is wearing a blue suit) “is a mere copy.” (At this, C is clearly struggling to keep quiet, but manages to do so.) “The fact is, if I’d never pressed that button a second time, nobody would question that I am indeed the original person. I understand that my doppelganger’s situation is a strange one, as he is, in effect, a creation of alien technology who believes himself to be me, but his existence must be irrelevant to the question of whether or not I am who I say I am. And there can be no doubt that I am indeed that man. Put yourself in my shoes. Suppose somebody questioned whether or not you were who you said you were – how would you prove it? Well, any standard you can come up with – fingerprints, retinal scan, obscure memory of your past that only you could know – I can use to prove that I am the same person who went into that alien craft.”

C can contain himself no longer: “Hey, bad news buddy – same here!”

B snaps back: “But here’s the thing: the argument being used to prove that Horace Dent doesn’t exist any more requires that there be two of us. And for

your entire existence, I already existed, so the argument works on you. BUT, even if you say that I “came into existence” when the button was pressed for the first time, from that moment until the button was pressed a second time, I existed alone. So for that length of time, the argument doesn’t work against me, and by any standard, I’m Horace Dent. And if I was Horace Dent at any moment, then I can’t stop being Horace Dent just because some machine makes a copy of me! So, I rest my case: I’m the original, you’re a copy, and my slimy little brother has to come up with a new argument to get his paws on my money.”

Your lawyer has a rebuttal ready. “Your honor, scientists have examined both these gentlemen and this device that was responsible for their existence and are convinced that the two people in this courtroom do not share a single atom with the individual who walked into that alien craft and activated this machine. The device appears to create a complete, admittedly perfect copy, identical in every physical and psychological respect to the original. Both these men are its products, the only difference being that the first time it was used it also destroyed the original person. This gentleman (B) contends that he is our client’s brother. If that were so, he would share atoms with the man who existed before the machine was activated, and he does not. “Teleportation” is a fanciful myth – all we have here is destruction followed by the construction of a simulacrum.”

Brother B responds: “Your Honor, there’s no way we can know that for sure. First of all, the technology is too complicated. For all we know, when I pressed the button for the first time my particles were literally moved and the dust in my clothes was just some kind of residue. Another possibility was that the machine performed a process like a cell dividing, so that every one of my cells was cloned and then whisked across the short distance between the pad and the room I emerged from. And finally, we know that it is possible to maintain identity without sharing any cells in common, because you are certainly the same person as you were as a baby, but we all know we replace all of our cells in a 7 or 8 year period.”

The judge seems about to say something when Brother C jumps in: “I like your thinking, mirror-me! You make it sound like I am an outgrowth of you. By your cell-division reasoning, we are offshoots of the same individual. If you replicated the original version of Horace Dent, then I replicated you. Guess what? Just as you remember being Horace Dent, I remember being you. I have vivid memories of pressing the button both times. You could think of us as like those cases when they severed the corpus callosum connecting two hemispheres of the brain together and discovered that they had independent consciousnesses. The only difference is our two consciousnesses aren’t stuck in the same skull – we can walk around separately.”

Brother B looks livid at this interruption, especially when your lawyer pounces: “Your honor, I contend that such a scenario would be more like an amoeba splitting, which is a real-world phenomenon. The philosopher Fred Feldman argues that in such a case the original amoeba no longer exists. The two new amoeba are new individuals. He says that this is a case where the original did not die, but nonetheless made what he calls a “deathless exit” from this world.”

Both B and C open their mouths to object to this but the judge slams down her gavel. “Enough! I rule that the two identical individuals before me must work together! They were both brought into being by the same contraption, admittedly mysteriously, and so there is no future in arguing that they be regarded differently under the law. Court is adjourned for today.”

The next day comes and the brothers seem to have struck an uneasy alliance. Brother B, again wearing grey, speaks first.

“Your honor, I would like to argue that both of us are distinct individuals, and yet both of us share equal claim to count Horace Dent as our earlier self. While this might seem to violate the rules of identity, my argument will draw from the writings of the philosopher David Lewis...” (at this, your

eyebrows shoot up: you have never known your brother to read anything except the Wall Street Journal and possibly Golfing Weekly before – clearly the alien technology has introduced some drastic personality changes – that or the potential to lose out on money) “who argued that we should look at individuals not as three dimensional beings, but as four-dimensional. By his reasoning, when I” (brother C interjects “we” – B frowns and ignores him) “when I pressed the button for the second time, that marked the end of the person-stage (which began at my conception) that I shared with (gesturing to C) him. Think of that moment as a fork in the road. Just as there is a stretch of freeway in my home state of Michigan that is both interstate 75 AND interstate 23, so this first section of my life was both me and my lookalike here. However, now we no longer share a body. Nonetheless, the fortune that our wastrel younger brother is endeavoring to steal from us belongs entirely to the two of us, distributed in proportions that we will settle amongst ourselves once this farce is over.”

The judge looks puzzled. “Are you saying you – or rather, Horace Dent - had a split personality the whole time?”

“Not really, Your Honor: think of it like a pair of conjoined twins who share certain organs, say heart and lungs. You don’t think of the heart and lungs having “split personalities” – they’re just individual organs used by two people. But in our case, we are two four-dimensional beings who share a temporal part rather than a physical part. The part we shared existed from 1965 until the button was pressed that produced my identical counterpart here.”

Your lawyer speaks up now. “First of all, not everyone accepts this idea of “temporal parts.” But second, David Lewis never really addresses the issue of what conditions are necessary to preserve identity. It is our contention that whatever the machine did in creating both these gentlemen, one thing it did for certain was kill our client’s brother. Yesterday, one of these gentlemen (I forget which) tried to argue that because we change all our cells over a

years-long period, that sharing cells is not important for identity. But that's obviously not true. You can rebuild a boat plank by plank, but if you get rid of all of the planks at once and then build a boat that looks like the original out of entirely new wood, you have a new boat and the old one is gone. But even if these gentlemen were produced by some kind of cell division, we have precedent for arguing that the original no longer exists. Even some Catholic theologians who want to place the existence of an individual as early as possible have conceded that the phenomenon of twinning means that life cannot begin at conception. They argue that, for as long as it is possible for an embryo to divide and become twins an individual cannot exist, because that would mean that both individuals could lay claim to existing prior to the division, and this is intolerable. And for good reason! Let's be clear about what this gentleman is arguing! The claim is that Horace Dent was somehow "part" of both of them, which implies that he was always two people, and yet never knew this! Think of the implications! If we establish a precedent whereby the property of one individual can become the property of two new individuals because of a claim of "shared person-stages" what kind of floodgates would that open? How are we to know whether or not these new individuals won't split again? Suppose somebody claims to be a future "person stage" of some currently existing individual and demands a share of their money, citing alien time-travel technology. For all we know, there really might be such technology – but should we allow that in the law?"

The twin brothers grow more and more incensed as this speech goes on, and finally Brother C explodes: "But it was me who made that money! It was me who pressed the button on that damn machine! I know in exactly the same way you know that it was you who walked into this courtroom half an hour ago – I remember doing it. Why do you think you own that nice watch you're wearing? Because you remember buying it, right? With money that you earned, right? But how do you know you earned it? Exactly the same way I know the money that my no-good little brother is trying to steal is mine! Yes, something unprecedented happened to me – so what? For all you know God is remaking you every instant. The you that is standing there could just be an

identical copy of the you that was standing there a second earlier. How would you know? The fact is, it doesn't matter, because memory is what matters, as John Locke argued centuries ago. For all of us our only real evidence that we existed yesterday is that we remember doing so. Well, both me and my counterpart have just as vivid memories of pressing that button as you do about anything in your past. How would you feel if your brother came up with some trumped up reason why you don't own your nice watch just because he wants it for himself? The only argument in defense of stealing MY MONEY is the old, A can't be both B and C if B does not equal C argument. But why should that matter? When my counterpart here was the only one, hardly anyone would've questioned that I had survived. But as soon as there's two of us, suddenly it's a problem. But why should double success suddenly count as failure? If we drew straws and one of us committed suicide, would that make you happy? Why should we be bothered about the logic of identity?"

Your lawyer smirks a little (and you are suddenly less resentful of her exorbitant fee): "I see you are using Derek Parfit's argument that "identity is not what matters." As you say, he suggests that if we would count either one of you as a continuation of my client's brother, then we should be doubly happy if both of you exist. But I doubt if you really want to set up shop in Parfit's camp. For one thing, you should know that he and your clone's favored David Lewis had some disagreements. For a second thing, he tended to allow that survival required continuation of the same brain, something we have great reason to doubt, especially in your case, as the original brother only had one brain. Furthermore, Parfit had some very radical beliefs. He thought you owe more to somebody just like you existing now than you do to what we would normally think of as "you" in the past. And vice versa. So how are we to know that the earlier iteration of my client's brother, the one who earned the money, would want either of you to have the money?"

"It's true!" you pipe up, "He used to be cool! He got rich off a stupid startup and suddenly started watching Fox News and it rotted his brain! The brother who had the idea that made him rich would hate what he became!"

Your lawyer frowns, but Brother C pounces: “HAH! You said I became. So, one, this is me, and two, I was just like this before we ever came across that stupid spaceship or whatever it was. And screw that other stuff, let’s focus on the “identity doesn’t matter” part. We all agree that what matters is preservation of memories, personality and all that. Well, they’re preserved perfectly. Ask me anything! I’ve got plenty of embarrassing stories about that little snot, for starters!” (He points at you.)

“But qualitative identity is not enough!” interjects your lawyer. “Numerical identity is what matters, and obviously you can’t both be the brother, and, as we have already said, any reason for denying that one of you is can be applied to the other. In fact, what you both are is walking examples of identity theft. Not only are you impersonating my client’s brother in a very upsetting fashion” (at this point you turn to the judge and try to look devastated) “you have made repeated attempts to access his money using passwords and pin numbers that were his confidential property.”

Brother C gets positively apoplectic at this point. “HOW CAN YOU ACCUSE ME OF STEALING SOMETHING THAT’S EMBEDDED IN MY MIND!?”

The lawyer retorts, “Admittedly it is not your fault that that information was put in your mind, but the fact remains that it was put there by alien technology. If your bank accidentally transferred millions of dollars from, say, Bill Gates’s account into yours, that doesn’t make it yours. And if, knowing that it is not yours, you nonetheless start acting like it is yours and using it, then you are guilty of trying to get away with theft.”

Brother B interjects: “But look, you’ve got me, us, caught in a Catch-22. We know that we are the person who made this money and put it into these accounts because we remember doing it and we remember setting up the passwords! We know the reason why we chose those passwords. Nobody else, not even the bank knows that! Only we do! But you’re saying those

very memories aren't ours and that therefore we must have come by them perniciously. But why aren't they our memories? I contend you're working with outmoded intuitions. Suppose our scientists work out how this alien technology works and learn how to use it. Suppose we all have memory-copiers built into our beds when we sleep. Then, one day, a brick falls on your head and you get total amnesia. But then we use the complete copy of your memories from the night before and restore you to the state you were before the brick. Nobody would deny that you were entitled to those memories, despite the fact that they were "put there because of alien technology," would they? So I say how the memories arrived in my head make no difference to whether or not they're mine. What makes them mine is that I made them. I own them because I produced them!"

This time the lawyer pounces: "You're arguing in a circle! You're saying that you produced them, but the real person who produced them stopped existing when that button was pushed, and you assume you're him because you have his memories. The most we can really claim is that he produced you when he pressed that button."

Brother C, who has calmed down a bit and has been listening intently, butts in: "Wait a minute: you say my past self "made" the two of us by pressing that button" ("No, just me" mutters Brother B) "then how is that different from how each of us "makes" our future selves merely by existing? I mean, the only reason you exist right now, standing there, is because your past self existed a moment before to cause your current self to come into existence. We just went about it a different way, but as my counterpart here just argued, the involvement of alien technology shouldn't alter the underlying facts. We're just trend-setters! In the future everyone will make copies of themselves before they take flights or have operations just to be safe in case something happens to the original. And science fiction aside: a lot of people believe that a perfect version of them appears in Heaven, complete with all their memories, the moment they die, despite the fact that their body, 100% of

it, stays put on Earth and starts to smell bad. Are you going to establish the impossibility of an afterlife by legal fiat?”

Brother B chimes in: “You can’t just leave us in legal limbo, your honor! And if that lawyer is right and Horace Dent created us, then even if you don’t agree that at least one of us (me) is Horace Dent, we are at least “his” dependents. And if Horace Dent (again, me) is declared dead, shouldn’t his money go to his closest relatives? Well, you don’t get any closer than fucking identical! I still say I am Horace Dent, but if not, I’m either his child or his twin/triplet, and either way I take precedent over that thieving little jerk!” (pointing at you).

Just then, the judge raises her hand for quiet. “This is all very interesting. I must say I am finding our twin litigants’ arguments rather compelling. However, I am unable to get past the fact that there are two of you. To my mind, the presence of the second, duplicate, goes a long way to undermining both of your cases, both because he undermines the logic of identity but also because his existence implies that his twin is also a copy rather than the original brother magically whisked through space.”

Brother B has suddenly begun to look very thoughtful. He speaks up: “I would like to convene briefly with my co-litigant outside, please Your Honor.” Brother C does not seem happy with this and you watch them arguing vociferously, and continue to hear them through the open window of the courtroom as they get to the parking lot. Then there is the sound of a car door slamming and suddenly a shot rings out. You run to the window to see Brother B standing over Brother C with a smoking gun in his hand. He looks up to see the three of you staring at him and waves back, cheerfully. Stunned, your lawyer mutters, “well, so much for Parfit’s idea that you care most about people just like you.” Brother B then returns the gun to his car and comes back into the courtroom. “Did I just witness a fratricide or a suicide or both?” asks the Judge, drily. “Or did you just kill a dependent?” “I prefer to think of it

as an... amputation, Your Honor” says Brother B contentedly. “Now, what was it you were saying about finding my arguments rather compelling?”

The judge stares at him open-mouthed. Eventually she regains her composure. “The death of your lookalike cannot affect your status, other than, of course, to render you guilty of murder. If an amoeba splits and then a second later one of the resulting amoebas die, that doesn’t make the remaining one suddenly revert back to being the original, does it?”

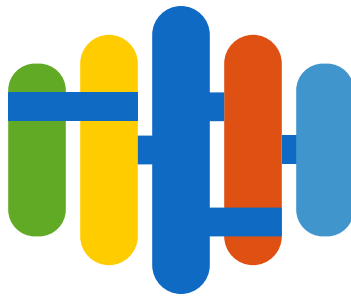
Brother B looks earnest: “That’s entirely up to you, your honor. Surely this is a legal matter! If the Beatles split up in 1966 and John and George went one way and Paul and Ringo went the other, then neither pair could claim to be the Beatles. But then if John and George died in 1967 and Paul and Ringo wanted to release records under the name The Beatles, surely a court could make that happen? It happens with groups all the time – The Rolling Stones survived the loss of Brian Jones and Bill Wyman.”

“You’re pushing your luck, sir. Human beings are not conglomerates! In fact, I have made my decision: neither you nor that unfortunate corpse outside are Horace Dent. Horace Dent ceased to be at the moment he pressed the button on that infernal thing” (pointing at the dais). “However, just to let you know what your evil action has cost you: I decree that you both were nonetheless entitled to $\frac{1}{3}$ of Dent’s fortune, with the remaining $\frac{1}{3}$ going to Dent’s younger brother here. All that has changed in light of your cold-blooded act of butchery, however, and you will likely lose control of any of Dent’s fortune as a result.”

A strange look flickers across B’s face, as he seems to be simultaneously taking in this news and looking for loopholes. Suddenly, he vaults into the center of the court and lunges at the dais. In a flash and a pop, a grey suit flutters to the floor and there is... well, somebody standing naked on the floor panel that had been in the little room in the alien craft. He radiates smugness as he strolls over to the pile of clothes and begins to get dressed. The judge,

however, is furious: “And just what did that little stunt accomplish, may I ask?” she says acidly.

“I’ve just saved the legal system a great deal of money,” says the new Horace Dent clone. “The murderer of my poor unfortunate doppelganger out in the parking lot has been disposed of, so there is nobody to put on trial let alone execute or imprison. He’s gone. You yourself just decreed that use of this device destroys a human. I, meanwhile, am an entirely new being, as innocent as a new-born babe. Granted, I am a little traumatized by the memories I have of shooting someone who looked just like me, but I comfort myself with the words of my brother’s lawyer here, who argued that those memories were placed there by alien technology, and therefore just a tragic burden I have to bear rather than an indication that I did anything I should regret. But back to the business at hand: I believe I heard that I will be getting $\frac{2}{3}$ of Horace Dent’s fortune?”



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