

Nine-Tenths of the Law: Property and Resistance in the United States

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Introduction

“When starting a new culture, as when beginning any new group, it is wise to present a starting structure, as opposed to offering the opportunity to structure alone; grist for the mill.” —Anonymous entry in the **537 E. 13th Street Homesteading Journal, January 19851**

“I’ve lived on this street for nearly fifteen years, Lived here with my hopes, lived here with my fears. Paid my taxes, paid my bills, Watched my money vanished in the council tills. Along come these scruffs with their education, Their grand ideas, talk of corruption. My rent keeps rising, my job gets boring. If things gets worse then I’m gonna have to join them.” —**“Dirty Squatters” by Zounds**

By making a whimsical decision in 2003 to buy a video camera (to tape my drunk friends at parties), I unwittingly determined my focus for the following decade: squatting.

In 2004, having long since quit school in San Francisco and moved to Oakland, I fell in with people like Steve DeCaprio who was living in an abandoned house on the border of Berkeley. Steve had been having some negative encounters with police, and I being one of the few people he knew at the time with a video camera, he asked me if I would film his interactions with the police for use in court. I did, firstly as a favor and secondly as a way to annoy the cops. But later Steve planted an idea in my mind: He said, “Why don’t you use the footage to make a documentary?” And being entirely unreasonable in my youth (aware that my film experience was limited to video yearbook club in high school), I accepted the challenge. I became Steve’s regular camera guy. At every moment when there could predictably be police on the scene, I was there, obnoxiously documenting every move.

This went on for months, until the following spring when I was inspired to break into an abandoned boat motor and turbine warehouse in Emeryville (a small town bordering Oakland) called the Power Machine, where I had decided I would live. I shimmed up a drainpipe with a heavy power drill in my backpack, climbed onto the balcony, and, after teetering on the sill for a moment, entered through a broken window. I unsecured the plywood door on the first floor, through which friends and I then carried in blankets and pillows and bags of avocados and cookies to make ourselves comfortable. It was hereby irreversible: I had fallen in with the *squatters!*

Squatting has never had a particularly good reputation in the United States. This is nothing if not ironic, since, as indigenous advocates frequently point out, we are a nation *founded* by squatters. But the history of U.S. property is bursting with doublethink: Squatters are the greatest patriots but the sleaziest freeloaders; they are self-made men but unscrupulous carpetbaggers. Indeed, squatters are a group that has, throughout history, consistently been pulled in multiple directions at once. Who identifies with squatters? Is it the backcountry, right-wing militia types, who want the government off their backs? Is it the urban housing justice advocates, with their banners pronouncing housing as a human right? Is it the anarcho-punks, seeking an equitable lifestyle through do-it-yourself means? Is it homeless individuals and families with no other choice, having been preyed upon by predatory lenders and a rampaging capitalist system?

Incredibly, squatting embraces an eclectic mix of people, who embrace back for a wide-ranging list of reasons. But no matter what the cause, squatters maintain the same reputation in the mainstream discourse—a reputation that is integrally tied to the general understanding of what property means in the United States—which began with colonialism. Imposing bizarre and new ideas about property onto the indigenous people of North America, settlers set the stage for the next several hundred years of ownership mechanisms and expectations. Even when the government was *giving* away Western tracts of land in the nineteenth century, the general idea persisted that the parcels were to become *private* property, which in turn would come to represent a citizen's individual worth (despite having never paid for property, as was frequently the case during Westward Expansion). The venerated notion of property carried forth, painting an impacting mythic history of American purity: Through hard work, American citizens are able to fulfill American ideals. We don't like to think that it might actually be through *sneakiness* or *opportunism* or, conversely, *mutual aid* that American citizens have been able to fulfill American ideals, since that sounds silly. Yet these are common traits among squatters, and the country was, after all, founded by squatters.

Today in the United States, squatters can be found in derelict urban tenements, in hand-built shacks on rural grasslands, and in foreclosed suburban mini-mansions.

They can be found in just about any abandoned structure, but today, regardless of *where* they squat or *why*, they are all confined to the rules and assumptions of the property system that has developed around them.

We are all accustomed to talking about the “housing market” as if it’s actually a thing, and we are able to do this because we have universally accepted that property is a commodity and that, as such, it can be bought or sold on a market. It is this common agreement that gives the arrangement power. Liken this to money markets, in which the users of currency universally agree that it has value. Money is able to grow or shrink in a market based on the universal contract that money is real and that it is guaranteed. But when you take away that guarantee, then people lose faith that money has value, and—as we saw, for example, in Russia in the 1990s, or in Argentina in 2002, or in many European countries more recently—the whole system collapses. “In this sense,” as David Graeber articulates in *Debt: The First 5,000 Years*, “the value of a unit of currency is not the measure of the value of an object, but the measure of one’s trust in other human beings.”² The same can be said for the housing market, similarly invented as a factitious system of measurement, where property stands in for money in an elaborate game of appreciation and depreciation based on arbitrary criteria—that is, based on the level of faith that the general public has in a neighborhood or region, or in the market as a whole. When a house is assessed, rarely is its worth based on *use* value, but is instead based on the *expectation* that the market worth may grow. This is why the housing market, as with any market, is unstable and perpetually poised to fail: Investments are gambles and there is not always enough money to back artificial claims of value. In the foreclosure crisis beginning at the end of 2007, many homeowners saw the amount they owed on their mortgages swell exponentially, while the appraised value of their homes (based on dwindling public faith in the market itself) plummeted.

Interestingly, however, it seemed that most Americans were open to radical solutions. Surveys showed that an overwhelming majority of Americans felt that the banks should not be rescued, *whatever the economic consequences*, but that ordinary citizens stuck with bad mortgages should be bailed out. In the United States this is quite extraordinary. Since colonial days, Americans have been the population least sympathetic to debtors. In a way this is odd, since America was settled largely by absconding debtors.

The contradictory reaction of Americans to the foreclosure crisis is reassuring. With the general public questioning the social contract about what property is and how it should be treated, squatting begins to appear as a plausible alternative to a flawed system. By challenging the assumptions of the contract, Americans are blazing a new trail of property resistance. And with squatting once again in the mainstream discourse, the potential to overhaul the way we do housing and the

way we view resources creeps closer to a new reality.

Many places in the world use similar property systems to that of the United States, but other, older countries have had more time to tug back and forth on the social contract and settle on different conclusions.

My strongest understanding of squatting, in fact, came from the outrageously well-organized squatter diehards in Europe. On a poorly planned trip around the continent at age 19, I was invited to stay at a squat in London that doubled as a music venue and pool hall. I spent the following month at a squatted four-story Georgian townhouse in Dublin, which proved to be a beautiful display of what a dozen committed and creative people can output when they have a mind to do so. While there, I met other squatters from around Europe—they seemed otherworldly, as if they came from a different *planet* than America, which I had only known to consist of dorm rooms, overpriced rentals, and my parents' house. But *these* people were from places like Can Masdeu, an abandoned leper hospital in the countryside of Barcelona, where thirty people live cooperatively and where community functions accommodate numbers in hundreds. In 2002, these squatters fought eviction by sitting on chairs fastened several stories high to the outside of the building for three days, and by balancing on “death planks”—one squatter sat on each end of the plank, which passed through two windows; if an officer tried to climb out onto either end of the plank to remove the squatter, they would both surely fall to their deaths. Eventually a court ordered police to call off the eviction.

This sort of dramatic, high-risk squat defense seemed to be a normal reaction to Europeans, with much precedent dating back at least four decades. In Amsterdam in 1980, riot police evicted squatters from *Vondelstraat*. Agreeing that this was unacceptable, the squatters created a diversion at city hall and secretly reclaimed the squat while police were distracted. When the police realized that they had been duped, they were angrier than before and returned to *Vondelstraat* to repeat the eviction. Archived footage shows hundreds of demonstrators and police engaged in a no-holds-barred riot:

“Riot police trucks drove across the junction,” Pietje, one of the squatters said of the experience, in the documentary *De Stad Was Van Ons*. “A guy was hit by a truck and the radio broadcast an emotional report. We saw him dragged along by the bus. I was stunned. We were standing there on the balcony with Theo. I said, ‘I’m going out with some of the others.’ Theo tried to stop me but I went anyway. I jumped off the balcony onto a lighting mast, then down onto the road. I grabbed a stick, fence posts, and in five minutes we chased the police away.”

Having developed an adversarial dynamic with police on the one hand and a strongly supported front of squatters on the other, clashes only intensified as the decade went on. It became a form of guerilla warfare with chaotic, violent

tendencies from both sides. Police went from trampling squatters with horses to running unstoppable tanks through large crowds. Fires ignited throughout the streets, and cinders burned high into the night sky.

Copenhagen, Denmark, between 2006 and 2007, saw some of the most destructive and virulent squat-defense riots since those in Amsterdam, in response to the eviction of *Ungdomshuset* (“Youth House”). The historic building, constructed in 1897 by the Danish labor movement, functioned as a social center since it was granted to the squatters by the city council in 1982. In 2000, however, the city withdrew the grant and sold the building to a right-wing Christian organization called *Faderhuset* (“Father’s House”), which intended to tear it down. After years in court and many offers on behalf of the squatters to buy the building, a judge finally declared *Faderhuset* the legal owner in August 2006, and squatters braced themselves for a tempestuous eviction.

Supporters barricaded and fortified the structure so heavily that David Rovics described it in December 2006 as looking like a medieval castle. “In past assaults,” he wrote, “the police have gone onto the roof or, using cranes, through the second-floor windows, rather than attempting to ram through the formidable barricades on the ground floor. There are too many windows to turn the entire building into the kind of fortress the ground floor has become, but no effort is being spared to do just that. The upper-story windows from which you could once look out at the neighborhood are now completely barricaded, and the only light that shines within *Ungdomshuset* now is artificial.”⁵ This was quite a contrast to the former *Ungdomshuset*, which was known for its infoshop, cinema, bar, community kitchen, workshops, performance and rehearsal spaces, and famous annual K-Town Festival, which drew an international audience.

After a tense and emotional seven months of waiting for the final eviction, in the early morning hours of March 1, 2007, police invaded *Ungdomshuset* in an ostentatious and reckless display of authority, employing a military helicopter and two cranes. Roughly 3,000 people rioted over the next four days, and 643 protesters were allegedly arrested (including 140 foreigners); at least 25 were hospitalized. Protests in solidarity with the squatters were held all over Europe, but on March 5, *Ungdomshuset* was demolished.

Serendipitously, in June 2008, the city council gifted the squatters two buildings at Dorteavej 61 (together the same square footage as *Ungdomshuset*) for use as a new social center in place of the old one. This new Youth House boasts a venue and bar, a book café, a large kitchen, a film screening room, a yoga and dance studio, a concert hall with balcony, a dozen creative workshops (such as screen-printing, sewing, and photography), offices, meeting facilities, and a studio for bands to practice and record music. All in all, it wasn’t a terrible trade, though no

one would discount the sacrifice they made for it.

“This whole notion of revolutionary romanticism,” said Ungdomshuset activist Mads Lodahl prior to the riots, “it only serves as an outlet for people’s anger and frustration, and so they fight with the police. In reality, it’s counter-revolutionary because you direct all your anger at the police but they’re not the ones you’re angry with.... [However,] my friends and I have realized that we can’t talk our way out of this, because the other side doesn’t want to talk to us. So like it or not, we are getting ready to fight.”

While I wasn’t seeking the *violence* of squat defense per se, this kind of high-octane, uber-romantic alternative to mainstream existence nonetheless enchanted me; back at home I wondered, *Could these sorts of places exist in the United States? Could we develop the sort of tight-knit communities that could stand together in a crisis, if we had to? And in the meantime, is it possible to live in a clean, organized, and equitable squat, steeped in adventure and passion?*

My life at the Power Machine replicated this European idea of squatting as liberated social center more than do most other American squats I have visited—the worst of which resemble clandestine hovels or short-lived dumb luck based on someone else’s real estate folly. The Power Machine was an enormous space, and we did what we wanted with little interference. At one point we had a dozen residents (with an endless stream of guests), who each constantly contributed shared food to the cupboards and amenities to the household. We had many bikes, a collection of games, a growing library, accumulated art supplies, and increasingly more furniture (including the velvet *chaise longue* scored from the side of Ashby Avenue). We were so brazen about our use of the space that we would throw huge, very loud parties—and since we were located under a bridge and next to the railroad tracks, nobody ever seemed to hear us. At one point we even found a big-screen TV in the trash and set up a game of Dance Dance Revolution in the living room. Afterward we’d help ourselves to the outdoor hot tub at the hotel across the street (affectionately called the “Squat Tub”). The only component that was missing from this extraordinary arrangement was the Euro-style police standoff—though in Emeryville we didn’t need one. We were on good terms with the property owner, who viewed us as a positive element for “keeping the riff-raff out.” And *he*, in turn, had some kind of special understanding with the police sergeant. Because of this, my only interaction with Emeryville PD in two years of living there went like this:

Rookie Cop: (From *across the train tracks to me in the second story window*) Hey! Get down from there!

Hannah: Me?

Rookie Cop: Yeah, you're not supposed to be up there!(Hannah *leaves the window, goes down the stairs, outside, and across the train tracks to where two cops are standing.*)

Hannah: Hi. I think there's some confusion. We work in this building. We have keys. (Shows *them the key.*)

Police Sergeant: Oh, yeah? Who are you working for? (This *is a test, since the police sergeant is acquaintances with the owner.*)

Hannah: Kip.

Police Sergeant: (Laughs, *revealing that I answered correctly.*) Which room is yours? You know, Kip let me in there once, and I was surprised. I thought, "These people did a really nice job!" There weren't just blankets everywhere, like I thought there would be; you guys keep your rooms really clean! Anyway, let me tell you a little about the history of this building...(He *then goes on for quite a while about the history of the building and the history of Emeryville, and then jokes about the corrupt police force.*)

Police Sergeant: Anyway, if you ever need anything, just give us a call.

I never did call the Emeryville Police Department for "help" with anything, but it was reassuring to know that they weren't waiting to pounce. We technically (albeit unofficially) had Kip's permission to be there; the Power Machine was in legal limbo while Kip waited for a reasonable offer of compensation from the city, who planned to take ownership of the property by way of *eminent domain*. The trouble was that the land was worth \$5 million, while the bioremediation needed (due to ground contaminants thanks to previous owner Standard Oil) was estimated at \$7 million. Because of this discrepancy, the Power Machine was tied up in the court system for years. In the meantime, Kip didn't mind having us there because he knew that he was going to give up the building eventually anyway, so it didn't matter what happened as long as we didn't cause problems. Later I even met the fire chief, who kindly donated a mattress to us. In these ways, and because our situation at the Power

Machine was generally so surreal, our squat managed to embody much of the magic of European squats. But certain elements of my squatting situation and of squatting in the United States in general are simply unable to compete with the European scene, and this is because of two primary differences: cultural and legal.

European squats, also called social centers, often promise to accommodate more of the general community than just the people who live there—this is fundamentally different from most squatting efforts in the United States, which

tend to focus on *individuals'* need for housing. The broader *culture* of squatting has been undernourished in the United States, while in Europe, over the course of decades, many countries have not only fostered such a culture of squatting but have also integrated it into mainstream society. Because of this, squatting has grown to be a widely understood (if not accepted) action in some places; in the United States, squatting continues to be viewed as an individualistic ploy to get something for nothing. Further, most Americans view property in a way that renders squatting if not disruptive then at the very least confusing. In the most disturbing cases, property owners in some states can invoke the “castle doctrine,” which permits them to “protect their homes against intruders,” even if that means killing them.⁹ In that kind of fearful social climate, cooperation and compassion are far-flung idealisms, the fanciful daydreams of soft Americans. This is just one cultural factor that prevents Americans from launching a squatting movement in the style of Amsterdam or Barcelona: There is simply not the popular understanding or support.

Second is the legal factor, since U.S. laws are naturally unique from those of various European countries. Many such places are known for their “open squatting” legislation, which allows and sometimes *requires* squatters to announce their presence in order to preserve their right to stay. Laws vary country by country, but—at least since my first trip to Europe—there has been a general American perception that Europeans are simply *allowed* to squat and Americans are not. In the past ten years, however, many of the laws and attitudes around squatting have shifted in Europe. In October 2010, Amsterdam officially criminalized the act, outlawing numerous established squats, as well as the intricate social web that connected and supported them. Throughout 2011, media outlets in

Great Britain incessantly reported on sinister squatters stealing houses while owners were on vacation, which prompted Parliament to move toward a criminalization decision as well, effective September 1, 2012 (a penalty of up to six months in jail and maximum £5,000 fine). In addition, since the demolition of Ungdomshuset in 2007, more famous European squats continue to struggle against authorities and eviction, to much public outcry.

In cases such as that of the UK’s criminalization strategy, shifting cultural expectations are able to shape legal conditions. In the United States it is arguable that it works the other way around and that legal conditions predominantly shape our cultural expectations—though realistically it is a little of both: Our cultural climate partially is as it is *because* of the law and partially *influences* and *reinforces* the law.

All of this works to explain why, despite all my efforts to imitate a Euro-style

squatting utopia at the Power Machine, I was still met with individuals who scoffed at the tidiness of squat, declaring that “squats are *supposed* to be dirty.” How tragic that the negative cultural expectations of American squatters have even colonized the minds of squatters themselves! European squatters, it would seem, at least have a somewhat common goal, while American squatters are all over the place—some want to be dirty and some want to be European; some want to live in their houses forever and some want to move on in a month; some want shelter and some want a home; some want to make a political statement and some want an adventure. With such a spectrum of objectives, Americans have only managed to carve out small squatting communities here and there, while a sweeping movement remains elusive. With this in mind, I conceived the idea for this book. It seemed that there were no centralized resources for squatting in the U.S., and most squatting efforts I encountered were founded on hearsay about “squatters’ rights”—whatever that is. Similarly, there were stories that circulated about monumental historic squatting efforts, but few people who re-hashed them seemed to know many details. I hoped that by researching squatters in U.S. history to establish a cultural precedent, and by pinpointing the legal conditions surrounding squatting (and other forms of property resistance), I might help to reshape both the cultural and legal attitudes toward squatting in this country. Such a paradigm shift is requisite to any attempt at a broader squatting movement, and it *almost* happened in 2011 with Occupy Wall Street.

In October of that year, shortly after the movement began, I took a trip to Buffalo, N.Y., where activists had followed suit by establishing an “Occupy” encampment of their own. A few dozen tents had sprung up and dotted Niagara Square, the plaza across from the behemoth thirty-two-story City Hall that now towered over the mini-campsite. The plaza itself is so large that campers were more like a few ants crawling on the picnic blanket of the municipality, rather than a lice infestation on the scalp of Wall Street. For all intents and purposes, downtown Buffalo closes at 5 p.m., and so little traffic these days circles City Hall that the protesters’ visibility was minimal. Without a financial district to picket, and in the midst of a struggling local economy, the occupiers’ tactics struck me as painfully misguided. Since the city lost over half the population that its sprawling infrastructure was designed for, the slogan “Occupy Buffalo” seemed a little on the nose; the municipality has been trying to convince people to *occupy Buffalo* for the last fifty years!

As a Great Lakes chill whipped about the autumn air, it seemed a curious, cold, and feeble effort to camp at this downtown location. With so many empty houses genuinely abandoned in a city that is known for its brutal snow, ice, and wind, it boggled my mind that these people were trying to think up ways to safely sleep *outside* through the winter. Some were even talking about erecting permanent structures on the square, which I found to be even more baffling than Buffalonians

sleeping in tents. Why, I thought, wouldn't the occupiers occupy *houses* instead?

It took a few months, but Occupy movements in other cities began to have similar realizations. After all, what could be a more fitting response to a housing crisis than the direct reclamation of housing? In this way it was important for each unique city to examine and analyze the regional conditions that created the inequities they were battling. While occupying Wall Street was (momentarily) an effective tactic in New York City, the same protest rang hollow upstate. This is true in the way that a European-style social center is more appropriate and viable in Madrid than it is in Memphis: Squatting itself is a tactic, and as with any tactic, we must consciously choose it as a result of our cultural and legal environment. That said, squatting—despite the dedication of this entire book to the subject—is not always a solution.

In this book I discuss many ways that squatting has been used as a tactic throughout the history of the United States. By framing it strictly as a *tactic*, I tend to steer away from instances of squatting as an *ends*, though they certainly do exist. While there could be as many types of squatting as there are squatters, I define it here as occupying an otherwise abandoned structure without exchanging money or engaging in a formal permissible agreement. I then focus on modes of seeking title to such squatted properties. Additionally, I cite numerous instances of property resistance that cannot categorically be described as *squatting*; squatting is only one *type* of property resistance within a broader pool of tactics in the global struggle for equity. This book is about how property outlaws have demonstrated and continue to demonstrate such resistance in the American context. I specify *American* for two reasons: Squatting is a different animal in Europe, just as it's a different animal in India, just as it's a different animal in Brazil. Because squatting happens in other ways and for other reasons in such places, they are mostly incomparable to squatting in the United States without extensive research and severely elaborate analyses that are beyond the scope of this book. Europe is already famous for squatting, while American efforts have been largely ignored.

But as I said, this work is not only about squatting; because such actions do not exist in a vacuum, it is necessary to also explore complementary ideas *around* squatting, such as the social and economic conditions that lead buildings to become abandoned, the philosophies that justify property resistance, and the legal realm that dictates future possession.

Some chapters are heavier in law than others, which compels me to declare that, despite having spelunked for a few years in the clammy depths of U.S. legislature while researching this book, I am *not* a legal professional. I have never attended law school nor been licensed to dispense legal advice; I pieced together my

research with the help of trusted attorney friends and law students. Also, because the law is constantly changing, I encourage you to do your own research on local laws in your area before taking any actions as may be described in this book.