

I Have The Right To Destroy Myself

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do you have the right to destroy that which is yours this paper addresses that fundamental question in contested cases courts are becoming increasingly hostile to owners efforts to destroy their own valuable property this sentiment has been echoed in the legal academy with recent scholarship calling for further restrictions on an owner's right to destroy cultural property yet this property right has received little systematic attention the paper therefore examines owners rights to destroy various forms of property including buildings jewelry transplantable organs frozen human embryos patents personal papers and works of art a systematic treatment of the subject helps support a qualified defense of the right to destroy one's own property for example an examination of american laws and customs regarding the disposition of cadaveric organs

helps one understand and weigh the expressive interests that prompt people to try to destroy jewelry via will similarly an examination of patent suppression case law points toward a form of ex ante analysis that has been de emphasized in opinions involving the destruction of buildings and other structures an analysis of cases involving the destruction of frozen human embryos may shed light on creators rights to burn unpublished manuscripts or works of art and collectivist theories of free speech may help explain why the visual artists rights act sensibly prohibits the destruction of paintings by living artists but not old masters in advocating a more unified treatment of destruction rights the paper argues that greater deference to owners destructive wishes often serves important welfare and expressive interests the paper also critiques existing case law that calls for particular hostility toward will provisions that direct the destruction of a testator s valuable property courts and commentators have not given particularly persuasive justifications for restricting testamentary destruction and the paper proposes a safe harbor provision whereby sincere testators who jump through certain hoops during their lifetimes can have their destructive wishes enforced

moving beyond previous scholarship he gives us a locke as much concerned with the effective functioning of government as with the roots of its moral legitimacy book jacket

this article examines a property owner s right to destroy and the vast divergence in the scope of the right depending on whether the owner is a private entity or government actor private owners seeking to destroy their property face numerous common law and statutory limitations ranging from arson laws to the doctrine of waste to zoning ordinances these constraints reflect both an assumption that owners will rarely want to destroy what they own since it presumably has value as well as a utilitarian judgment that owners should not waste resources valuable to society in contrast the right to destroy remains largely unconstrained for one particular type of property owner the government in cities across the country governments are exercising their right to destroy as a property owner on a massive scale 2 500 buildings destroyed in cleveland 3 000 in buffalo and a goal of over 10 000 demolitions in detroit through eminent domain and acquisition mechanisms such as land banks the government can destroy property that it owns with few constraints on its ability to do so once it has acquired the property in highlighting the divergence between a private owner s narrow right to destroy and a government owner s broad right to do so the article has two major goals first it challenges the assumption that the right to destroy is universally disfavored and demonstrates that for one particular type of owner the government the right to destroy

remains relatively unconstrained this recognition is important not only because the government federal state and local owns a significant amount of property but also because it presents a paradox an individual property owner's right to destroy is narrow but that of a property owner representing many individuals the government is relatively broad the second goal of this article is to suggest that the government in fact should have a broader right to destroy than private owners while seemingly paradoxical the divergent scope of the government's and private owners right to destroy can be justified on both doctrinal and normative grounds more than simply the result of numerous unrelated legal rules the divergent scope of the right to destroy for government and private owners reflects a balancing of interests of both the owner and the community in property

this collection shows the growth and development of english prose by extracts from the principal and most characteristic writers

professors who want to venture beyond the traditional land based property coverage to include intellectual property and other emerging forms of property law will find this book ideally suited to their purposes property cases and materials second

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