One of the most important and controversial illustrations of the legal construction of privacy has been the development and elaboration, under American constitutional law, of the constitutional right to privacy. My argument concerning this development will proceed in two stages. First, I will critically discuss the main lines of this development, focusing on the case—the application of the right to gay/lesbian sexuality—that remains most controversial. Second, I will develop a normative argument that connects this development to important features of political liberalism, including the place of private spheres in liberalism's conception of just government.

The Development of the Constitutional Right to Privacy

In 1965 the Supreme Court of the United States in Griswold v. Connecticut (381 U.S. 479) interpreted the constitutional right to privacy as the basis for a right to contraception that had been persistently and eloquently defended and advocated by Margaret Sanger for well over 40 years (a decision Sanger lived to see; see Chesler, 1992: 11, 230, 376, 467). The court extended the right to abortion services in 1973 in Roe v. Wade (410 U.S. 113) and reaffirmed its central principle in 1992 (see 505 U.S., 112 S.Ct. 2791; 120 L.Ed.2d 674, 1992). The court narrowly denied the application of the right to consensual homosexual sex acts in Bowers v. Hardwick (478 U.S. 186, 1986), but the legitimacy of that decision is now in real doubt in light of a later decision that found state
constitutional provisions that forbade all laws protecting gays and lesbians from discrimination an unconstitutional violation of the right to be free of dehumanizing prejudice (see, for example, Romer v. Evans, 116 S.Ct. 1620, 1996). The more reasonable and persuasive view of this matter is that forthrightly taken by the European Court of Human Rights, which has found laws criminalizing gay sex to be unconstitutional violations of the applicable guarantees of the right of private life.¹ I develop and explore here the normative argument for the protection of such a right to intimate life, and its reasonable application to contraception, abortion, and, most recently, gay/lesbian sexuality.

Sanger’s argument for the right to contraception was very much rooted in rights-based feminism (see Richards, 1998: 178-81). Her argument had two prongs, both of which were implicit in the Supreme Court’s decisions in Griswold and later cases: first, a basic human right to intimate life and the right to contraception as an instance of that right; and second, the assessment of whether laws abridging such a fundamental right met the heavy burden of secular justification that was required.

The basis of the fundamental human right to intimate life was, as important American feminists had argued in the nineteenth century (see Richards, 1998, chap. 4.), as basic an inalienable right of moral personality (respect for which is central to the argument for toleration) as the right to conscience. Like the right to conscience, it protects intimately personal moral resources (thoughts and beliefs, intellect, emotions, self-image and self-identity) and the way of life that expresses and sustains such convictions in facing rationally and reasonably the challenge of a life worth living—one touched by enduring personal and ethical value. The right to intimate life centers on protecting these moral resources.

The human right of intimate life was not only a central right in the argument for toleration central to American constitutionalism, but a right interpretively implicit in the historical traditions of American rights-based constitutionalism. In both of the two
great revolutionary moments that framed the trajectory of American constitutionalism (the American Revolution and the Civil War), the right to intimate life was one of the central human rights the abridgment of which rendered political power illegitimate—and gave rise to the Lockean right to revolution. For example, the background literature on human rights, known to and assumed by the American revolutionaries and founding constitutionalists, included what the influential Scottish philosopher Francis Hutcheson called “the natural right of each one to enter into the matrimonial relation with any one who consents” (1968 [1755]: 299). Indeed, John Witherspoon, whose lectures Madison heard at Princeton, followed Hutcheson in listing even more abstractly as a basic human and natural right a “right to associate, if he so incline, with any person or persons, whom he can persuade (not force)—under this is contained the right to marriage” (1982: 123). And, at the time of the Civil War, the understanding of marriage as a basic human right took on a new depth and urgency because of the antebellum abolitionist rights-based attack on the peculiar nature of American slavery, which failed to recognize the marriage or family rights of slaves (Stampp, 1956: 198, 340-49; Genovese, 1974: 32, 52-53, 125, 451-8) and inflicted on black families the moral horror of selling family members separately (Stampp, 1956: 199-207, 204-6, 333, 348-9; Gutman, 1976: 146, 318, 349). One in six slave marriages thus were ended by force or sale (Gutman, 1976: 318). No aspect of American slavery better dramatized its radical evil for abolitionists and Americans more generally than its brutal deprivation of intimate personal life, including undermining the moral authority of parents over children. Slaves, Theodore Weld argued, had “as little control over them [children], as have domestic animals over the disposal of their young” (1968 [1839]: 56). Slavery, understood as an attack on intimate personal life, stripped people of essential attributes of their humanity.

It is against this historical background (as well as background, rights-based political theory) that allows us to regard the right to
intimate life as one of the unenumerated rights protected both by the Ninth Amendment and the Privileges and Immunities Clause of the Fourteenth Amendment, as Justice John Marshall Harlan may be regarded as arguing in his concurrence in *Griswold*. The Supreme Court quite properly interpreted the Fourteenth Amendment in particular as protecting this basic human right against unjustified state abridgment, and, as Sanger had urged, considered the right to use contraceptives as an instance of this right. The right to contraception was, for Sanger, a fundamental human right for women because it would enable women, perhaps for the first time in human history, to decide reliably whether and when their sexual lives would be reproductive. Respect for this right was an aspect of the more basic right of intimate life in two ways. First, it would enable women to exercise control over their intimate relations to men, deciding whether and when such relations would be reproductive. Second, it would secure for women the right to decide whether and when they would form the intimate relationship to a child. The two forms of choice threatened the traditional gender-defined role of women's sexuality as exclusively and mandatorily procreational and maternally self-sacrificing.

Abridgment of such a basic right (as by criminalizing the sale and use of contraceptives) can be justified only by compelling secular reasons in contemporary circumstances, not on the grounds of reasons that are today sectarian (internal to a moral tradition no longer based on public reasons available and accessible to all). In fact, the only argument that could sustain such laws (namely, the Augustinian and Thomistic view that it is immoral to engage in nonprocreative sex) is not a view of sexuality that can reasonably be enforced on individuals today. Many people regard sexual love as an end in itself and the control of reproduction a reasonable way to regulate when and whether they have children consistent with their own personal and larger ethical interests, the interests of their children, and the interests of an overpopulated society at large. Even the question of having children is today a
highly personal matter, certainly no longer governed by the perhaps once compelling secular need to have children for necessary work in a largely agrarian society with high rates of infant and adult mortality. From the perspective of women in particular, as Sanger made clear, the enforcement of an anticontraceptive morality on society at large not only harms women’s interests (as well as those of an overpopulated society more generally), but impersonally confers on women a purely reproductive function, depriving them of the rational dignity of deciding as moral agents and persons, perhaps for the first time in human history, whether, when, and on what terms they could have children consistent with their other legitimate aims and ambitions (including the free exercise of all their basic human rights). Enforcement of such a morality rests on a now conspicuously sectarian conception of gender hierarchy in which women’s sexuality is defined by a mandatory procreative role and responsibility. That conception, the basis of the unjust construction of a gender hierarchy, cannot reasonably be the measure of human rights today.

Similar considerations explain the grounds for doubt about the putative public, nonsectarian justifications for laws criminalizing abortion and homosexual sexuality. Antiabortion laws, grounded in the alleged protection of a neutral good like life, unreasonably equate the moral weight of a fetus in the early stages of pregnancy with that of a person and thus equate abortion with murder; such laws fail to take seriously the weight that should be accorded a woman’s basic right to reproductive autonomy in making highly personal moral choices central to her most intimate bodily and personal life against the background of the lack of reasonable public consensus that fetal life, as such, can be equated in the early stages of pregnancy with that of a moral person.

Antihomosexuality laws have even less semblance of a public justification (such as fetal life) that could be acceptably enforced on society at large. They brutally abridge the sexual expression of the companionate loving relationships to which homosexuals, like heterosexuals, have an inalienable human right. Certainly,
the interests expressive of sexual orientation must reasonably be understood in contemporary circumstances as aspects of the underlying right to intimate association, a right that persons may pursue in the empowering terms of autonomously reflective reasonable standards and judgments expressive of conviction. The arguments, traditionally supposed to rationalize abridgment of this fundamental right, cannot reasonably be defended as compelling secular interests today.

To be clear on this point, we need to examine critically the grounds traditionally thought to rationalize the condemnation of homosexuality. Plato in the Laws gave influential expression to the moral condemnation of homosexuality in terms of two arguments: its nonprocreative character, and (in its male homosexual forms) its degradation of the passive male partner to the status of a woman.10 Neither of these two traditional moral reasons for condemning homosexuality can be legitimately and indeed constitutionally imposed on society or any person or group of persons.

One such moral reason (the condemnation of nonprocreative sex) can, for example, no longer constitutionally justify laws against the sale to and use of contraceptives by married and unmarried heterosexual couples (see 381 U.S. 479, 1965; 405 U.S. 438, 1972). The mandatory enforcement of the procreational model of sexuality is, in circumstances of overpopulation and declining infant and adult mortality, a sectarian ideal lacking adequate secular basis in the general goods that can alone reasonably justify state power; accordingly, contraceptive-using heterosexuals have the constitutional right to decide when and whether their sexual lives shall be pursued to procreate or as an independent expression of mutual love, affection, and companionship.11

The other moral reason for condemning homosexual sex (the degradation of a man to the passive status of a woman) rests on the sexist premise of the degraded nature of women that has been properly rejected as a reasonable basis for laws or policies on grounds of suspect classification analysis.12 If we constitutionally accept, as we increasingly do, the suspectness of gender on par
with that of race, we must, in principle, condemn, as a basis for law, any use of stereotypes expressive of the unjust enforcement of gender roles through law. That condemnation extends, as authoritative case law makes clear, to gender stereotypy, whether immediately harmful to women or to men.¹³

Nonetheless, although each moral ground for the condemnation of homosexuality has been independently rejected as a justification for coercive laws enforceable on society (applicable to men and women), these grounds unreasonably retain their force when brought into specific relationship to the claims of homosexual men and women for equal justice under constitutional law.¹⁴ These claims are today in their basic nature arguments of principle made by gay men and lesbians for the same respect for their intimate love life and other basic rights, free of unreasonable procreational and sexist requirements, now rather generously accorded men and women who are heterosexually coupled (including, as we have seen, even the right to abortion against the alleged weight of fetal life). Empirical issues relating to sexuality and gender are now subjected to more impartial critical assessment than they were previously; and the resulting light of public reason about issues of sexuality and gender should be available to all people on fair terms. However, both the procreational mandates and the unjust gender stereotypy, constitutionally condemned for the benefit of heterosexual men and women, are ferociously applied to homosexual men and women.¹⁵ It bespeaks the continuing political power of the traditional moral subjugation of homosexuals that such a claim of fair treatment (an argument of basic constitutional principle if any argument is) was contemptuously dismissed by a majority of the Supreme Court of the United States (in a 5-4 vote) in 1986 in Bowers v. Hardwick (478 U.S. 186, 1986). No skeptical scrutiny whatsoever was accorded state purposes elsewhere acknowledged as illegitimate. Certainly, no such purpose could be offered of the alleged weight of fetal life that has been rejected as a legitimate ground for criminalization of all forms of abortion; any claim of public health could be
addressed, as it would be in comparable cases of heterosexual relations involving the basic constitutional right of intimate life, by constitutionally required alternatives less restrictive and more effective than criminalization (including use of prophylactics by those otherwise at threat from transmission of HIV).\footnote{16}

Traditional moral arguments, now clearly reasonably rejected in their application to heterosexuals, were uncritically applied to a group much more exigently in need of constitutional protection on grounds of principle.\footnote{17} Reasonable advances in the public understanding of sexuality and gender, now constitutionally available to all heterosexuals, were suspended in favor of an appeal to the sexual mythology of the Middle Ages.\footnote{18} It is an indication of the genre of dehumanizing stereotypes at work in \textit{Bowers v. Hardwick}\textemdashstripping a class of persons (blacks, women, Jews, homosexuals) of moral personality by reducing them to a mythologized sexuality\textemdashthat the court focused so obsessively on one sex act (sodomy); as Leo Bersani perceptively observed about the public discourse (reflected in \textit{Bowers}), it resonates in images (inherited from the nineteenth century) of homosexuals as sexually obsessed prostitutes. (Bersani 1988: 211-2, 222.) The transparently unprincipled character of \textit{Bowers}\footnote{19} in these terms thus suggests a larger problem, which connects such treatment of homosexuals with the now familiar structural injustice underlying racism and sexism. Understanding that connection explains, I believe, the recent emergence of arguments for equal recognition of gay/lesbian relationships on more equal terms with recognition of heterosexual relationships, including claims to same-sex marriage.\footnote{20}

\textit{Political Liberalism and Private Spheres}

Constitutional privacy illustrates a larger argument of principle within the constitutional theory of political liberalism underlying our constitutional arrangements, including the role of the judi-
ciary in enforcing arguments of principle that ensure the legitimacy of democratic politics. To be clear about this argument of principle, we need to distinguish initially two senses of privacy: first, privacy as control over highly personal information about oneself; and second, privacy as substantive spheres of thought and action immune from state intrusion. Privacy, in the first sense of control over personal information, was the subject of the classic Warren and Brandeis law review article, “The Right to Privacy” (1890), which called for appropriate protection by civil tort remedies by a privacy action, an argument that successfully led not only to the recognition of such civil remedies (between private parties) throughout the United States (Prosser, 1960), but to a correspondingly expansive interpretation of the constitutional right (against the state) under the Fourth Amendment to be free from unreasonable searches and seizures, including unjustified forms of electronic bugging (see Katz v. United States, 389 U.S. 347, 1967, overruling Olmstead v. United States, 277 U.S. 438, 1928).

It was an important feature of the arguments by analogy that led Justice William Douglas, writing for the Supreme Court, to recognize the constitutional right to privacy in Griswold that the intrusion into intimate life called for by the criminalization of contraceptive use encouraged—indeed required—forms of electronic bugging violative of both the letter and spirit of the Fourth Amendment (382 U.S. 479, 1965). Certainly, the value placed on privacy (as control of highly personal information) often arises from the role such sovereignty over personal information plays in the selective disclosure of self in the formation of relationships of friendship and love, that is, the area of intimate life governed by the constitutional right to privacy as we earlier saw. But, as later defined by authoritative case law, the constitutional right to privacy does not require the spatial locus of home life, since the right to abortion services (required by the constitutional right to privacy) is often reasonably exercised in nonhome environments (for example, abortion clinics). Our right to constitutional privacy, while sometimes overlapping with the right to control per-
sonal information, is not limited to that normative context; it defines, rather, a substantive sphere of autonomous thought and action of a certain sort.

The normative ground of the constitutional right to privacy justifies more than the informational interests narrowly in play in the earlier discussion. We can see this in the connections between privacy interests and the higher-order interests protected by the right to conscience itself. The objects of these latter interests are the conditions essential to independent exercise of the moral powers through which we assess our most basic self-conceptions of a life well and humanely lived. Control over informational privacy is in natural service of these interests because, as we have seen, it is one of the resources (control over private information) essential to control over our moral powers, namely, protection from a homogeneizing public scrutiny that paralyzes moral independence itself. These resources include not only informational privacy but a cognate range of capacities of thought, emotion, and action integral to the self-image of a person exercising moral independence in the form of intimate relationships, the sphere governed by what I earlier called the human right to intimate life.

An analogy may clarify the nature of such private spheres. We regard religious belief, practice, and even action (when not violating compelling secular state interests) as private matters, not because we associate religion with informational privacy (many religious activities take place in public), but because our commitment to the right to conscience associates integrity itself with the control of each person over the formation of the ultimate aims of our moral powers (for example, an identity formed in personal relationship to an ethical God). Accordingly, we think of this relationship as not properly a matter of public interest and protect it from any public intrusion that compromises the moral independence expressed and often perfected in such relationships.

In a generic sense, we may say that the very idea of many classical constitutional rights against the state expresses, in principle, an enforceable distinction between a private sphere protected by
such rights from public interest and the properly public sphere of legitimate state interest and action. Such rights, like religious liberty, often do not protect informational privacy interests as such. But we do naturally think of these rights as defining spheres of privacy, using the most abstract sense of privacy: freedom from unjust intrusion by other people.

Generic privacy, in this sense, arises, within the theory of political liberalism, as a consequence of persons' having basic human rights, respect for which is a normative condition of political legitimacy. The appropriate respect for such a basic human right takes the form, other things being equal, of regarding the sphere governed by the right as a private matter, not subject to state interference on illegitimate grounds. It is this generic sense of property that John Locke had in mind when he defined the legitimate ends of liberal government in terms of "the mutual Preservation of their Lives, Liberties, and Estates, which I call by the general Name, Property" (1960: 368); or, as he puts the point later, "By Property I must be understood here, as in other places, to mean that Property which Men have in their Persons as well as Goods" (401). James Madison, the father of American constitutionalism, invoked this political theory in similar terms:

Property . . . in its particular application means "that domination which one man claims and exercises over the external things of the world, in exclusion of every other individual." In its larger and juster meaning, it embraces everything to which a man may attach a value and have a right; and which leaves to everyone else a like advantage. In the former sense, a man's land, or merchandise, or money is called his property. In the latter sense, a man has property in his opinions and the free communication of them. He has a property of peculiar value in his religious opinions, and in the profession and practice dictated by them. He has property very dear to him in the safety and liberty of his person. He has an equal property in the free use of his facul-
ties and free choice of the objects on which to employ them. In a word, as a man is said to have a right to his property, he may be equally said to have a property in his rights (Madison, 1906).

For Madison as for Locke, generic privacy, in the sense that they meant "Property," was a normative consequence of the appropriate respect for basic human rights called for by political liberalism. Certainly, for both thinkers these rights included the right to private property, more narrowly understood, rooted, controversially in Locke, in an interpretation of the appropriate conditions of respect for exercise of the right to work. But, such basic human rights (the subject of generic privacy or "Property") included as well the basic rights to conscience and free speech, imposing on legitimate politics the requirements of the argument for toleration. The consequence of the appropriate respect for such basic human rights was that, within their legitimate scope, they defined private spheres of thought, belief, and action.

As I suggested earlier, the scope of this private sphere included as well those highly personal relationships and activities whose just moral independence requires protection from a hostile public interest that compromises the range of thought, self-image, emotional vulnerabilities, sensitivities, and aspirations essential to the role of such relationships and activities in the formation of self expressive of one's moral powers. Intimate relationships—which give play to love, devotion, and friendship as organizing themes in self-conceptions of permanent value in living—are among the essential resources of moral independence. Protection from hostile interest thus nurtures these intimate personal resources, a wholeness of emotion, intellect, and self-image guided by the self-determining moral powers of a free person. Appropriate respect for the basic human right of intimate life requires respect for this private sphere.

Appropriate respect for such basic human rights under political liberalism places on the state a heavy burden of secular justifi-
cation that, as I earlier showed in my discussion of the development of constitutional privacy law, cannot be met by purely sectarian arguments that no longer enjoy reasonable public appeal in contemporary circumstances. As I have suggested, two traditional arguments are, on this ground, today suspect: first, the alleged evil of all forms of nonprocreational sex; and second, the putative evil of any deviation from gender stereotypes. It is because neither traditional understanding is any longer reasonably justifiable in contemporary circumstances that we reasonably take, as we increasingly do, the constitutional view that the right to intimate life today includes contraception, abortion services, and gay/lesbian sexuality. Indeed, one of them (deviation from gender stereotypes) is not only no longer justifiable as a compelling secular purpose for state action, but is itself constitutionally condemned for its imposition of constitutionally condemned gender stereotypes as the measure of rights and responsibilities in public and private life.

There is, of course, a large and growing feminist literature that reasonably questions the role that unjust gender stereotypes have played in our scientific and ethical methodologies of epistemic and practical reasoning and thus in our understanding of the requirements of justice under political liberalism. Some of this literature reasonably questions on such grounds the force accorded mind-body dualisms in our religion, our science, and our philosophy. Our contemporary understanding of the expanded scope of the constitutionally protected sphere of private life may be understood as reasonably reflecting the force of such internal criticisms of the traditional understanding of liberal justice. It is surely no accident but normatively fundamental that it has been the increasingly significant normative voice of men and women challenging traditional gender stereotypes that has forged the expanded development of constitutional privacy in contemporary circumstances in the domains of contraception, abortion, and gay/lesbian sexuality. Speaking in their own gender-subversive voices, they have reasonably questioned, as fundamen-
tally unjust, a traditional understanding of the right to intimate life that unjustly excluded the experience of unwanted pregnancies of half the human race; and they have more recently questioned as well a traditional understanding of the right to intimate life in terms of gender inequality and difference that many men and women, heterosexual and homosexual, now reasonably question and reject as a just measure of the transformative force of loving relationships in human life. Speaking in such voices, they have justly demanded their most basic rights under political liberalism to be respected as the persons they are, constituted, as persons are, by their bodies and their internal personal and ethical perspectives on living their own lives (Baker, 2000).

If I am correct on these points, the development of constitutional privacy represents a reasonable internal criticism of traditional political liberalism along the dimensions both of its conception of basic human rights and its understanding of the purposes adequate to justify abridgment of these rights. Consistent with comparable developments in extending basic rights such as conscience, speech, and work more inclusively, the right to intimate life has been reasonably expanded to embrace reasonable demands to contraception, abortion, and gay/lesbian sexuality as aspects of a principled understanding of the right to intimate life in contemporary circumstances. The constitutional recognition of such claims dignifies the claimants as bearers of human rights speaking, as persons, from the bodies and perspectives they are. Their claims broke the silence that the enforcement of an unjust gender orthodoxy had imposed on public discussion of these matters by reasonably questioning the disassociation of mind from body, thought from action, that had unjustly been imposed on them as colonized subjects, not citizens of political liberalism. Their claims to constitutional privacy, rooted in the most elementary rights of political liberalism, empowered them to know who they are, to speak and live with integrity secure in respect for their basic rights.
Notes


2See, on American revolutionary constitutionalism as framed by these events, Richards (1989; 1993).

3For further development of this point, see Richards (1986a: 232-3).

4See Walters (1978: 95-96).

5Justice Harlan, in fact, grounds his argument on the Due Process Clause of the Fourteenth Amendment, but the argument is more plausibly understood, as a matter of text, history, and political theory, as based on the Privileges and Immunities Clause of the Fourteenth Amendment for reasons I give in Richards (1993, chap. 6). For further elaboration of this interpretation of Griswold, see Richards (1986a: 256-61).

6See Augustine (1972: 577-94). Thomas Aquinas elaborates Augustine’s conception of the exclusive legitimacy of procreative sex in a striking manner. Of the emission of semen apart from procreation in marriage, he wrote: “[A]fter the sin of homicide whereby a human nature already in existence is destroyed, this type of sin appears to take next place, for by it the generation of human nature is precluded” (1956, pt. 2, chap. 122(9)).

7On how personal this decision now is see, in general, May (1995).

8For further discussion of the right to privacy and contraception, see Richards (1986a: 256-61).

9For further discussion, see Richards (1986a: 261-69); Dworkin (1993: 3-178).

10See Plato, Laws (Book 8, 835d-842a). On the moral condemnation of the passive role in homosexuality in both Greek and early Christian moral thought, see Brown (1988: 30, 382-3). But for evidence of Greco-Roman toleration of long-term homosexual relations even between adults, see Boswell (1994: 53-107). I am grateful to Stephen Morris for conversations on this point. Whether these relationships were regarded as marriages may be a very different matter. For criticism of Boswell’s argument along this latter line, see Shaw (1994: 33-41).

11For further discussion, see Richards (1986a: 256-61).


13For cases that protect women from such harm, see Reed v. Reed, 404 U.S. 71 (1971) (right to administer estates); Frontiero v. Richardson, 411


On the unjust gender stereotypy uncritically applied to homosexual men and women, see Okin (1997: 44-59).

The argument applies, in any event, only to those forms of sex by gay men likely to transmit the virus; it does not reasonably apply to lesbians, nor does it apply to all forms of sex (including anal sex) by gay men. So, the argument that sex acts as such can be criminalized on this basis is constitutionally overinclusive and inconsistent with the basic right thus abridged. The regulatory point is that even gay men at threat by virtue of their sexual practices can take preventive measures against this threat (by using condoms). For a recent discussion of what further reasonable preventive measures the gay men at threat might also take, see Rotello (1997).

For further criticism, see Richards (1989: 209-47).

Justice Harry Blackmun put the point acidly: “Like Justice Holmes, I believe that ‘it is revolting to have no better reason for a rule of law than that so it was laid down in the time of Henry IV. It is still more revolting if the grounds upon which it was laid down have vanished long since, and the rule simply persists from blind imitation of the past.’” *Bowers*, 478 U.S. 199 (quoting Holmes [1897: 457, 469]).

I develop this argument at greater length in Richards (1989, chap. 6); and in Richards (1986b). See also Goldstein (1988; 1993); Hunter (1992); Halley (1993); Thomas (1993).

See, for further elaboration of this argument, Richards (1999).

For some sense of the range of contemporary interpretive controversy over how the Lockean theory of private property should be understood and evaluated, see Waldron (1988); Sreenivasan (1995). For the range of more general treatments, see Ryan (1984); Pipes (2000).

For general explication of this argument and its consequences for American constitutional law, see Richards (1986a).

See, for example, Fricker and Hornsby (2000); Schiebinger (1993).

See, for example, Bordo (1987; 1993; 1999).
References


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