

Definitions of Property

The Economics of Property Rights,

edited by Eirik G. Furubotn and Svetozar Pejovich, *Cambridge, Massachusetts: The Ballinger Publishing Company, 1974. xvi + 367 pp. \$19.50.*

IN 1947 PROFESSOR HAYEK challenged "traditional discussions" among economists. He referred to their tendency to write "as if the law of property and contract were given once and for all in its final and most appropriate form, *i.e.*, in the form which will make the market economy work at its best."* Perhaps because of a revival of interest in this challenge and Hayek's later contributions on this topic, and particularly his discussion in *The Constitution of Liberty* (1960), critical studies of property rights, covering a wide range of approaches and viewpoints, have since been appearing in the economic journals. In the *Economics of Property Rights*, twenty-one essays by seventeen authors have been brought together by Eirik Furubotn and Svetozar Pejovich, scholars who themselves have already made notable contributions to the subject over the last decade and who contribute valuable introductions to the four parts into which the articles are classified.

In the reviewer's judgment, this important symposium ought to exercise a far-reaching influence on the development of contemporary economic thought. It brings into focus an intellectual search, in many directions, for those forms of property rights which, to repeat Hayek's words just quoted, seem likely to "make the market economy work at its best." The authors chosen to demonstrate this search examine current misconceptions about the "private" property system. They do so with analytical rigor, often with elegance, generally with persuasiveness, yet by no means always with narrow agreement. The explorations of many acute minds are contrasted, while

the reader who wishes to explore farther along the paths that are opened is well briefed. Every essay presented is directly relevant to the controversies occurring today over practical affairs and policy. For instance, the possibilities of the totalitarian powers making better use of the pricing system; the dilemmas confronted when situations of "social costs" or "externalities" are an issue; the meaning of property rights in such things as frequency channels in broadcasting; difficulties due to the alleged "separation of ownership and control" in corporation ownership; the significance of "not for profit" enterprises; product liability as affecting ownership; complications due to the relevance of "transactions costs"; and so forth. Nothing resembling finality on such topics can be said to have been reached by all the contributors. There is, for instance, the question whether "utility maximization" is really anything more than a particular form of "profit maximization." Again, there is the problem of whether "transactions costs" differ in principle from such things as "marketing costs" (services rendered in carrying goods through space, through time, assembling them conveniently in one place, keeping them available, *etc.*, all of which services are demanded by purchasers and embodied in the value of outputs before the process of production is complete). A related point on which further clarity seems to be called for is whether such things as industrial safety, occupational health, and all workshop amenities offered as competitive inducements to attract or retain personnel ought not to be envisaged as products rather than as costs.

These are, one feels, all relatively minor considerations. But for this reviewer, the chief effect of the thoughtful essays presented here has been to heighten feelings of frustration that he has felt, and expressed from time to time, for forty years. The really intractable problem concerns the communication of ideas. How can the thought presented so clearly in this book be effectively communicated to opinion-

makers? I suggest that, to a very large extent, a *purely semantic weakness* has militated against success in disseminating the economists' insights. Even after the clarifications and exposure of misconceptions contained in this book the problem remains. *Economists use the term "private property" ambiguously*, failing to distinguish between two kinds of non-collective property.

In one use, the term "private property" is wholly appropriate, namely, when it refers to those assets the services of which are consumed or used by the owner directly, as an individual or in a household. Thus we invest in our own houses, the stock of the equipment used in them (cooking apparatus, refrigerators, washing machines, furniture, pictures, and the like); and similarly, we invest in inventories of food, clothing, footwear, etc., whether we are just replacing value consumed or changing (decumulating or accumulating) the value of our investment in these forms of private property. But when a person lets his house for rent, or begins to hire out his lawnmower to his neighbors, or when he invests in inventories of food and clothing in a shop, with a view to profiting from their sale, the same physical assets acquire a new economic significance—they become what we suggest should be termed "social property." The term "social" here is no euphemism. Such assets remain *individual* property. Admittedly, the owner has that interpretative discretion which we call "entrepreneurship." But the use of his property is deliberately subjected to the social discipline of the loss-avoidance, profit-seeking incentives; while these "entrepreneurship" incentives are confronted with "consumers' sovereignty." The latter expresses the people's preferences concerning ends, the former the choice of means to those ends.

When a person invests in a corporation, the term "social property" is just as appropriate for the shares he owns. Of course his shares remain "individual property," for he may sell them or give them away. But as a stockholder he voluntarily subjects

his assets to risks of changes in consumers' preference and unpredictable supply factors. He must also rely on the wisdom and integrity of corporation managers through whose acumen and luck he is penalized or rewarded.

The differentiation of "private property" from "social property" requires a further distinction of both from "collective property." The latter term refers to assets owned by government institutions (from federal to municipal). In particular, the contrast between "social property" and "collective property" needs to be clearly recognized. While the use of "social property" is subject to the preferences of the people in their capacity as consumers, "collective property" is subject to electoral discipline only. Every realistic economist must be only too well aware that the resources at a government's disposal are in most cases used for the personal benefit of government—that is to say for a small group of private persons, although the private interests of those persons may not coincide with the best interests of society (people as a whole). It cannot be too strongly emphasized that, although governments must necessarily be entrusted with great powers, it is extraordinarily difficult to subject them to any social discipline comparable to "consumers' sovereignty" confronted with the loss-avoidance, profit-seeking incentives. But in some spheres, of course, "collective property" is used for the good of the people. It then partakes of the qualities of "social property." And if we could imagine governments limited by constitution from all forms of discrimination in legislation and administration (*e.g.*, on grounds of class, race, religion, language, income or property) then "social property" could be classified as either "individual" or "collective."

An important further distinction might usefully be made. H. Demsetz has actually done that in one of his contributions to the symposium (pp. 37-38). He distinguishes what he calls "communal property" from "collective." He has in mind grazing land to which all have free access, but which the

government has no right to seize or control. Now this notion can be extended to cover ownership or "capital" in its undifferentiated form. Theoretically at least a fund of capital may be owned *by the people* (as with other kinds of "private" or "social" property) and *not by governments*. That is, governments could be prevented, *via* iron-clad constitutional entrenchments, from getting their hands on the people's capital. Thus, imagine a taxation reform which enacts that taxes in general shall be levied in a two-fold way, (a) proportionally and (b) progressively, the latter including progressive taxes on inherited capital, the height of the tax varying according to the size of each inheritance, and not, as under death duties, according to the sum bequeathed. It could be constitutionally enacted that the total additional proceeds raised by the progressive tax be utilized first to pay off the people's stock of negative capital, namely, the national debt (reducing thereby the proportional tax burden); and when that aim has been achieved, to accumulate a fund belonging to the people, not the politicians. From that time onwards, the fund could be lent back to society at interest, the proceeds being distributed as *dividends* to all taxpayers, in strict proportion to their incomes.

If such a method of rendering income distribution more equal were adopted, the squandering of the whole community's capital through the social services and consequent net impoverishment of the lower income groups, against which the British socialist, Evan Durbin, tried unsuccessfully to warn the British people shortly before his death, would not occur. Durbin, it may be recalled, asked for the reduction of all social services expenditures to the minimum consistent with the retention of power. But the accumulation of *communal* capital along these lines would (if it were politically conceivable, or not held to impracticable or likely to be deleterious for other reasons) have two virtues. First, it would not, as the present system does, formidably reduce the rate of growth of the stock of

wage-multiplying assets; and secondly, it would place additional "welfare," *i.e.*, additional real income at the disposal of the people in a form in which each individual could choose for himself the kind of "welfare" he prefers, instead of receiving it in a form that the politicians supposedly believe will be good for him.

My purpose, however, in the three paragraphs above has not been to advocate any particular reform. It has been simply to draw attention to a semantic obstacle to effective communication of the vitally important insights brought together so fruitfully in *The Economics of Property Rights*. Furubotn and Pejovich are to be congratulated upon their perception that such a work was needed.

Reviewed by W. H. HUTT

*Hayek's challenge was made at the 1947 meeting of the *Mont Pelerin Society*. It was published the next year in a symposium of his essays, *Individualism and Economic Order*. The passage quoted is on p. 111.

The Unhooked Leviathan

**The Growth of American Government:
A Morphology of the Welfare State,**
by Roger A. Freeman, *Stanford, California: Hoover Institution Press, 1975.*
xviii + 201 pp., 26 tables. \$8.95 (paper \$5.95).

BOTH THE AMERICAN economy and the American government started at a low base, so that growth was to be expected. Not anticipated, however, was that the third precious American possession, individual freedom, would progressively diminish as the others increased, apparently as a result of the increment.