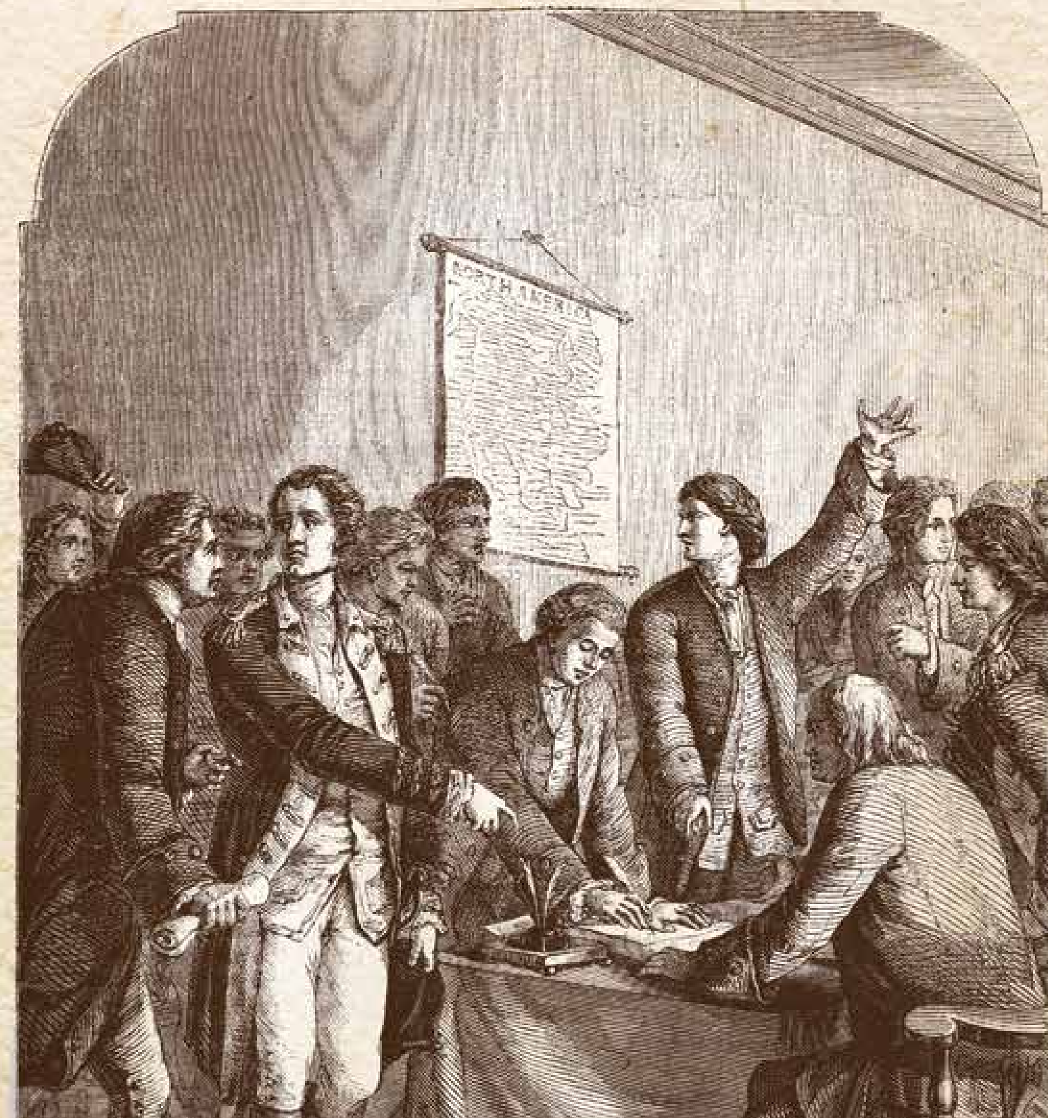
Private Rights to Property

The Foundation of Freedom, Prosperity, and Harmony



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This essay was first published in 1987. While a few of the facts are dated, the primary message remains unchanged.

> *Where societies organize themselves according to the principles of private property and free markets, their citizens not only live better, but also they live more freely and more harmoniously.*

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Foreward

John Allen's excellent explanation of the fundamental role of private property rights in providing wealth, harmony, and freedom deserves a wide audience. If you have an inquiring mind and seek to understand what makes things happen, read it. You will find it both informative and entertaining.

As background to Allen's exposition, I would like to discuss the concept of freedom. We often talk and think we are in agreement when we really are not because we don't realize the words we use mean something different to the other person, if they mean anything at all. One such word is *freedom*. When I use the term freedom, I mean a situation in which people in a society are controlled and coerced in a system of private property rights.

Every society is plagued with scarcity; each person wants more of what is available, and more to one means less to another, unless more is obtained by production. But whatever the amount produced, the way people are controlled or coerced determines whether they are free or not. They may be coerced by being enticed to act in response to an opportunity to make themselves better off, just as I have been coerced in the past to lecture by the enticement of a handsome honorarium. The alternative I would have taken was playing a round of golf, but the program sponsors coerced me, by their offer, into staying indoors instead of enjoying the pleasures of golfing. That is surely a very powerful bit of coercion. Yet I call it freedom.

Freedom clearly is not the absence of coercion; it is a system in which the approved kind of coercion is used. What kind of coercive system will keep people in line where they will act with regard to other people's interest and do so in a manner that differs from the jungle and the military-command systems and governmentally directed police powers? The answer is clear. It is a system that assigns resources to individuals as private property and protects those rights with the government's physical coercive powers. Government must exist, and it must have a monopoly of physical force that it uses to uphold private property rights against both domestic and foreign usurpers. Government must not deny property rights or weaken them or shift them around arbitrarily without due process of law and compensation.

Other concepts that are considered components of freedom, the right to live where one wishes, the right to speech and communication, the right to work where one will at what one wishes, are absent without private property rights. It is private property rights in one's body and brain, it is access to paper and pencil as private property that enables me to express myself to willing readers and listeners; it is private property rights of other people to their resources that enable mutually agreeable contracts about where and for whom we will work at what wages. If private property rights are absent, none of these can occur—people instead would have to appeal to a political authority for permission to have such things as paper or radios or job assignments.

For example, when “protesters” invade a shopping center and allege their free speech is violated when they are removed, the fact is that they were seeking to take someone’s property (the land) to communicate (with not necessarily willing people). The protesters did not invade a stationery store and take paper and signboards without payment on the pretense that they were expressing their rights to free speech. Yet they were doing exactly that when invading the shopping center under the guise of “free speech.” But absent a private property system, they could not have bought even the paper for signs. Instead, they would have to get them by appeal to a governmental agency. Then, indeed, they could complain that their right to free speech was denied. To have free speech, one must first have a system of private property rights in resources that can be used for speech. Free speech doesn’t mean free resources for the taking; it means the right to use privately owned resources to communicate with others without permission of a government agency. And without private property rights, there is no way to avoid the necessity of first seeking permission from the agency in charge of resources that enable communication, as for example radio and television (in contrast to newspapers).

The same reasoning applies to freedom of choice of occupation, place of residence, all of the things we regard as elements of freedom.

Surely, it should not be necessary to belabor the fact that such a system is more productive and conducive to prosperity and growth than any other system yet discovered. Still, that a system of private property also is the one that means freedom is surprising to many people today, although it was obvious and fundamental to the framers of our Constitution. Attenuate private property rights, and you attenuate freedom.

If that is surprising or implausible, I hope you will accept a challenge. Read John Allen’s excellent essay and decide whether or not freedom and a free society are dependent on a system of private rights to property. I am confident you will agree that it is.

Armen Alchian (1914-2013)
UCLA Professor Emeritus of Economics

Ignorance of economics has probably caused . . . more harm to more people in more places than any other ignorance.

Michael Novak[1]

Preface

After 50 years of growing government and declining private rights to property, there has been a remarkable resurgence of private rights to property and free market policies around the globe. Privatizing nationalized industries is the vogue. Even in mainland China, government control is giving way to the free market. The recent addition of economics into law schools and the latest appointments to the U.S. Supreme Court may very well reinforce and perpetuate this trend.

While many rejoice in this development, many others find it abhorrent. Still others are uncertain and many, perhaps most, are indifferent. Are these developments good or bad? That is a value judgment, which depends upon individual perspectives. My purpose in writing this is to help people evaluate this trend.

Of course, this is not the first excursion into the area of economic systems. This has been a prominent area of inquiry even before, but especially since, the appearance of Adam Smith's *Wealth of Nations* in 1776. While I cover some of the same material as other writers on this subject, my focus is on one aspect of economic organization that has received comparatively little attention: private rights to property.

The so-called "property rights perspective" in the analysis of economic and social affairs is a powerful vehicle for understanding the behavior of individuals and organizations. And knowledge about economic behavior is a necessary condition for predicting the likely results of proposed policies aimed at social reform.

For many generations Americans have lived within a system of private property rights. Because it has worked so well, few of us have had reason to examine the essence and importance of this institution. As a result, we have given little thought to the consequences of giving up some of these rights. Over time we have allowed many of our property rights to be eroded gradually. Not observing the results of this erosion from an overall perspective, we have been unaware of their cumulative effects. I hope that this paper will help to develop that perspective and to reveal the likely consequences of the continued erosion or the resurgence of private rights to property.

Certainly I alone must shoulder the blame for any errors or omissions in this paper. But because I had so many good and careful reviewers, I take comfort in knowing that the errors are fewer. I am especially grateful to Armen Alchian of UCLA, who many regard as the founder of property rights analysis, for his careful reading, many suggestions and generosity in writing the "foreword." I believe my colleague and good mend Morgan Reynolds is one of our profession's most talented and learned writers, and I was the beneficiary of his insightful intellect and sharp

Only if we understand why and how certain kinds of economic controls tend to paralyze the driving forces of a free society, and which kinds of measures are particularly dangerous in this respect, can we hope that social experimentation will not lead us into situations none of us want.

Friedrich A. Hayek[2]

pencil. Much help was also received from my colleagues in the Texas Real Estate Research Center, Jack Friedman and Jack Harris, and from John Baden of the Political Economy Research Center. I want to thank also the Texas Real Estate Research Center's (Former) Director, Rick Floyd, for his reading, advice, encouragement and financial support of this project. His belief that the Center should have something to say about property rights, and it has a duty to help the lay public understand this institution of private property is commendable and much appreciated. But even more important, his confidence in my ability to head this project is deeply appreciated. Last, but certainly not least, I am thankful for the support of the Center's Advisory Committee, and I am especially grateful to its former member, George McCanse, whose enthusiasm and leadership were instrumental in launching this project.

John W. Allen
College Station
August 1986

The great and chief end . . . of man's uniting into commonwealths and putting themselves under government, is the preservation of their property.

John Locke[1]

Property Rights and the Role of Government

Many public policy issues are basically about property rights—what rights title holders have to control the use and transfer of their property. Actual or prospective alterations of private rights to property are manifested in building codes, rent controls, usury laws, wage-and-hour legislation, price controls, import quotas, taxes, highway speed limits, blue laws, production restrictions, a national industrial policy, plant closing laws and gun controls. All of these are actual or proposed policies that increase public (political) control over property.

Are these acts worth it? We cannot answer this objectively without knowing the consequences: what is gained, and what is lost? Unfortunately these usually are difficult to assess. Often they are not objectively quantifiable or not apparent until after many years of cumulation. Often the benefits occur in the short run while the costs appear only in the long run. As a result, we fail to connect the effects with the cause.

This is particularly so in the context of property rights. Most people, including those who influence public policy and opinion, have paid little attention to the role and significance of private property as an institution of a free society. That neglect is becoming increasingly costly as a consequence of more than a half century of piecemeal erosion of private rights to property.

At the birth of this nation, private rights to property were among the strongest principles of society. There is no doubt the framers of the Constitution regarded private rights to property as essential for a free, harmonious, and prosperous society. They were intent upon writing a document that would preclude one person or group from using the coercive powers of the government to restrict the property rights of others for their own benefit.

As Bernard H. Siegan notes, concern for property rights is evident in many places in the Constitution.[3] Article I, Section 8, secures for limited times to authors and inventors the exclusive rights to their writings and discoveries. Sections 9 and 10 prohibit states and national governments from passing *ex post facto* laws impairing the obligations of contracts. The enumeration and separation of powers of the federal government provide protection to property. The Bill of Rights provides both direct and indirect protection to the property right; the Fifth Amendment states that no person shall be deprived of life, liberty, or property without due process of law and contains the famous "taking clause" that says private property shall not be taken for public use without just compensation. Also, property is accorded protection in the Second Amendment prohibiting the confiscation of arms, in the Third Amendment restricting the quartering of troops,

> *That government can scarcely be deemed to be free, where the rights of property are left solely dependent upon the will of a legislative body without any restraint. The fundamental maxims of a free government seem to require that the rights of personal liberty and private property should be held sacred.*
>
> *Justice Joseph Storey*[2]

in the Fourth Amendment forbidding unreasonable searches and seizures, and in the Eighth where excessive bail and fines are prohibited.

Because the first ten amendments apply only to the federal government, and in order to secure for the newly emancipated Blacks the civil rights already enjoyed by other citizens, the 14th Amendment (1868) stated: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law."

Siegan believes that together these Constitutional provisions seem to provide property rights with a formidable protective shield, but the effectiveness of this shield depends on judicial interpretation of the Constitution. From the beginning, both the federal and state courts upheld private rights to property and strictly adhered to the principle that the legislature could not limit property rights except when public necessity clearly warranted it and then only when equitable compensation was paid. Property rights were never regarded as totally immune from public control and regulation, but for nearly 150 years the courts generally held to the basic philosophy that private rights were the general rule and restraint the exception.

Since the late 1930s, the judiciary has largely abandoned its constraining role in property rights and has explicitly relegated these rights to second priority in the hierarchy of constitutionally guaranteed liberties.[4] Top priority is instead accorded to individual rights—speech, press, association, religion, and electoral franchise. The Supreme Court attempts to distinguish between individual rights and property rights. Justice William Douglas' dictum seems best to convey this distinction:

> *Free speech, free press, free exercise of religion are placed separate and apart; they are above and beyond the police power; they are not subject to regulation in the manner of factories, slums, apartment houses, production of oil and the like.*[5]

Justice Hugo L. Black informs us that when it comes to fixing the price of natural gas that goes into interstate commerce "the alleged federal constitutional questions are frivolous."[6]

Prior to the 1930s, property rights generally were regarded as an inseparable foundation of freedom. Moreover, the rights to property were broadly conceived to include not only the rights to control objects but also to control the use of our bodies and our faculties, our muscles, and our brains. Now the Court has broken not only with this tradition, but it has denied that most people must devote a considerable part of their lives to pursuing economic opportunities, and for them, freedom of choice in employment, investment, and consumption is at least as important as freedom of discussion and participation in government.[7]

Public patience with government's impulse to regulate began to wane during the 1970s. The cumulative effects of economic regulation and the growing controls on economic freedom induced a new era of public resistance to an ever-growing and meddlesome government. Even the Supreme Court has shown signs of modifying its stand on its earlier alleged distinction between individual rights and property rights:

> *(The) dichotomy between personal liberties and property rights is a false one. People have rights. The right to enjoy property without unlawful deprivation, no less than the right to speak or the right to travel, is in truth a "personal" right. In fact, a fundamental interdependence exists between the personal right to liberty and the personal right in property. Neither could have meaning without the other. That rights in property are basic civil rights has long been recognized.*[8]

Other developments in the late 1970s and early 1980s suggest public opinion is turning away from government intervention in favor of individual freedom. We see this in the deregulation of airlines, trucking, railroads, banking, oil, natural gas, and telephones. Further, there has been growing interest in the "privatization" of public lands and of many publicly provided services—trash collection, fire protection, utilities, airports, and even prisons. This is not uniquely American. A renaissance of economic freedom has also been seen in Great Britain, Spain, Portugal, Italy, France, and even in mainland China—nations where state intervention or outright nationalization has been the rule and economic growth the exception.

Why the renaissance? Is it because there has been a resurgence in the desire for more freedom? Perhaps, but probably it is also a result of the stagnation in economic activity since the 1970s and failure of state intervention and political controls to deliver sustained economic growth and prosperity as promised. After a decade of disappointment, perhaps people have begun to sense the connection between economic freedom and economic performance. Economic progress depends on how societies are organized to cope with economic problems; maintenance of prosperity goes hand in hand with economic freedom. But equally important, there is growing realization that economic freedom ultimately depends on the structure of property rights—the extent to which people hold private rights to use and exchange their own property.

The institution of private rights to property underlies our individual freedom, social harmony, and prosperity.

Self-Interest and Economics

People strive to improve their own, or their family's, well-being. They choose those actions (among ever-changing alternatives) that are perceived to be consistent with their definition of well-being. Whatever term is used—well-being or self-interest—it does not mean that people are selfish, and they have no regard for the welfare of others. Obviously people do; we engage in altruism, philanthropy, and other forms of private charity and volunteer work. Still, the well-being of self and family is paramount. In the words of Jeremy Bentham, "The interest which a man takes in the affairs of another . . . is not likely to be so great as the interest which either of them takes in his own: still less where the other is a perfect stranger to hirn."[9]

The motivations of human behavior in economics are sometimes falsely criticized as being "monocausal." That is, economics is said to ignore other passions that motivate behavior, for example, the desire for justice, freedom, individuality, peer recognition, esteem, and spiritual gratification. But this is a mistake, for to the extent these are part of their desires, people will engage in those activities, which promote the realization of their goals, whether they be as Friedman notes, the "missionary seeking to convert infidels to the true faith, the philanthropist seeking to bring comfort to the needy [or the teacher seeking to educate others]—all are pursuing their interests, as they see them, as they judge them by their own values."[10]

Finally, it is assumed that in the quest for well-being, individuals are the best judges of what is in their self-interest. Although surely individuals will make mistakes, they will make fewer mistakes than anyone else who attempts to guide or order their choices for them, and they will prefer to make their own choices.

Our society is what we make it. We can shape our institutions. Physical and human characteristics limit the alternatives available to us. But none prevents us, if we will, from building a society that relies primarily on voluntary cooperation to organize both economic and other activity, a society that preserves and expands human freedom, that keeps government in its place, keeping it our servant and not letting it become our master.

Milton and Rose Friedman[1]

Economic Systems

We live in a world of scarcity. It is not possible to satisfy all wants. We have an unlimited appetite for goods and services, but nature has provided insufficient resources to provide what we want.

It is axiomatic that people everywhere strive to improve their lot in life. We want more than we have and more than we can produce ourselves. Therefore, it is apparent that each of us can benefit from what others have. But because resources cannot be used simultaneously to satisfy competing demands, human conflict is inevitable. Somehow these conflicts will be resolved. The methods used range from voluntary exchange to violence and include voting, arbitration, and despotism. Whatever methods are used, no society, not even the most centralized command economy; specifies in advance detailed answers about how resources will be used. Instead, each society relies on rules, customs, and institutions. The composite of these rules, customs, and institutions is an economic system.

Economic systems differ in their mixtures of these rules, customs, and institutions. While the world has many different economic systems, they often are identified as belonging to one of two idealized or pure types: command and market economies. Their primary distinguishing features are the extent to which private property rights exist and the extent to which decisions about resource use are centralized in political control.

In the pure command system, often called socialism, nearly all resources are owned by the government. To the extent that individuals are permitted to own resources, they are limited to a few personal possessions, and these may be subject to strict controls. Even the individual's most vital productive resources—brain and muscle—are strictly controlled. The command system is so named because economic decisions about what to produce, how to produce, and to whom to distribute the fruits of production are made predominantly by the command of people in charge of the central government. Typically, a central planning authority is empowered to establish and monitor an economic plan. This authority then specifies such things as the variety and location of crops to be planted; the styles and quantity of automobiles to be produced; the number of scientists to be trained; and the sizes of shoes to be produced, where they will be shipped, and their price.

A person's occupation, place of residence, income, travel, and even diet are regulated closely by governmental authority in strict command economies. The individual is accorded little respect and is subordinate to "the plan," "society," or "public welfare." In summary, pure command economies are characterized by government ownership of society's productive resources and centralized decision making in economic affairs.

The basic features of the pure market economy, often called capitalism or free enterprise, stand in striking contrast to the pure command economy. This system is based on the premise that there is no need for centralized decision making. No grand economic plan is required to determine what is produced. By allowing resources and property to be privately owned, the solution to the problem of scarcity will be forthcoming as people seek to improve their personal well-being through voluntary exchange. If people are able to exchange property freely with each other, an extensive network of markets naturally develops to facilitate exchange. Through these markets people communicate with each other. Consumers reveal what they want to purchase and tell resource owners what to supply. Thus, the market process promotes the production of those goods and services most highly valued.

Fundamental to a market economy is a system of private property rights. Without well-defined and enforced property rights, the market system is unable to function properly, and the performance of the economy is retarded. While the government is assigned only limited functions in the market system, one especially important task is to enforce the system of private rights to property. This fact seems to be ignored by the judiciary, legislatures, and public.

Of course, neither the command nor market economies exists in pure form. All modern-day economies have both private and public properties. In some economies, the government ownership of properties and command features dominate—as in the Soviet Union, Poland, China, and Cuba. In other economies, private property is the dominant form of ownership although government ownership, control of property or both also play an important role. The United States, Hong Kong, Japan and Germany are examples of such economies. Between these two groups is another group of economies wherein resources are owned both publicly and privately; but government closely regulates the use and disposition of private property. Examples of these economies include Canada, Great Britain, Sweden, and France.

Possible combinations of private and government property that may exist in a nation are unlimited. The world's economic systems reside upon a continuum between the two extremes of pure command (government property) and pure market (private property) economies.

Which system; which composite of rules, customs, and institutions; which blend of private and government property is best? That depends on what we want from our system. Even though different people want different things from the economy, there is widespread agreement about two basic objectives: efficiency and growth. If resources are scarce, we want the system to promote their efficient (nonwasteful) use, for this means the size of the economic pie is as large as possible. Moreover, we want the system to promote an ever-growing economic pie so that living standards improve.

An economic system is more than simply a device for production. It is a way of life and has far-reaching effects on the daily affairs of people. We also want the system to contribute to and be consistent with the desire for freedom, individuality, and other noneconomic dimensions of happiness.

What system does all of this? What are the features of the systems that simultaneously promote individual prosperity and protect individual freedom? Experience confirms it is those systems that largely depend on private property and free markets. Next, we will focus on how and why the private property, free-market system is essential to these ends.

. . . no person shall be . . . deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use, without just compensation.

U.S. Constitution, Amendment V, 1791

Property Rights

In its broadest meaning, property is commonly said to include anything that people value—physical objects, such as land, buildings, automobiles, household furnishings, jewelry, books, clothing, machinery, and inventories; financial assets such as bank balances, stocks, bonds and business equities; and ourselves, our labor skills, intellectual powers, and faculties. But the term *property* also is used to refer to the rights to use, enjoy, and transfer property. These rights usually are called property rights, and thus the terms *property* and *property rights* often are used interchangeably.[2]

Property rights in effect are rules and bounds that govern interpersonal relations with respect to objects of value. They are socially acknowledged rules of action. Ownership of property is associated with three rights—the right to use the property, the right to enjoy or bear the consequences of use, and the right to transfer rights. Let us examine these rights individually.

The right to use an object means the owner determines if, when, where, and how an item shall be used. In the case of an automobile, whether it is used or kept in the garage; where it will be driven, at what time, for how long, and at what speed; the extent of its maintenance and all other aspects of use are decided exclusively by the owner. Such choices, of course, are constrained by the identical right of others to the exclusive use of their private property. For example, I may not park my auto in your yard without obtaining that right from you.

Second is the right to enjoy or bear the consequences of the selected use of property. For example, if a parcel of land yields a crop, the benefits that flow from this crop, whether in the form of consumption or cash, shall be captured by the owner alone. Of course, this right also means that if people use their resources in ways that are wasteful, the owners alone bear the loss.

Third is the right to transfer (dispose of) the rights to property to another. If owners of businesses wish to cease operation and sell their building, equipment, inventory, mailing lists, name, and other assets of the enterprise, the terms of the transfer of their rights shall be determined only by their holders, i.e., parties to the exchange.

Such transfers need not be total or permanent. The lease of a residential dwelling is an example of the owner transferring to tenants only some rights for a specified period. Moreover, continued access to these rights is contingent on certain conditions. The tenants may have the right to occupancy, but they may be precluded from subleasing, housing pets, or using the property as a place of business. Certainly, timely payment

The theory of the Communists may be summed up in the single sentence: Abolition of private property.

Communist Manifesto, 1848[1]

of the rent will be an important condition of continued occupancy.

To own property is to own a bundle of rights. Further, the exchange of goods is not so much trading objects as it is exchanging the bundle of rights to these objects. In everyday conversation it is common to refer to the bundle of rights as property rights, but by this expression we mean rights to property and not rights of property. Some argue that property rights conflict with human rights, but this is a false distinction because property has no rights; the only rights are those of humans to property. Avoid this verbal trap, and keep clear the precise meaning of property rights.

Ownership of Property Rights

Private property rights may be shared by more than one individual as in partnerships and corporations.

Public property, by contrast, is controlled by agents of the government through the political process. Some public properties are reserved for exclusive use by government officials or employees. Examples are military installations, courthouses, and post offices. Some public property is controlled by the government for direct use by the public at large. These communal properties are available to all users on a first-come, first-served basis. Streets, sewers, seashores, rivers, forests, parks, and wildlife are examples.

Constraints on Property Rights

Some constraints on private property rights are formalized in law. Others are informal, the result of custom or voluntary acceptance. Formal rules range from constraints on how property is used to outright prohibition of ownership. Examples of constraints are zoning, building codes, licensing, price controls, and environmental and safety regulations. An easement providing government with access to utilities that traverse private property is another example. Private deed restrictions concerning design and size of dwellings, density, and other features of land use are examples of formalized constraints arranged by voluntary associations and enforced by government. In most economies even rights to an individual's own labor services are subject to limitations and may take many forms. Some examples are the prohibition of growing any or too much of certain crops, licensing requirements, or otherwise limiting the number in certain occupations, migration and travel restrictions, minimum wages, minimum and maximum ages for working, maximum hours of work, and specification of working-condition standards.

Constraints often outlaw the ownership of selected drugs and weapons. Consumption of alcohol by minors typically is prohibited. Discharging firearms within city limits usually is prohibited. In most contemporary societies, the ownership of one person by another person (slavery) is absolutely prohibited. Persons may not even voluntarily sell themselves into perpetual servitude. However, in recent years it has been possible (though within strictly defined guidelines) for persons to transfer parts of their bodies—blood, eyes, heart, kidney—or to sell or will their bodies to science.

Certain objects are precluded from private ownership in the name of the "public interest." They are held in trust for the public at large, and their use is controlled by agents of government. Examples include some radio waves, some seashores, the continental shelf, some forests, minerals on public lands, some parks, some wildlife, the atmosphere and usually, though not always, rivers. Some of these are not privately owned because it is difficult to specify or uneconomic to enforce property rights to objects such as the atmosphere, running waters, the open sea, and migratory wildlife such as whales and fish. These resources are deemed by the political process as common property and are not subject to private ownership.

Some private property rights enforcements are informal and may be nothing more than mutual acknowledgment among people as to what is neighborly or honorable. Even without threat of third-party enforcement, it is customary for neighbors to confine their pets, to avoid creating offensive odors, and to select acceptable times for creating unavoidable disturbances from lawn mowers, power tools, and parties. Bagging rather than burning leaves and the tidy disposal of refuse are common practices among neighbors. To behave otherwise invites reciprocal disregard for property rights and privacy and a breakdown of social harmony.

For many people an agreement or contract, whether oral or written, is to be honored—not because of the threat of sanctions but simply because it is right. While formalized contract laws protect the interest of trading parties, voluntary acknowledgment of the sanctity of a contract is another example of an important informal constraint on interpersonal behavior with respect to objects of value.

Controversy over the role of government in society and over public policies is often about the appropriate extent to which private rights to property shall be limited. Another source of heated controversy is proposed changes in the structure of property rights, changes that have profound effects on the social and economic lives of people and nations. The consequences of changes in the structure of property rights are important and far reaching.

. . . the system of private property is the most important guaranty to freedom, not only for those who own property, but scarcely less for those who do not. It is only because the control of the means of production is divided among many people acting independently that no one has complete power over us, that we as individuals can decide what to do for ourselves.

Friedrich A. Hayek[1]

Private Property Rights and Freedom

The United States of America is the quintessential symbol of freedom around the world. For more than two centuries, millions of immigrants have endured great pain, risked lives and sacrificed fortunes to accept our invitation: "Give me your tired, your poor, your huddled masses yearning to breathe free." "Sweet land of liberty," "let freedom ring," "land of the free, home of the brave," "with liberty and justice for all," "all men are endowed with . . . unalienable rights of life, liberty, and the pursuit of happiness "—moving, heart-felt words that remind us daily that freedom is the keystone of the American ethos. That human beings have a God-given, unalienable right to be free is the guiding principle that undergirds American society and institutions.

But what does freedom mean? From whence does it come? Freedom has taken on many meanings. Our concern is with its original meaning: "that condition of men in which coercion of some by others is reduced as much as is possible in society."[2] We speak of freedom only in the context of the relation of people to other people. We are not concerned here with those interpretations of freedom that are associated with the absence of constraints, the range of choices open to individuals, or so-called inner freedom.

That is not to say that freedom requires the absence of all coercion. In a world of scarcity some coercion is inevitable, but it is the form or method of coercion that distinguishes free societies. For example, employees often are induced to change employers. In a sense such inducements can be regarded as coercion, for if the inducements are sufficiently attractive they are hard to turn down. We are coerced daily with opportunities to make ourselves better off—to purchase brand X over brand Y, to eat at this restaurant or that one, to join one club or another, to invest in stocks or bonds or real estate, to work or to play. Whatever the choice, it is voluntary; we are free to accept or reject any of them. If we accept, it must be because we expect to be better off than if we reject. Under a system of voluntary exchange, both parties (buyers and sellers) must expect to gain.

Coercion by inducement is not inconsistent with individual freedom. Our concern is exclusively with minimizing the occurrence of that type of coercion in which "one man's actions are made to serve another man's will, not for his own but for the other's purposes."[3] It is freedom from that kind of coercion that prompted the Declaration of Independence and still beckons immigrants to our shores.

While freedom is a natural passion, it is not the natural state. Human history is a sad story of the persecution of masses by a small but powerful elite. With few exceptions, such as the United

States, Canada, Great Britain, Western Europe and Japan, the majority of the world population still lives under the control of despotic governments where the coercion of many by few is the daily reality.

The ability to coerce one to serve the will of another is derived from the possession of the power to inflict harm. From whence is such power derived? If people have a fundamental desire to be free of authoritative and arbitrary control, how does a government avoid being overthrown by its liberty-seeking citizens? The obvious answer is that this power comes from the ability to use physical force—military or police power.

So effective is control by physical coercion that it is a jealously guarded monopoly reserved for legal use exclusively by government. But that is not the whole story. Even in the most despotic of states, the use of physical force is distasteful. It is natural to seek other more seemly or civil sources of power, something that will complement physical force yet simultaneously reduce the need to exercise it. History tells us that this complementary source of power is derived by abolishing private property. By prohibiting private ownership, proponents argue that all property becomes "collectively owned for the good of society." The state then controls the daily affairs of its citizens. When people are deprived of the private ownership of productive resources, when even personal skills and physical capacities (often a person's only significant resource) are strictly controlled, they are then totally dependent on the government for income and daily sustenance. Clearly, this person is not free and not likely to be an outspoken critic of the government. In the words of Hamilton, " . . . a power over a man's subsistence amounts to a power over a man's will."[4]

Our nation's founders were keenly aware of this problem. They recognized the necessity of establishing a legal system that would provide for political, economic, and social harmony. Yet, the very existence of government was seen as an inherent threat to the individual freedom that they sought to preserve. They wanted to assure that minorities would be protected against the majority, to prevent one group from gaining exclusive control of government and using that to oppress others. Therefore, the Constitution provides for an elaborate set of checks and balances within the system. Simultaneously, it provides for a check on the power of government from without by recognizing and enforcing private rights to property.

In a world of scarcity, conflict arises because several people want to use simultaneously the same resources for different purposes. Because this is not possible, we need some way of identifying or dividing objects into what is thine and what is mine. By so doing, we delimit spheres of privacy and the rights that go with such privacy. The recognition and protection of private property establishes a sphere of privacy into which no one, not even the government, may enter.

Private property expands our independence. By private ownership of productive resources and by possessing exclusive control over the use of our own human capital, property and, therefore, power are dispersed. The ideal is to have property, says Friedrich Hayek, "sufficiently dispersed so that the individual is not dependent on particular persons who alone can provide him with what he needs." Moreover, he adds, when "property is divided among many owners, none of them acting independently has exclusive power to determine the income and/or position of particular people—nobody is tied to any one property owner except by the fact that he may offer better terms than anyone else."[5] It is competition among employers for our services and competition among sellers for our patronage that limits their powers and expands our independence and freedom.

But property is a source of private power as well as state power. And power, wherever possessed, is potentially corrupting. Whatever its source, it is always a threat to individual freedom. Our founders were not oblivious to this point. Indeed, this was of considerable concern to them.

They were concerned less with the power of private property than they were with the power of public property because even when it springs from the people, once acquired, state power becomes so firmly entrenched that it is hardly ever relinquished voluntarily, and it is difficult to take away otherwise. On the other hand, private economic power is tenuous. It is constrained by competition and the ever-present risks and vicissitudes of the market place. Even the largest and most powerful business enterprises are not immune to these pressures; Penn Central, Lockheed, Chrysler, W. T Grant, Braniff, and International Harvester are cases in point.

In summary, the legal rights of individuals to private property create a multiplicity of power centers that check the coercive power of the state. Under the rule of law, individuals are guaranteed that their rights will be upheld even against the privilege and coercive power of the state. Private property is the individual's first line of defense against this power of the state.

We study man as God has made him. We observe that he cannot live without providing for his wants, that he cannot provide for his wants without labor, and that he will not provide any labor if he is not sure of applying the fruit of his labor to the satisfaction of his wants.

Frederic Bastiat, 1848[1]

Private Property Rights and Prosperity

It is not clear whether early immigrants to America sought liberty and independence more than material well-being or vice versa. Doubtless most sought both. But for those who primarily sought freedom, the happy (and probably unsuspected) side effect of their newfound freedom was substantial, continued growth of their wealth and prosperity. The genius of a private property system is that it takes people as they are and transforms the pursuit of individual self-interests into a wealth-generating machine fueled by creativity, ingenuity, inventiveness, competition and cooperation.

How does the institution of private property contribute to the creation of wealth? Wealth is created only by combining and transforming natural and human resources into goods and services that satisfy human desires. If we want economic growth, we want an economic system that inspires productive activities, one that provides an incentive for people to use resources efficiently; to produce those goods and services people value most highly.

The incentive system must be well known and consistent. Business owners and employees must be confident that if their behavior is productive they will earn profits, wages, rank, or status. Similarly; if they are nonproductive, owners must realize that they will incur losses and perhaps failure while workers will suffer lower incomes and possibly unemployment. If a person perceives a connection between economic behavior and economic well-being, productive behavior is assured. That is not to say people will not enter into unsuccessful ventures. There will always be mistakes and failures, small and large. Because we cannot know the future with certainty, "Edsels" will occur again and again. But penalties ensure that people will act to minimize their personal losses. Without such incentives more nonproductive ventures will be experienced and resources will continue to be used inefficiently rather than diverted to more valuable uses.

Private property rights make this system work efficiently without a centralized arbiter of what is and is not productive. Private property rights connect behavior with wealth and direct the human drive into efficient and productive activities. If private property rights are absent, or if persons are not allowed to capture the fruits of their labor, the connection between behavior and wealth is gone, and we must then depend on other incentives to encourage productive behavior. Unfortunately, other incentives result in a more centrally regulated or indoctrinated society, and experience reveals that such societies are not only less free, they also are less productive and prosperous.

Call it what you will, incentives are what get people to work harder.

Nikita S. Khrushchev

Natural Resources, Culture, Government and Economic Growth

Why are some societies poor and others richer? Why did post World War II Western Europe prosper while Eastern Europe stagnated? Why does the Soviet standard of living remain far below that of Western Europe? What explains these contrasting states of economic well-being? Are economic freedom and private rights to property solely responsible? What about other factors such as natural resource endowments and culture? Are not these also important?

Discussions of the determinants of economic growth often emphasize the importance of possessing great natural resources (minerals, fertile soil, climate, harbors). However, some of the nation's most richly endowed with raw materials also are some of the poorest. By contrast some of the nations that have meager natural physical resources are, in fact, quite advanced. Compare the standards of living of many African nations with Japan, Hong Kong, and Taiwan for example. Except for people and harbors, none of these Asian countries has an abundance of natural resources, yet each is a highly developed economy. On the other hand, Guinea and Zaire are examples of abject poverty in lands rich in resources.

What about cultural differences? Growth experiences often are said to be correlated with such things as traditions and attitudes toward work and industry. These would seem to be relevant, yet they contribute little to explaining the vast differences in living standards among nations that have the same culture and heritage—West and East Germany, mainland China and Taiwan, and India and Indian enclaves in Africa, Malaya, and Panama.[2]

Resources and culture are not irrelevant to the development process, but the evidence of history speaks loudly and clearly that the economic order in which these other factors of development reside is particularly important. Where the economic order preserves and expands human freedom, where the institution of private property is enforced rather than displaced by government, economic progress occurs. If this economic order also coincides with a richness of resources and a thrifty, enterprising, and hard-working people, economic progress will be even greater. But even if abundant resources exist in a centrally direct economy; economic progress is certain to be retarded if not entirely absent. Lord P. T. Bauer, noted development economist at the London School of Economics, argues persuasively that economic development depends "primarily on people's abilities and attitudes and also on their social and political institutions. . . . Natural resources have been of only secondary irnportance."[3] And Nobel economist Milton Friedman concludes, "We know of no society that has ever achieved prosperity and freedom unless voluntary exchange has been its dominant principle of organization."[4] A private property system is not a sufficient condition for prosperity and freedom, but it is a necessary condition.

What of government? Does it not make any contribution to the growth process? Of course it does, but its role is that of creating a stable and predictable economic environment in which people can direct their energies into productive activities. It was a "wise and frugal government," as Jefferson said, "which . . . restrain(s) men from injuring one another, (but) which . . . leave(s) them otherwise to regulate their own pursuits of industry and improvement. "[5]

What is common to many is taken least care of, for all men have greater regard for what is their own than for what they possess in common with others.

Aristotle[1]

Property Rights and Economic Behavior

The structure of property rights refers to the prevailing set of laws, regulations, and customs that govern the use and transfer of resources. Because the structure of property rights also establishes incentives, a change in this structure changes both the incentive system and economic behavior.

The traditional set of private property rights includes the right to decide the use of property, to gain the benefits yielded by property and to transfer (sell) property to others. When we sell something, we actually are transferring a bundle of rights to that asset. Property rights are neither lost nor gained during transfer, that is, we convey only the property rights that we have and no more. The value of an asset depends on the bundle of rights attached to that asset. If the bundle is somehow altered, the value of the bundle, and therefore the value of the property, also is altered.

For example, suppose that after some negotiation a person agrees to purchase your automobile for $5,000, and the exchange will take place at noon tomorrow. This agreement is based on the perceptions of both buyer and seller of the value of the automobile. The price is influenced in large part by the buyer's perception of the current structure of property rights and the probability of this structure remaining intact for the foreseeable future. Suppose that at 8:00 a.m. tomorrow, a governmental decree announces that henceforth all automobiles are public (communal) property. Anyone can use any automobile that is not currently in use. Once the driver leaves the automobile he or she can no longer be assured that it will be available for future use. The bundle of property rights to automobiles has been altered, and the value of rights to the automobile also has been diffused and changed. Indeed, the exchange value of that automobile to any particular person has fallen because no one has any reason to give up cash for an asset that an individual can no longer control.

While this is a hypothetical example wherein private rights to the property were extinguished, it illustrates that the value of an asset depends upon the structure of the rights to property. Property rights need not be completely removed for an asset's value to be affected.

Suppose, instead, the decree had restricted present and future automobile ownership to married males age 35 or older. Whether or not your buyer qualified for ownership, the value of your automobile would have declined because the market supply of used autos has increased (as nonqualified owners offer their autos for sale), while the demand has decreased because the number of qualified owners has decreased. If someone qualified for ownership and was informed about the decree, we can confidently predict that the buyer would not voluntarily complete the noon transaction at the previously agreed price. If the transaction takes place at all, it would be at a lower price.

If the decree had set a maximum legal speed or specified the minimum number of passengers or constrained the hours of the day during which it could be operated or prohibited travel outside some set boundaries, the rights to the property would have been altered, and the value of the automobile would have been changed.

The structure of property rights also influences our care of property. Consider again the example of automobiles declared common property. Under these circumstances what incentive is there for anyone to be concerned about the auto's maintenance? Who would bother to replace a broken windshield or repair a flat tire? No one because no one could be certain to capture the benefits from such an expenditure. It would be an investment for which the return would be low if not zero. In other words, there is little incentive to maintain this asset. Indeed, it would be irrational to behave otherwise. It takes no great imagination to forecast what would happen to the average quality of the nation's stock of automobiles. Without a program for public maintenance, the roadsides would soon become more crowded than the roads themselves.

People do not treat their own autos this way because their autos are part of their wealth. A person's wealth depends importantly on personal management of assets. This means that people will defend their property from abuse by others. We lock our cars and our homes to deter theft of our property. We do not throw garbage into our yards, write on our bathroom walls, place gum under our own tables or crush out cigarettes on our floors. Indeed, we would not tolerate others coming into our homes and doing these things because their harmful effects are borne entirely by ourselves through a reduction in our personal wealth.

Not only does the existence and enforcement of property rights cause us to defend our property from abuse by others, it also induces us to take account of the social costs (the negative effects or harm to others) of our actions. We are careful not to damage other's property, for if we do, we will have to compensate them for their losses at the expense of our own wealth.

Also, when property rights are transferable, this causes people to take into consideration the interests that others have in the property. Property use depends on its value. But this value reflects the value that others place on the property in alternative uses. Wealth-seeking people will retain or use the property for their own purposes only if it is worth as much to them as it is to others. Otherwise, owners would enhance their wealth by selling or leasing their property to others who value it more highly. Thus the transferability of property rights compels all owners to act in accord with the values that all other would-be users place on the property.

Communal Rights to Property

How is economic behavior affected when property rights are communal instead of private? By communal we mean property is available to all on a first-come, first-served basis. Such properties are either controlled by government (roads, parks, seashore, forests) or by no one (open sea, atmosphere, moving waters). Whereas an owner of private property may exclude all others, no one can exclude others from using communal property except by prior and continued use of the property. The first person to enter a highway or occupy a campsite holds that right as long as that person uses the property. Subsequent users may follow the first but cannot displace or exclude the first user.[2]

When property rights are communal, people tend to ignore the social costs of their actions. By social costs we mean the negative effects (costs) that their actions have on others. For example, when a rancher's cattle consume grass on public land, there is less grass for another rancher's cattle. Although the grass may be expected to grow and replenish, if the extent of grazing is not managed, overgrazing can lead to wind and water soil erosion and eventual depletion of the grazing-land resource. Under private ownership of land, we can be confident that ranchers will have incentives to manage the grazing of their herds to avoid depletion. Under common property arrangements, however, there is no benefit for a *single* rancher to refrain from grazing. To do so only benefits others who continue to graze the commons. Each person has an incentive to use the resource because that person benefits only by exercising the communal right. Because the cost of using the resource is borne almost totally by others, people ignore this cost. The result is overgrazing, or more generally, overuse (depletion) of the common resource.

Communal wildlife must be killed to establish private rights to, or to benefit from, this resource. Because hunters (as other people) tend to ignore the social costs of their hunting and consider only their private benefits, it should be apparent why the American buffalo was near extinction around 1900 and why overfishing is threatening several species of whales. Chronic overgrazing in the West from the late 1880s to the 1930s has been traced to insecure landownership on the western rangelands and is another example of the tragedy of the commons.[3]

Pollution

Environmental pollution can be explained also as a consequence of common property. To appreciate the problem, let us examine a specific case where nearly everyone pollutes the atmosphere. While we use our automobiles carefully, we do not use the environment with equal care. When driving our autos, we vent exhausts into the atmosphere even though this contributes to a polluted environment. So here are people who are by and large responsible citizens, who use their own autos carefully and who desire a high-quality environment but who nevertheless knowingly pollute the environment.

Are we observing Jekyll-and-Hyde behavior? Not really. In fact, people are behaving in a manner consistent with their drive for greater wealth as expected when property rights are communal. Because no one has any clearly defined and enforceable rights to the environment, it is available for all to use first-come, first-served. In deciding whether or how to use any resource, private or communal, people assess the benefits and costs of its use. Here they weigh the benefits against the costs of polluting. The benefit from polluting (using vehicles) is viewed as the utility received from not walking or biking. However, they view their cost of polluting as virtually zero. This is because individuals have no *private* property rights to the air and, therefore, they have no legal recourse to collect from the polluter for damages to the quality of *their* air. The cost of using the common resource (polluting) is borne almost entirely by others. And if the cost of polluting is effectively zero, as long as the benefit from polluting is positive, even well-meaning citizens with the purest intentions can be expected to pollute. This is because individuals respond to personal costs and benefits as perceived by themselves.

Is the case of industrial pollution any different? Does such pollution take place because business people are more sinister than the average automobile owner? Not really. The source of the problem is the same. If the cost *to the firm* of installing smoke scrubbers or disposing of solid waste by other than dumping in the river is more than the benefit, it will pollute. As long as the costs of pollution are borne largely by others, as long as people are not held accountable for the costs their actions impose on others, pollution will continue.

Without well-defined and enforced private property rights to air and water, people are not compelled to consider the interests that others have in the air and water. They are not constrained by the negative effects (costs) they impose on others. But if people did own clearly specified rights to air and water, others could use these resources for waste disposal only with the permission of the owners. Under these circumstances, we can be confident that environmental pollution would be less than now exists. But we can be certain also that it would not disappear completely, for it will be economical for the environment to be used at least to some extent for waste disposal.

Market vs. Government Failure

People often point to environmental pollution as an example of market failure. This is a mistake. It is more accurate to say that pollution occurs because of the failure to have a market in pollution rights. Still, it is pollution that people typically cite when seeking to rationalize additional governmental controls over the market system. Even champions of private property and free markets recognize this failure and claim that government can play a useful role. What is the proper role of government? One common prescription is extensive and detailed regulations of would-be polluters, consumers, and industrialists. Many; however, do not have so much faith in the effectiveness of governmental controls. They recognize that, like the market system, even governmental agencies fail to manage resources effectively and, indeed, often make matters worse. (See pages 32-40 for examples.) An alternate approach is for government to assign private property rights to common resources. Or, if it is not possible to assign rights to the property per se, it could assign a fixed quantity of user rights to the common resource and let the market allocate these rights among would-be users in accordance with their respective values.[4]

Graffiti and Litter

The problem of common property explains why our highways and parks are badly littered, why graffiti on public washroom walls is the norm rather than the exception and why school facilities are unsightly and deteriorate rapidly under the abuse of their occupants.

How do we explain the fact that this behavior is not restricted to public property? We observe similar treatment of private property that attracts the public for commercial purposes: retail stores, theaters, restaurants, gasoline stations, and shopping malls, for example. Don't the owners of these facilities have a vested interest in protecting their property from such abuse? Certainly; and they do in fact commit some of their resources to reduce patron abuse, but property rights are effective in this instance only if the costs of enforcing these rights are less than the benefits received from enforcement. It is economical to make some expenditures for enforcement purposes (closed circuit TV-scanners for security, restroom designs that make abuse difficult but easy to correct, and roving uniformed security guards), but it is not economical to commit sufficient resources to completely eliminate patron abuse because the cost is too high. Therefore, some abuse will always be observed in such facilities because the abusers bear almost none of the costs of their own behavior.

Moreover, because the harmful effects of property abuse, both public and private, are not directly borne by nonowners, few observers believe it is their responsibility or in their interest to police or correct the abusers' behavior. Observation of mistreatment is typically ignored or simply deplored with a shrug. Where property rights are either nonexistent or not well enforced, we can expect such property to deteriorate both in quality and value.

Shirking and Economic Growth

The problem of communal property also extends to work incentives. If the fruits of individual labor are not captured by the worker as private property but instead are assigned to the community for distribution among its citizens according to criteria unrelated to productivity, voluntary work efforts will decline. Each worker will have an incentive to shirk, to stand aside and to let others work. Practicing the motto "from each according to his ability, to each according to his need" will result in a smaller economic pie. While such practice often is motivated by the desire for a more equally divided pie, experience shows that even this goal is unlikely to be realized.

That private rights to the fruits of a person's labor is a powerful incentive to be productive is dramatically evident in the Soviet Union. *New York Times'* Hedrick Smith, one-time resident and keen observer of Russian life, reports that in the Soviet Union families living on collective farms are permitted to cultivate a small plot of land for their private benefit. It should be no surprise to learn that the farmers husband their private plots much more carefully than the collective plots. Confirming evidence of this can be inferred from Soviet data which report that in 1973, private plots, which represented only 1 percent of the farmland, produced 27 percent of the nation's total agricultural product.[5]

In a broader context, many historians view the emergence of the institution of private property rights in Europe during the Middle Ages as an important factor in the rise of the Western world and its escape from perpetual poverty and farnine.[6] Of course, the structure of property rights continues to be an important determinant of economic growth. The structure of property rights is always changing, sometimes dramatically through war and revolution, but more often it is a slow and gradual process. Stability in property rights and consistent enforcement of these rights are important ingredients in a healthy economy. If the structure changes too frequently or capriciously, this reduces our ability to forecast the future and inhibits our willingness to invest because of greater uncertainty about recovering our investment and capturing the benefits from the investment. Because economic growth depends critically on a sustained flow of investment in new capital goods, permanence and stability in the structure of property rights are essential to economic growth and prosperity.

It is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest. We address ourselves, not to their humanity but to their self love, and never talk to them of our necessities but of their advantages. Nobody but a beggar chooses to depend chiefly upon the benevolence of his fellow citizens.

Adam Smith, 1776[1]

Private Property Rights and Social Harmony

Perhaps the most overlooked and least understood feature of the institution of private property is its contribution to social harmony by fostering cooperation and consideration of the desires of others. Discussions of the free-market, private property system typically emphasize competition but say little about cooperation. This is not to say that competition is not important. Indeed, it is a central feature of the system, but emphasis on competition diverts attention from the cooperative aspect of the system. Here I seek to correct this bias by showing the link between private property and social harmony.

Voluntary Exchange

In a world of scarcity the wealth-seeking behavior of people inevitably leads to social discord because all people cannot realize their wealth aspirations. Even with economic growth, many will be frustrated and will see the greed of others as the source of their frustration. This view of the world leads to social divisiveness and the call for government to correct the distribution of wealth.

How can the institution of private property help? First, no economic institution will ever eliminate scarcity. This is a universal fact of life with which we must live and cope. Rules of the game, however, can ameliorate the problem of scarcity and moderate interpersonal conflict by inducing a spirit of cooperation. One such rule is the enforcement of a system of private-property rights wherein one may not gain wealth by taking wealth from another. Indeed, attempts to do so must be met with the protection of the law and the promise of swift and effective punishment of those who violate the law. With such activity outlawed, people will be encouraged to find other ways to increase their wealth. So constrained, their activities naturally will be channeled into productive and cooperative endeavors. A sure route to greater wealth is by seeking opportunities for mutual benefit and by appealing to the desires of others through exchange, producing something for which others will voluntarily exchange some of their wealth.

It is common to regard market transactions as a zero-sum game—the gain to the seller is completely offset by the loss to the buyer. This view holds that the seller's gain comes at the expense of the buyer. Of course, this cannot be the case, for no one would be a buyer only to be worse off after the purchase. A person simply would avoid such exchanges. Nevertheless, this view persists. It results from the misconception that the relationship between seller and buyer is competitive and adversarial. In fact, however, the market relationship is one of cooperation, not competition. If neither party is compelled to trade, if both enter a transaction voluntarily and

Manners have become more gentle . . . thought the influence of the spirit of commerce and industry, those enemies of the violence and turmoil which cause wealth to flee. . . .

Marquis de Condorcet, 1795[2]

of their own free will, then both must believe the other has something to offer that will enhance personal utility. Both expect to be better off after the trade than before. If either thinks otherwise, the exchange will not take place. Indeed, voluntary trade is a positive-sum game wherein both parties gain from the exchange. Imperfect information and fraud may create instances where one may regret an exchange, but this is the exception, not the rule. Moreover, we learn from our mistakes and avoid similar situations in the future. "You can't fool *any* of the people *all* of the time."

The relation between buyer and seller necessarily must be one of cooperation—you do that for me, and I'll do this for you. The competitive relations take place not between sellers and buyers but among sellers, who compete to cooperate with buyers, and among buyers, who compete to cooperate with sellers.

Transferability and Consideration of Others

The institution of private property fosters social harmony in yet another way. Recall the earlier discussion noting that the value of an item depends importantly on the nature of its property rights. An exchange is basically the transfer of a bundle of rights from one person to another and vice versa. We can convey only the rights that we have and no more; therefore, the institution of private property makes exchange possible. Without property rights no markets would develop because there would be no rights to exchange. People would not purchase an item unless they could expect to acquire the rights to control and use the item.

When property rights are well defined and enforced, there is a positive incentive for people to trade goods and services. An orderly market system and a system of exchange values will then develop to facilitate trading. Because all trades in a free-market, private-property system are voluntary, we are compelled to give due consideration to the desires and interests of others. This is because the market price communicates an item's value, that is, what others are willing to give up in exchange. Further, because of the opportunity to sell property rights freely, the worth to the present owner necessarily reflects the value that others place on the item and hence the price they are willing to pay the owner. Therefore, in a system of transferable property rights, people will retain or use an asset only if it is worth to them at least as much as it is to others. Otherwise, owners would enhance their wealth by selling the asset to others who value it more highly. Not only does the system compel people to respect and honor others' interests, but also it induces economic efficiency by directing resources to their most highly valued uses.

All of this happens not because of governmental direction but because of a system of private property rights wherein people are free to improve their well-being through voluntary exchange. While the process is complex, it is nevertheless a communication and control system that promotes peace and harmony. More often than not, exchanges take place among strangers. They may live in different countries and speak different languages, but as long as people seek to enhance their welfare, they will seek opportunities to cooperate with others for mutually beneficial exchange. Indeed, cooperation deserves to share the spotlight with competition on the stage of the free-market, private-property system.

Economic Growth Again

The connection between the institution of private property and economic prosperity was reviewed earlier. Here we extend the analysis to explain that continually increasing prosperity or economic growth is essential to long-term social harmony.

Commencing with the oil embargo in 1973 and nurtured by subsequent price control induced shortages and nearly a decade of record inflation, a small but vocal anti-growth movement argued that we had become preoccupied with material affluence and had squandered our environment and natural resources. Claiming that we had entered a new era of scarcity, their solutions were conservation, belt-tightening, reduced living standards, and zero growth.

Is the goal of economic growth simply a euphemism for crass materialism and greed? To be sure, economic growth involves costs, but are the costs to zero growth zero? Economic growth allows people to improve their condition without doing so at another's expense. It prevents people from fighting over the division of a fixed pie.

The corollary of a zero-growth policy is a program to redistribute the economic pie—income and wealth—in the guise of equity and fairness. Therefore, zero growth means taking income and wealth from some and giving it to others. When such transfers are not voluntary, no matter how deserving the recipients may be, resentment and social discord is inevitable. To the extent redistribution reduces incentives to produce and diminishes the economic pie, the problem is aggravated.

Without economic growth political power looms even larger as a source of a bigger piece of the pie. The more powerful groups institutionalize their shares through legislation, and this comes at the expense of the less politically powerful. Government power grows, and increased emphasis is placed on how to divide the pie and less on how to enlarge it. Political power then displaces the marketplace as the distributor of national income and wealth, and social conflict intensifies.

It may be true that we shall live well only if we produce much, but we shall live harmoniously only if we continually produce more. Perhaps it was the pain of the 1980-82 recession that caused the demise and disappearance of the zero-growth movement.

Two centuries of increasing prosperity have made it possible for later generation Americans to opt for the contemplative life and to afford the concerns of safety, environmental quality, art, and the higher things of life. We stand on the shoulders of our ancestors.

Because a market economy tends to generate a spirit of self-reliance rather than of dependency, . . . an authoritarian regime will never have more than a tentative and pragmatic commitment to economic freedom.

Anonymous

Private Versus Public Property Rights

Governments expand their powers both by physical force and by undermining private rights to property. In many respects, it is easier to constrain government from abusing its powers of physical force than it is to constrain it from usurping property rights. Because use of physical force often is dramatic and sensational, it captures the attention of news media, which bring the event into every home for public scrutiny. This acts as an effective deterrent.

The gathering of state power through changes in the structure of property rights is much more difficult to control. Being gradual and piecemeal, each series of events captures the attention of only those directly affected. Because the interests of property owners are diverse and diffused, there is typically no broad-based effort to counteract policies or programs that attenuate the property rights of small groups. Because the ultimate effects of constraining private property rights are often so far removed in time from the actual event, the cause-and-effect relationship is not seen or understood. Indeed, the price of freedom is eternal vigilance.

British historian Paul Johnson said there are basically two ways to transfer property rights from private to public control. The first is by direct assault—nationalization. The second is by "slow starvation"—government regulation, legal harassment, or taxation. In democratic societies, nationalization is used only rarely, probably, writes Johnson, because "It allows the public to make comparisons between the performance of the nationalized sector and that of the free sector, which is nearly always to the latter's advantage."[1] It is much more common to accomplish the transfer of resources from private to public use in a gradual, piecemeal fashion-slow starvation of the private sector. This has been the experience in the United States during the past half century and continues to be present-day reality. As evidence, note that in 1929, government (all levels) expenditures as a proportion of national income were only 10 percent. By 1984 this had grown to more than 40 percent.

Examples illustrate how government influences economic behavior and the use of resources by restructuring property rights.

Rent Controls

Controlling housing rental rates is a classic example of the erosion of private property rights. Traditional rent controls specify a maximum rent that property owners legally may charge for use of their dwelling. Further, tenants typically are prohibited from subleasing at rates above the rent ceiling. The effects are diverse and far reaching, and many are unseen by the casual observer. At the most fundamental level, however, rent controls represent a transfer of the rights of property from the property owners to tenants, both present and future.

Throughout the history of the United States, rent controls have been rare. Normally, residential rents have been set by market supply and demand. Controls were first introduced during World War I but lifted quickly after the armistice. They were adopted again during World War II but largely disappeared by 1952. The first major peacetime use of rent controls was during the general wage-price controls of 1971-74. The most notable exception to the history of rent controls is New York City where controls have been in force since World War II.

Inflation in the 1970s revived interest in rent controls. Rising prices for fuel, maintenance, materials and capital and a growing demand for rental housing as homeownership became more expensive raised rents dramatically. Angry tenants, who consider the higher rents unjustified and who view property owners as unscrupulous profiteers, have succeeded in establishing some type of rent controls in more than 200 communities.

Because rent is simply a special name given to the price of housing services, rent control is a special case of price control. It is an attempt to set price without regard for the supply and demand for housing services. Do rent controls help tenants? On this the evidence is clear: in the short run *current* tenants benefit at the expense of property owners, but in the long run both tenants and owners are worse off.

Rent controls in effect are a tax on property owners and a subsidy to tenants. Owners receive less than full market value in rents, and tenants pay rents below market value. This is a classic case of wealth transfer by government. It is not surprising then to find existing tenants as leading advocates of controls. Over time, however, other developments work to the disadvantage of tenants and especially future would-be tenants. Because controls reduce the rate of return on investment in rental housing, builders are discouraged from constructing new units.

Some recent controls have sought to avoid this problem by exempting newly constructed units from regulation. This can hardly be encouraging to prospective builders. After all, what the government has done to property rights in today's existing housing may be done to property rights in tomorrow's existing housing. Instead of increasing the supply of rental housing to match the increasing demand brought on by inflation, the controls exacerbate the problem by taking away owner wealth and creating uncertainty among would-be suppliers of rental housing. As evidence of the power of controls to stifle supply, note that in France there was almost no new residential construction under controls from 1914 to 1948.

Even the current supply of rental housing is affected by controls. If rents cannot keep pace with operating costs, maintenance will be curtailed. While nominal rents may be kept constant by controls, effective rents rise as quality declines. Eventually the quality of rental housing will be brought in line with the controlled price. As experience reveals, if owners are unable to cover their direct operating costs, units will be allowed to deteriorate to the point of being uninhabitable and eventually abandoned. In New York City an estimated 30,000 units are abandoned annually.

Controlling rents also results in inefficient use of existing units. Because controls favor existing tenants, they are reluctant to move and occupy other units as their space needs change. For example, couples whose children grow up and move out may continue to occupy larger units than they would otherwise, while younger, growing families are crowded into smaller units.

Controls have other effects on tenants, even in the short run. Controls promote black-market transactions and discrimination. People who value rental housing highly, but who are unable to find it, will seek methods to induce owners to rent to them instead of others. These methods may involve cash bribes, but probably they will take the form of prepayment of rent, large unrefundable damage deposits, or an agreement to purchase the owner's furniture at exorbitant prices. Because price no longer serves to allocate space among competing tenants, owners rely more heavily on nonmonetary devices for choosing tenants. They naturally can be expected to favor those who appeal to their own prejudices and to discriminate against those whose characteristics they regard as undesirable. The undesirables typically include members of minorities, families with children or pets, unmarried couples, and students. The effect is to accentuate the importance of an individual's undesirable (from the viewpoint of the owner) characteristics.

Clearly rent control is a poor way to cope with rising rents and a perverse way to induce more housing. If the objective is to subsidize low-income families to assure access to adequate housing, the problem is income, not housing, and the solution is to raise their incomes. This is a problem for society at large, not one that should be shouldered by housing owners alone through the conscription of property and the transfer of wealth. On the other hand, if the problem is an inadequate supply of rental housing, the solution is to induce more, not less, existing housing space to be rented and to induce more, not less, construction of new units.

Proponents of rent controls often argue that controls are necessary to ensure that human rights prevail over property rights. But property has no rights. Only people have rights. The dispute is not between the building and the tenants, it is between the building's owner and the tenants. The issue is over whether owners will be allowed to use their property as they wish or whether the tenants will be able to use someone else's property as they wish.

Private Versus Public Lands

Although the institution of private property plays a central role in the American economy, that is not to suggest that government owns no property. Indeed, the federal government is the largest single property owner in the world. Of all its property holdings, perhaps most startling and controversial is its ownership of land—one-third (760 million acres) of the nation's total land mass. On a state-by-state basis its ownership is even more pronounced—more than 90 percent in Alaska, 88 percent in Nevada, and more than 60 percent in Utah and Idaho. Overall, the federal government owns nearly 50 percent of the Western states. In contrast, only 4 percent of land in the northeast and north central states is owned by the federal government.

Opinion is sharply divided over whether the government owns too little or too much land. On one side are the environmental and conservation groups who argue for expanded governmental ownership and control in the belief that it will put the land to better use. On the other side are those who believe that much of this land should be sold to private owners or at least made available to private industry for purposes of putting it to its best use by developing energy and mineral resources or whatever market values dictate.

The former groups claim that it would be unconscionable to place these lands in the care of greedy business people, for they would rape and plunder the landscape for profit just as they did our rivers, lakes, and air. The resulting despoliation of the environment and the degradation of the wilderness must not be allowed. The protection of our national heritage demands expanded government ownership to keep these lands in public trust for the public interest.

Those who advocate the divestiture of public lands counter that environmental groups ignore the costs to society from government mismanagement and from not allowing development of the rich resources embodied in these lands. These costs include less employment in communities near the resources, higher prices for energy and mineral resources, less economic growth, lower tax revenues, lower profits, greater dependence on foreign sources for strategic materials, and outright waste of the resources.

Because of the context of this dispute, it may seem to be an unusual problem that requires a special solution. Stripped of its emotions, however, the dispute is no more than the everyday problem of resolving how to allocate scarce resources among competing uses. When resources are scarce and different people want to use the same resources simultaneously for different purposes, choices must be made. Fundamentally, this problem is the same as deciding how much land should be used for commercial purposes, how much for residential purposes and how much for agriculture. It is no different from deciding how much of the nation's steel is to be used to produce automobiles, buildings, airplanes, and refrigerators or how timber resources are to be allocated among housing, furniture, and paper.

What would be the probable outcome if title to Western lands were transferred to private owners? Our discussion about the connection between the structure of property rights and economic behavior is helpful in thinking about this. Suppose the federal government declared that at noon tomorrow all public lands in the Western states will be transferred to private owners by a lottery in which all U.S. citizens age 18 or older have an equal probability of their name being drawn. Each new owner will have fee simple title and all the rights to use, enjoy and transfer these lands that accompany such title. Because it is not important to this mental exercise, we are not concerned about the number or size of the land parcels to be given away. Neither is it significant that this transfer will represent a windfall gain to some citizens without compensation to the treasury. Our concern is only with the probable uses of these lands and whether or not the worst fears of the public-lands advocates may be realized.

So as not to leave to chance whether the interests of environmental and conservation groups are represented among the new landowners, let us further suppose that before any land is given away to the general public, qualified groups such as the Sierra Club and the Wilderness Society first will be allowed to select any 25 percent of these lands to which they will be given title.[2]

Now that ownership is in the hands of private citizens, what reasonably can be expected to happen to these lands? To answer this, let us put ourselves in the shoes of the new owner-environmentalists. It seems reasonable to assume that these people are not much different from others. Their preferences about how natural resources should be used may be a bit more intense in one direction than another, but they can be expected to respond to incentives, and they now face a different set of incentives than before.

Prior to ownership of these lands, environmentalists could advocate that additional lands be designated wilderness areas without having to be concerned about the costs that others incur as a result of precluding any other uses of this land. In other words, the incentive structure was such that if one million acres of wilderness could have produced several million barrels of oil or board feet of lumber, the cost of this sacrifice (lower oil or lumber prices, more employment, foregone profits) is borne almost entirely by others. Only benefits from additional wilderness needed to be considered under the old system of incentives.

Now, however, with ownership of these lands in the hands of environmental groups, they face a very different set of incentives. If their lands include valuable mineral deposits, they will have to bear the costs of nondevelopment. Income sacrificed by nondevelopment will represent a real cost in terms of other objectives such income might have made possible. Among such objectives might be the acquisition of additional lands for wilderness purposes. Environmentalists will be forced to consider both costs and benefits of their land-use decisions. They will use their land only in ways that allow their perceived benefits (however defined) to exceed their perceived costs. Because these lands are now freely transferable among all citizens, the environmental groups will be compelled to include in their own calculation of cost the values that others place upon their lands. These lands will be held and used by the environmentalists only if the value in its current use is greater than its value to others. If the land is more valuable to others, environmentalists will be better off by selling the land.

Will the development of mineral resources mean a desecration of the landscape? There is no question that the extraction of mineral resources will involve some changes in the landscape. This is inevitable just because of the nature of the activity, but is it likely that it will be a careless raping as some would have us believe? To answer this question, imagine yourself to be one of the lucky new owners of a mineral-rich piece of wilderness. What will guide your decisions as to how this land will be used? Even if you hate the wilderness, despise camping and hiking, and are allergic to pine trees, will it be rational for you to ignore the fact that others have great love for the wilderness and place a high value upon it? Of course not. Still, if mineral resource developers are bidding for access to your lands, you must weigh the value of your land in these alternative uses. You recognize that once the minerals are extracted the miners will leave and then the next best use of the land may be in its wilderness state. What do you do? We cannot know for sure, but we can be confident that you will be concerned about the long as well as the short-run value of your land. A not unlikely outcome is that you will allow some of the minerals to be extracted, but you will require that extraction methods minimize damage to the landscape. If would-be extractors want access to your land, they will have a vested interest in finding production methods that are not only cost-effective but also environmentally protective.

We probably will find that the alleged incompatibility between resource development and environmental considerations is greatly exaggerated. In fact, several examples suggest this. One illustration of compatibility exists at the Audubon Society's Rainey Wildlife Sanctuary in Louisiana. Here oil and gas wells reside harmoniously with migrating geese, nutria, mink, armadillo, and alligators. Part of the land is leased to private interests for cattle grazing. Audubon openly acknowledges the potential of damage from pollution, yet explains that "experience in the past few decades indicates that oil can be extracted without measurable damage to the marsh. Extra precautions to prevent pollution have proven effective."[3] The Society collects nearly $1 million per year in royalties from the three oil companies operating the wells. Baden and Stroup conclude:

> *Under these circumstances, as opposed to public ownership, the wilderness groups [are] forced by self-interest to consider the opportunity cost of total nondevelopment. Further, rather than resolutely opposing the extraction of any commercially valuable resources from the land, they focus on obtaining these resources while maintaining to the optimal degree the wilderness character of the area.*[4]

Of course, it should not be claimed that the free-market, private property economy will allocate resources perfectly. Likewise, it is not realistic to expect that the management of resources by government will yield optimal results. We must ask: Which system is most likely to manage resources most efficiently or, alternatively, least inefficiently? We cannot provide a definitive answer here, but because people are continually bombarded with examples of alleged market failures, we would be remiss if we did not correct this bias by drawing attention to government failure in managing natural resources. Richard Stroup, former director of the Office of Policy Analysis of the Department of the Interior and long-time scholar of public management of natural resources, says there is now abundant data on the experiment in "land resource socialism," and the evidence reveals conclusively that there is no shortage of bad management. His studies reveal that range conditions on Bureau of Land Management land are much worse than on comparable private lands. Environmental atrocities in forests and water resources under federal management are common. Moreover, retarded productivity and high management costs are the norm.[5]

Close examination of the management of public resources does not provide much corroborative evidence for the position that the public interest is best served by public guardians. This should not be a surprise because results are determined by incentives, and the structure of incentives within which bureaucrats work is perverse. They encourage public servants to behave counterproductively.

The solution to public mismanagement is not better public managers. Public officials are not basically different from other citizens. They respond to the incentives they face, and, like the polluting citizen, if they do not bear the costs of their actions, then we can expect behavior that is contrary to the efficient management of resources. We can confidently predict that their self-interests will override broader economic and environmental interests. The solution is to correct the faulty incentive structure. The transfer of public lands to the control of private citizens could help and is an option that should receive careful study.

Expectations about Future Property Rights

The influence of property rights on economic behavior and the use of resources depends not so much on the present structure of rights but more importantly on expectations about future property rights. In other words, how we use resources today depends on our forecast of the future. The world abounds with examples verifying this proposition. Here we consider three diverse cases involving urban development, Hong Kong and Organization of Petroleum Exporting Counties (OPEC).

Urban Development

Because the purchase of any property is fundamentally the purchase of a bundle of rights to the property, the value of a tract of land depends on the attendant rights. If these rights are altered, the value of the property is altered accordingly. What one is willing to pay today and how one plans to use land tomorrow depends critically on an individual's forecast of future governmental regulations and restrictions on personal property. The greater the uncertainty about the extent and nature of future governmental restrictions, the lower the price offered.

An urban-development project, whether residential or commercial, is a major undertaking requiring substantial up-front expenditures for land acquisition, engineering tests, planning, platting, designing, permits and other costs. It is not uncommon for projects to be multiphase and multiyear. Planners of such projects necessarily must give careful consideration to expected future governmental restrictions on the subject property. If regulations are expected to remain stable, or if future changes can be predicted with reasonable certainty, then development decisions will depend on projected costs of financing and construction and estimates of market demand. However, if there is great uncertainty about the future of governmental restrictions, if others have been hurt by changing regulations, developers' decisions will reflect this.

An environment of unpredictable future property rights will have several effects. One result will be fewer and smaller development projects. Developers will minimize their exposure to regulatory change by avoiding long-term projects. Because investors must be compensated for incurring greater risks, this will be reflected in higher costs to the developer and higher prices or rents to property occupants. Even the communities at large will suffer from regulatory uncertainty, for they surely will be subjected to considerable litigation expense over the legality of their changes; the rate of growth of the tax base will slow, and erratic growth may jeopardize the orderly development of the city.

Uncertainty about future property rights is a real problem and has become more significant during the past decade. Today there are more than 1,000 lawsuits challenging changes in land-use controls. Most of these suits are filed because property owners allege that changes in controls resulted in a loss of value and, therefore, a loss of wealth. Even if a government does not actually take away the property per se, by taking away some of the owner's rights to the land, the economic effect may be the same. If owners are not compensated for the loss of property rights, they will have lost some wealth that will have been transferred to the city.

Hong Kong

Under the governance of Britain for 140 years, Hong Kong's laissez faire economy flourished. Today it is the world's third largest financial center and the focal point of Western trade with Asia and the Far East. Britain's lease of Hong Kong from China expired in 1997. During the summer of 1982, China vowed to regain sovereignty over Hong Kong and to make it a special administrative zone thereafter. During the months following this announcement, the Hong Kong stock market declined 25 percent, property values slid nearly 40 percent from their 1981 peak and the normally robust Hong Kong dollar plunged to new lows in the foreign-exchange market.

Is there any doubt as to the underlying cause of these changes in property values? Clearly, expectations about future rights to property have changed. In spite of British assurances that there is no cause for alarm, in spite of the fact that the Chinese government has a vested interest in a strong Hong Kong economy, the experience of China's takeover of Shanghai in 1949 and the instability of China's own policies during recent decades is hardly reassuring to those whose lives and livelihood depend on a free economy. The prospect of nationalization, restrictions on prices, wages, employment, foreign trade, currency, communication, travel and other economic activities is seen by many as the beginning of the end of the Hong Kong miracle. Whether or not confidence in the future will be restored to pre-1982 levels remains to be seen, but we can be confident that as long as there is uncertainty about the future stability of private property rights, the economy will be sluggish and property values will remain depressed.

Organization of Petroleum Exporting Countries

In the last few years, OPEC has been plagued with an oil surplus. This resulted, in part, from a decline in oil demand, an increase in nonOPEC production and an apparent increase in OPEC oil production above agreed-upon quotas. The latter is a problem common to cartels. Members make formal agreements to restrict output so they can receive higher prices than they would if production is not coordinated. But in private, members are tempted to cheat on the agreement by producing more than their quota because of the prospect of realizing above-quota profits. Of course, if cheating occurs, total supply is increased, and the coordinated market price cannot be maintained. The tendency to cheat on the agreement by expanding output and selling at discount prices often is cited as the reason for the inevitable failure of cartels.

While this inherent weakness is certainly real, the expectation of changes in future property rights may be working also (at least in some countries) to expand oil production. If, for some reason, current owners of a resource believe that their future rights to this resource are threatened, they have an incentive to exploit the resource now and to convert their wealth into another form over which their future rights appear to be more secure. This reasoning applies to all members of OPEC and doubtless enters into their decisions about future production levels. Of course, the weight given to this argument varies among nations depending on local circumstances. While there are no data to prove or disprove this theory as it relates to OPEC, it is hard to imagine that the ruling families of Saudi Arabia, for example, have not been so influenced, especially during the recent war between Iran and Iraq. Given the bellicosity of Iran and the probability of the war spreading to Saudi Arabia, the temptation to convert oil deposits into Swiss bank deposits must be great indeed.

Controlling Corporations

If awards were given for the world's most maligned institution, the corporation would stand head and shoulders above all other nominees. Part of its notoriety is self-inflicted by the behavior of its own practitioners, but much more results from a fundamental and pervasive misconception of what a corporation is. For generations, writers have portrayed the corporation as a monolithic, inhumane organism, existing only to serve insatiable greed by taking advantage of consumers and workers alike. History books, movies, television, newspapers and prominent personalities all contribute to this stereotype.

Many citizens view the corporation as a physical, inanimate, and impersonal object without human content or feeling. As such, the corporation is regarded as a thing or a piece of property incapable of understanding, let alone responding to, social needs. Corporations must be controlled by society for the collective welfare of the people. Critics with this perspective commonly ignore the fact that corporations are owned by people—ordinary citizens. Indeed, American corporations are owned directly by approximately 30 million people and indirectly by many times more through insurance companies, employee pension funds, mutual funds, and credit unions. Not recognizing this fact, people are easily misled by the charge that the corporation promotes property rights at the expense of human rights. Attacks and constraints on corporations are not attacks and constraints on property per se but on the owners of the corporation—people—and their wealth.

Public confusion about the real nature of the corporation and its ownership makes it an easy target for well-meaning but misguided social reformers as well as not-so-well-meaning enemies who clearly understand the nature of the corporation but intend to use the power of government under the guise of public interest to transfer corporate wealth for their own purposes.

It should not be surprising that the corporation has been subjected to an increasing array of controls if one considers the public's perception of the corporation; its increasing demand for environmental quality, entitlements, and protection from risk; the fact that real personal incomes have been rising slowly; and the deep recessions of 1974 and 1982. Regulations for purposes of occupational safety, consumer safety, environmental quality, energy conservation, affirmative action, land use, and wage and price stability are daily realities for corporate managers.

A new regulation known as plant-closing laws has been proposed. While it has not yet achieved much legislative success, its proponents nevertheless are working tenaciously for its enactment at both state and federal levels. If passed and implemented, this new regulation will represent a fundamental change in the structure of property rights. The purpose of the legislation is to inhibit by means of restrictions and penalties the closing or relocation of plants6. Promoted primarily in northern industrial states, sponsors claim such laws are necessary to avoid the pain and social costs of plant closings. Prominent among their objectives is the maintenance of employment and a growing tax base.

Of course, such legislation treats only a symptom and not the disease. To prohibit a plant from closing does nothing to correct the underlying reason for its impending failure or retarded performance relative to other locations. More importantly such laws would have perverse effects in the long run.

Descriptions of the free-enterprise system emphasize the right to open a new business and, if it does well in satisfying consumer desires, to have the opportunity to earn handsome profits.

Not so frequently noted, but just as important, is that this system also provides the right to close a business if it is not doing well. If the right to earn a profit is to have any incentive for would-be entrepreneurs, it must also mean the right to minimize losses.

Denying individuals the right to close on their own terms and schedule is a basic change in property rights that will evoke a corresponding change in economic behavior. Wealth-generating investments in new business ventures will be retarded. While some current employees may benefit from such laws, their gain will be short lived. Unforeseen, but nevertheless real, will be the subsequent reduction in incomes from new businesses that otherwise would have opened but for such restraint on their property rights.

Even more important, but again not well understood by the lay public, the laws inhibiting business closures inhibit the movement of resources to their highest valued uses. As demands change, as technologies evolve, some businesses fail, but their demise is more than offset by the birth of new businesses. Such is the nature of an adaptable economic system that allows, indeed, encourages change and growth, and this has been the history of the American economy. To deny the free movement of either human or physical resources is to retard economic growth and to promote, even though unintentionally, social discord.

While the free-market, private-property system is not perfect, and although the changes in demand and techniques it permits may at times cause real hardships for some whose services are less demanded, this must be weighed against the alternative. The costs attendant with the alternative, although often hidden, are real. The evidence of history speaks loudly and clearly: where societies organize themselves according to the principles of private property and free markets, their citizens not only live better, but they live more freely and more harmoniously. "Those who disregard the past are condemned to repeat it." Let us be informed about our economic order, for if we are not, "the enemy is us."

Notes

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