

## The Old Curmudgeon As Hero

By Walter Block

Imagine, if you will, the problems of the real estate developer trying to supplant a whole city block of moldy decrepit tenements with a modern residential complex replete with gardens, swimming pools, balconies, and all the other accoutrements of fine living. Not so much all the government-made problems such as zoning laws, licensing requirements, bribes, permissions for architectural plans, etc.; to be sure, they are widespread, stultifying, and exasperating. Let us focus instead on the problems posed by the old curmudgeon who happens to live on the block in the most decrepit tenement of all. A building, however, that he is exceedingly fond of. Some might even go so far as to say overly fond of, since he refuses to sell the old homestead to the builder at any price. The builder offers hundreds, then thousands, and then even millions. But the old curmudgeon steadfastly refuses. The builder offers a paid trip to Europe, to Israel, to anywhere but to no avail.

As important as this instance may be, it is only one of the many cases where the old curmudgeon supposedly interferes with the well being of the multitudes. The old curmudgeon, who may be a little old lady, a wizened bitter old man, a great big fat jolly but stubborn person, has long been active, defending the old homestead against the inroads of highway builders, railroad magnates, mining companies, dam and irrigation control projects: indeed, we owe the plots of many of our Western movies to this theme. It is the old curmudgeon, or his spiritual soul mate, who served as the inspiration for the enactment of eminent domain legislation: a staunch human barrier to any and all progress, feet planted firmly at the crossroads, arms stubbornly crossed in front of his chest, the motto of the old curmudgeon a strident, defiant "NO!"

So goes the popular view of the holdout. In this paper, however, I shall argue that the popular view is entirely mistaken; that on the contrary, it is the old curmudgeon, seemingly always standing in the way of progress, who actually stands for the greatest hope that progress has ever had: that this attack on the old curmudgeon who refuses to sell his property at the demand of some big builders is really a disguised attack on the concept of private property itself.

It is an attack on the basic concept of private property itself because according to that doctrine, each owner of property shall have the full right to decide its use, as long as this use does not interfere with every other property owner's similar and equal right to the use of his own property. In the case of eminent domain, when the state forces the property owner to give up the rights to his property on terms that he would not voluntarily accept, the rights to private property are abridged.

There are two main arguments for private property: the moral and the practical. According to the moral argument, each man is the complete owner of himself, to begin with. So the primary object of property rights, the person itself, is the foundation of property rights, from whence all other property rights flow. But the ownership and control of each person by himself ineluctably results in certain fruits of that ownership and control. These fruits of man's labor come under the ownership and control of each man in accordance with what he has produced, by the same principle under which he received ownership and control over his own body in the first place. The principle under which each person comes to control and own himself is the principle of homesteading, or of natural control or of natural regulation or of natural governance. That is to say, each person is the natural owner of himself because, in the nature of things, it is he, it is his will, that controls his body. Imagine if nature was different. If everytime I looked, you saw; if everytime I willed an arm to raise and scratch an ear, it was your arm that did so; if everytime you itched, I felt it. And if everytime you looked, I saw; if everytime you willed an arm to raise and scratch an ear, it was my arm that did so; if everytime I itched, you scratched. Then you would no longer own that body, and I would no longer own this one. Rather, you would own this one and I would own that one.

According to this principle of natural homesteading which justifies self ownership, man not only owns his own person, but he also owns the fruits of that person, that which he produces, those parts of nature hitherto unowned with which man mixes his labor and transforms into a more productive existence. The moral way that these non-human properties can change ownership is either through voluntary trade or voluntary gift giving. This is because these are the only ways of changing ownership which are consistent with the original owners natural homesteading

rights: they are the only methods by which the homesteaders maintain control even in giving up ownership rights, for they are the only methods by which ownership is given up on a voluntary basis.

The property now owned by the old curmudgeon was gained for him by just such a process. There was an original homesteader, there were sales of the land, perhaps the land was given in the form of a gift at one time or another. But the final result was that the land passed into the control of the old curmudgeon, if he is indeed the rightful owner, through an unbroken chain of voluntary events, all consistent with the principle of natural homesteading.

Any attempt to wrest it from him without his consent would therefore be in violation of the principle of natural homesteading and hence immoral. It would amount to an act of aggressive force against an entirely innocent party.

Many people realize this when it comes to resisting the demands on the part of a private business for condemnation of the old curmudgeon's property. They realize, perhaps, that one private business has no legitimacy over another. But when it comes to state condemnation, through eminent domain laws, the story is very different. Here, there is very little opposition, even though, in many if not all cases, there are still private interests, using the government's eminent domain powers to their own ends. Much of the urban relocation programs, for instance, are at the behest of private universities, of private hospitals. Much of the condemnation of private property by the government's use of eminent domain laws is done for the special interests of private lobbies and special interest groups. Done to benefit that part of the public that favors the aggrandizement of museums, parks, roads, public theatre, opera, and concert halls. The condemnation of the land now used for Lincoln Center for the Performing Arts in New York City is a case in point. A vast tract of land was condemned to make way for "culture". People were forced to sell at prices the government was willing to pay, involuntarily. Whose culture can be made perfectly clear by reading the list of subscribers to Lincoln Center, which reads like a who's who of the ruling class.

Now let us consider the second argument for private property rights: the practical argument. One practical argument for private property rights is that of stewardship; it is the claim that under the stewardship of private property, the "best" care will be given to the property of the older generation that is handed down to the younger, and that the younger generation will "best" be able to add to its heritage. According to the stewardship view of property, it is not terribly important just precisely who gets control of any given piece of property. What is important is that all property be privately owned, and that precise delineations between the property be clearly marked off.

According to the stewardship view, all property gets given out somehow (equally or unequally, it does not matter), no forced or involuntary transfer of the property is allowed, and each person works his property to the best or worst of his ability (it does not matter which). What does matter though, what is crucially important as a matter of fact, is that a market system be in operation so that those that "mishandle" their property eventually lose some of it and have less and less as time goes on, and that those who nurture and husband it well eventually gain some more and have more and more as time goes on. Thus, as these better able to maintain a good stewardship over property become responsible for more and more, and those unable to maintain a good stewardship have less and less, the general level of stewardship will rise, and better and better care will be taken of the property.

The way that the laissez faire market place works this out is simplicity itself. First of all, it defines the "proper maintenance" of property as that kind of maintenance or care-taking that maximizes the money return from or the value of that property. The market then tends to insure that the good caretakers earn more money than the bad ones. This enables the good caretakers, on net balance, to buy out the bad ones. For example, the "good" farmer, the one who maintains his crops and farm animals in good condition, will prosper, earn more money, and in the long run, tend to be able to either buy out the bad farmer, or to be able to bring more and more acres into cultivation. In any case, as time wears on, this stewardship system, in rewarding the good stewards, and penalizing the poor stewards, increases the average level of stewardship. And it does so

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automatically, without political votes every four years, without political purges, without fuss or fanfare.

Of course, this stewardship argument assumes a complete laissez-faire capitalist system. Any government infringements, such as loans and subsidies to prop up failing businesses (bad stewards who mismanage their property) such as the Lockheed loan, vitiate the whole effect. For then the mismanagers will not succumb to the more effective stewardship of the good managers. The government interposes itself between the bad caretaker and in effect, an outraged public, one that did not voluntarily choose to patronize the entrepreneur in question. Other forms such as infringements can take are the granting of franchises, licenses and other types of monopoly advantages to one select individual, or group; the granting of tariffs and quotas to protect inefficient domestic "caretakers" against the competition of the more efficient foreign stewards; the awarding of government contracts which pervert the original consumption wishes of the public.

Why, it may be asked, if the goal of this practical argument for property rights is that it tends to promote good stewardship of the scarce resources of the planet, cannot the government help the process along a bit by transferring the control of resources from those who have proved themselves bad managers in the market to those who have proved themselves good managers? In this way, the vagaries of the market system will be suspended, and those who would eventually have been able to prosper in the ordinary course of events will be able to do so much more quickly. The problem with this, of course, is the insurmountable one that the market system works automatically day by day, to determine who are the good and bad managers each day. Past reputation and abilities count for nought. If the government attempts to hasten the process by transferring money from the poor to the rich, it will only succeed in transferring money from those who were poor managers in the past to those who were good managers in the past. (This is true on the assumption of a laissez faire society: of our own society, we can make no such claim. Practically none of the current income transfer from the poor to the rich occurs out of a motivation to encourage good stewardship nor has that effect.) There is no guarantee that the future will resemble the past. That those who were successful entrepreneurs in the past will be successful entrepreneurs in the future. Also, what of the people who are now poor but are destined by their own efforts to be very good managers and in the future become rich? A governmental program whose purpose was to spur on stewardship based on past accomplishments would involve taking money away from these future good managers.

The reason it is important to discuss this question is that it is at the root of the original problem of the old curmudgeon who refuses to sell his property. For what is the old curmudgeon who refuses to sell his property but a "backward", probably poor individual who is by all standards not a good manager? A prime candidate for being relieved of his money by a scheme whose goal is to speed up the market process of creating good stewards. But we have seen why this scheme is bound to fail. When we apply it to the case of the old curmudgeon we can see that not only does the free market have a tendency to reward good managers in the future, but that also, at any given time, there will tend to be a rough proportionality between the amount of private property amassed by an individual and the efficiency with which he cares for it. Of course there will be exceptions. Even assuming a laissez faire economy there will be some good managers with precious little to manage and some bad managers with an embarrassment of riches. But these will be the exceptions, not the rule. On the average in a laissez-faire economy, there will exist at any given time a rough proportionality between stewardship ability and the amount of private property amassed.

Therefore, stripping the old curmudgeon of his rightful possessions because of seemingly poor stewardship, in addition to being immoral, is even impractical from the point of view of the stewardship argument for private property. As small as it is, the old curmudgeon has demonstrated his ability to manage it, if for no other reason than that it is actually in his possession.

There is another practical argument for private property besides the stewardship argument. For want of a better name, we may call this the praxeological argument for private property. One complaint that the praxeologist would have about the stewardship argument would be that

such terms and phrases as "good maintenance", "the greatest good for the greatest number", "efficient stewardship", "proper handling of property", "maintaining property in good order", etc., have no precise definition; that the definition of "proper maintenance" of property in terms of maximizing the money return from or the value of that property begs the question of the perspective from which such evaluations are made. All too often, the praxeologist would charge, the implicit evaluation is made from the perspective of the large builder, and not from the perspective of the old curmudgeon.

The praxeological view focusses on the question of how to evaluate the level of satisfaction inherent in any business transaction or state of affairs. And the answer given is that the only scientific statement that can be made about such occurrences is that when a voluntary trade between two people takes place, both gain in the ex ante sense. The ex ante sense is the sense in which both parties to the trade, at the actual time of the trade, each value that which they gain from the trade at a higher level than that which they must give up in the trade. In the ex ante evaluation of the trade, it is therefore apodictically certain that both parties to the trade gain from it. We know this because the two parties would not have voluntarily agreed to make the trade unless, at the time of the trade, each had valued what he was to receive more than what he was to give up. Thus no one can ever make a mistake on a trade, in the ex ante sense. In the ex post sense of evaluation, which is usually contrasted with the ex ante sense, one can certainly make a mistake in trade. For the ex post sense evaluates the trade from the vantage point of the future. One most certainly can value what one receives in trade more than what one gives up — and then reverse one's evaluation in the future, when it is too late to call off the trade.

Returning to the case of the old curmudgeon who refuses to trade his old homestead even for a million dollars so that the big real estate developer can supplant the whole city block of tenements with a luxury complex. The praxeologist would vehemently reject the contention that

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there is any loss in welfare, stewardship of property, "proper" usage of property or whatever. For the praxeologist, as we have just seen, the only time that we can make a judgment about welfare, or good stewardship, etc., is when two people make a trade; and the only thing that we can say, as scientists, about the trade, is that both parties to it gain from it in the ex ante sense (or else they would not have voluntarily entered into the trade). But the case of the old curmudgeon refusing to sell his homestead for a million is precisely not a case where two parties enter voluntarily into a trade. It is precisely a case where no trade takes place. We cannot therefore deduce that welfare or good stewardship was thwarted. If anything, the only thing that we can deduce from the failure of the trade to take place is that although perhaps the real estate developer valued the old homestead more than the million dollars he was willing to give up for it, the old curmudgeon decidedly did not so value these two properties. On the contrary, from his failure to sell, we can only conclude that he valued the old homestead more than the million dollars. And who is to say him nay? Since no interpersonal comparisons of utility or welfare can have a scientific basis (there is no unit by which such things can even be measured, let alone compared between different people) there is no one who can legitimately say that the refusal of the old curmudgeon to sell his property is "harmful", or causes problems, or is "obstructive". Of course the old curmudgeon's choice is obstructive of the real estate developer's goals. But then, the goals of the real estate developer are just as obstructive of the goals of the old curmudgeon. There is no scientific, let alone moral, reason to regard the curmudgeon's goals and values as inferior to those of the developer. □

## A Libertarian Poll

Mr. Ferdinand V. Solara, an inveterate chronicler of things libertarian and conservative, has just released the results of a questionnaire polling the intensity of the respondents' devotion to various libertarian individuals, publications, and organizations. It is scarcely Mr. Solara's fault that the representativeness of his sample can be questioned; 155 answers are not a large sample of the movement, and perhaps his Colorado base helps account for the high percentage of objectivists and other "limited archists" among his respondents (approximately ¾ of those answering were limited archists and ¼ anarchists.) Perhaps Colorado also accounts for the fact that 60% of the pollees were Libertarian Party members.

Mr. Solara asked his respondents to rate various magazines and organizations on a scale ranging from A to E. One interesting result is the picture of the intensity of devotion of members or subscribers, gauged from how many gave an "A" rating to "their" groups or journals. Of

the organizations, there was generally a near 1:1 correlation between members and an "A" rating: that is, the two were roughly equal. One major anomaly is the Liberty Amendment Committee, which had only 4 members but which garnered an "A" rating from 24 respondents; this indicates that many people esteem the Liberty Amendment Committee who wouldn't dream of joining the organization. On the other hand, the other leading anomaly was our old friend YAF, which had 29 members among those polled, but which only got an A from 2 of them. There are presumably a great many disaffected members of YAF, as well there might be.

Of the publications listed, we are happy to announce that a close A/subscriber correlation held true for only three journals: Reason, A is A News, and the Lib. Forum. All the other listed magazines revealed a severe falling off of ratings, presumably reflecting a severe disaffection among their subscribers. There is, however, an anomaly in regard to the Lib. Forum. That is, that while we have developed a high degree of subscriber loyalty, our number of subscribers among the pollees was relatively small, far smaller than several of our colleagues in dire loyalty trouble. In short, folks, we have a great product, but not enough readers imbibing all the goodies we have to offer. Let us remedy that, and round up more subscribers! Why deprive so many people of the blessings conferred by the Libertarian Forum? □

## Movement Magazines

Manny Klausner, the estimable young editor of Reason, chides us for our gloomy account of the stillbirth of Libertarian Review, (Lib. Forum, December 1972) and wishes to correct the record by pointing out that the monthly Reason now has over 5,000 subscribers and bids fair to rise to over 6,000 in a short time. Well taken, but I doubt whether this happy news is enough to cut the gloom about the current good health of the libertarian movement. For, on the other hand, we must consider that no less than three of our leading libertarian magazines have bit the dust in recent months, and a fourth is at least in serious trouble. The Individualist, formerly a fine monthly magazine issued under the auspices of the Society for Individual Liberty, has apparently expired. Libertarian Analysis, a quarterly journal that tried to be a home for scholarly articles, is dead. And The New Banner, an ambitious tabloid biweekly of high quality produced by the South Carolina movement, has apparently collapsed as well. And now Outlook, an organ of much of the New York movement which had achieved a high quality in recent issues, is, if not expired, at least in the throes of a bitter internecine conflict. It looks as if there is a good chance that we will soon be left with Reason as virtually our only magazine. Despite the many fine qualities of Reason, this means that the fortunes of the movement are in worse shape than we wrote last December, rather than better; apart from Reason, the libertarian publishing world is in a shambles. □

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