

# Under Penalty of Catapult

## This Is Getting Confusing...

without comments

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A footnote to the Koch vs. Cato battle is the fate of two of Cato's original five shareholders, Murray Rothbard and Roger MacBride. The original Shareholders Agreement dated January 26, 1977, listed them along with Charles Koch, George Pearson and Ed Crane as equal shareholders. Yet when the successor Shareholders Agreement was executed in 1985, Rothbard and MacBride were no longer listed—just Koch, Pearson and Crane, along with Bill Niskanen.

The Koch lawsuit doesn't explain what happened to MacBride and Rothbard. [David Gordon](#) of the Mises Institute offered an account of Rothbard's ideological break with Cato—specifically with Koch and Crane—in a 2009 article at [LewRockwell.com](#):

Rothbard was removed from his position at Cato, and he was no longer invited to lecture at the summer conferences of the Institute for Humane Studies, another organization under Koch's patronage. Rothbard did not go quietly. He was, it will be recalled, a stockholder in the Cato Institute; and he intended to make clear his opposition to current policy at stockholders' meetings. In addition, his public criticisms would draw attention to a fact that Koch preferred to keep hidden, i.e., that the stockholders, principally Koch himself, and not the Board of Directors, held final control.

Koch and Crane were determined to prevent Rothbard from doing so. Koch refused to return Rothbard's shares, which he had supposedly been holding in safekeeping for him. When Rothbard appeared at the Cato offices for a stockholders' meeting, Crane informed him that his shares had been voided. Though the legality of this was eminently questionable, Rothbard elected not to pursue the case further. Lawsuits against billionaires often have unhappy endings.

[Lew Rockwell](#) himself added today, "the shares—still [Rothbard's] property—would have passed, with the rest of his estate, to his widow Joey, and then to my control. So do I own stock in the Cato Institute?"

The 1977 Shareholders Agreement that Rothbard signed contained substantially the same terms as the 1985 agreement now at issue. Section 6 of the 1977 agreement said,

That at any time a majority, by number, of the undersigned (hereafter the "Purchasers") desire to purchase all the stock in the Corporation owned by one or more of the undersigned (hereafter the "Seller"), the Seller, within ten (10) days after receiving written notice of the Purchasers' desire from the Secretary of the Corporation, shall deliver or cause to be delivered to the Purchasers share certificates representing all the stock in the Corporation owned by the Seller, duly endorsed for transfer, against payment by the Purchasers to the Seller of the amount paid for all such stock by the Seller. The Purchasers shall acquire the stock of the Seller in the proportions that their respective stock holdings in the Corporation bear to the aggregate stock holdings of the Purchasers in the Corporation, and the price paid by them to the Seller shall, as between the Purchasers, be paid by them in the same proportions.

In plain English, a majority of shareholders can force a minority to sell their stock to them. I assume that's what Crane, Pearson and Koch did to Rothbard and MacBride. Now, whether they followed the strict requirements of the above provision—i.e., gave written notice and paid Rothbard his \$1-per-share—I can't say. And the statute of limitations for a breach of contract action is long expired, so legally, it's a moot point. And even if Rothbard were still the lawful owner of his shares, he died in 1996, we're back to the [original question](#) of the Koch lawsuit, which is can the shares be transferred to heirs or legatees after death?

Written by Skip Oliva

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