



Private Property vs. Common Property

by Amy K. Frantz

Economic analysis attempts to explain how a market economy functions and produces order although there is no one person or office directing the creation of this order. Order arises from a “framework of institutional rules” that governs the activities of individuals; primarily the “principles of private property and freedom of contract.”¹ What then is the role of government in relation to this framework? Dr. Richard Wagner explores this question and takes a look at the transformation of the United States from a liberal democracy to a social democracy in “Property, Taxation, and the Budgetary Commons,” a chapter from *POLITICS, TAXATION, AND THE RULE OF LAW*, a new book from Public Interest Institute.

Wagner cites the writings of fellow economist James Buchanan, who differentiates between the protective state and the productive state. A protective state acts essentially as a referee or umpire, making sure that all parties play by the rules of private property and freedom of contract, thus helping to assure economic order. A protective state provides a police force, military, a court system, but not much beyond that. A productive state, however, is a player in the economy, not just protecting the aforementioned rights, but forming government enterprises, such as schools and transportation systems, creating publicly organized vendors alongside privately organized vendors.

America’s founders created a liberal democracy, more in accordance with Buchanan’s protective state. The purpose of government then was generally to preserve and protect the rights of person and property. However, government was not the source of those rights, but rather a voluntary association which only held those rights granted to it by its members. In this liberal democracy, “people are free to do as they choose within the framework of property and contract.”² Government is limited because it only has the powers that are granted to it by the people.

Since its founding, America has gone through a transformation, although not a complete or irreversible one, to a social democracy. In a social democracy, property is held commonly, with the state regulating and controlling access to that property. Property rights are granted, rather than protected, by the state. The state’s control may not be complete, if only because it has no interest in exerting control over every area, not because it is prohibited from doing so. The only limit on government in a social democracy is that which the state imposes on itself, either because it has no desire to control a particular matter or it simply hasn’t the time to be involved in everything. “Grass cutting and babysitting, for instance, are still organized through open competition within a framework of private property and freedom of contract,”³ not because the state can’t control these areas, but because it chooses not to.

The state uses taxation to turn private property into common. But once the aspect of private ownership is removed, so is the incentive to use the resource efficiently and to maximize its value. The author uses

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the example of oyster beds. In some areas of the United States, such beds are privately owned; in other areas they are considered common property. In the former, the owners benefit from the output of the bed and take action to ensure its value and profitability. In the commonly owned beds, however, users have little incentive to take such steps. Instead, the state must impose regulations to ensure this activity. "Regulations, however, can never replace fully the effectiveness of the incentives that private ownership generates naturally."⁴

Some taxation is necessary; even under Buchanan's protective state, funding is needed to maintain the police, military, and the courts. But "taxation becomes destructive if it is too high or wrongly imposed."⁵ The power to tax leads to fiscal discrimination, as those who hold that power discover they can use it to reward or punish individuals for certain activities. Once nondiscrimination is eliminated from the tax system, the scramble to secure special treatment begins, with various special interests competing to win the favor of those who set the tax code. After all, "there is almost no cause that cannot be claimed to be a good one if it is supported by taxes placed on other people."⁶

ENDNOTES:

¹Richard E. Wagner, "Property, Taxation, and the Budgetary Commons," in Donald P. Racheter and Richard E. Wagner (eds.), Politics, Taxation, and the Rule of Law: The Power to Tax in Constitutional Perspective, Kluwer Academic Publishers, Boston, 2002, p. 33.

²Ibid., p. 36.

³Ibid., p. 37.

⁴Ibid., p. 39.

⁵Ibid., p. 43.

⁶Ibid., p. 45.

This Institute Brief is one in a series on the chapters of a recently published book, POLITICS, TAXATION, AND THE RULE OF LAW, edited by Dr. Don Racheter, President of Public Interest Institute, and Dr. Richard Wagner, Economics Professor at George Mason University and Chairman of the Institute's Academic Advisory Board. POLITICS, TAXATION, AND THE RULE OF LAW looks at the balance between providing government with the power to operate while preserving and protecting our rights of person and property.

The author of this chapter of POLITICS, TAXATION, AND THE RULE OF LAW is Richard E. Wagner, Professor of Economics at George Mason University in Fairfax, Virginia.

This summary of Professor Wagner's chapter was written by Amy K. Frantz, a Research Analyst with Public Interest Institute.

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