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Conservation in a World of Private Property Extremists

Mason Gaffney

Sometimes preservationism, like any good cause given power, runs completely amok and makes itself ridiculous. For example, in Downey, California, the Los Angeles Conservancy and the National Register of Historic Places are fighting hard to save—I am not making this up—a McDonald's drive-in, complete with neon sign! They are serious!

Then-governor Wilson weighed in with this outburst of California pride: "The modern history of McDonald's will be as important to the cultural history of our nation as the invention of *Coca-Cola*." (That comparison seems apt enough.) "Preserve for posterity the home of McDonald's golden arches!"

But there is another kind of fundamentalist, the private property kind. The economics profession (my tribe) has, in recent years, largely abdicated its proper role as an arbitrator and gone over mainly to the side of private property extremism. This is the essential meaning of "neoclassical economics," which is the idiom of most discourse in the field today, both in business and in the profession.

How did economics get so twisted? Don't blame Adam Smith, or David Ricardo, or John Stuart Mill, or John E. Cairnes, or Knut Wicksell, or Philip Wicksteed, sterling 19th century writers. Rather, blame J.B. Clark, Karl Marx, Richard T. Ely, Alvin Johnson, Frank Fetter, Frank Knight, George Stigler, and a host of lesser figures who gradually warped economics into its present form. How did they do it?

The Magic Touch

First, they wiped out land, resources, nature, and the environment as a separate class for analysis. In official neoclassical doctrine, the world is an *infinite reservoir* of raw land and resources. Raw land has no value until man does two things:

1. Man subjects land to private tenure. The very act of privatizing land gives it value it lacked before. Land without an owner has no value—take that, Aldo Leopold! You will find this in J.B. Clark, 1886, *The Philosophy of Wealth*. Clark points out that wealth is created "from the mere appropriation of limited natural gifts" (p. 10). The atmosphere as a whole, showers or breezes, "minister transiently to whomsoever they will, and, in the long run, with impartiality." Therefore they are not wealth. Those who appropriate them create wealth by so doing. The essential attribute of wealth is "appropriability," to create which "the rights of property must be recognized and enforced ... Whoever makes, interprets, or enforces law produces wealth." It follows that those who pollute the common air, or anything held in common, are not damaging anything of value, since it belongs to no one.

Clark writes of "the essential wealth-constituting attribute of appropriability." He goes on in that vein: those who seize land and exclude others thereby produce its value. Clark founded neoclassical economics, and is emulated closely by the "New Resource Economists" of today.

2. Man improves the raw land, pumping value into it. After that it is just like any manmade capital. Raw land has no value: God contributed nothing. Consistently with this worldview, merely eyeing the General Sherman redwood tree adds nothing to GNP, but cutting it down would add a lot. Eyeing it would only raise GNP if you had to pay for it, or had to drive a long way to get there, and bought a kewpie doll while you were there. Likewise, commuting eighty miles a day raises GNP, while finding a homesite near work lowers it.

How the Means Became the End

In a proper view of things, I submit, private property is a means to an end. It is not an end in itself; it needs a functional rationale. The end is to get land put to the best use. All the private land in the world was originally granted by some sovereign public person or body, mainly for that purpose, not as a welfare entitlement.

Landowners and their lawyers have slyly, over time, turned the means into an end, a fetish they endow with "sanctity." This is a term they borrowed from absolutist medieval theology. "Sanctity" means the quality or state of being holy or sacred, hence inviolable. It means property may not be challenged, or even questioned. It has become an end in itself, its own voucher. You're not even supposed to think about it, it is above thought. *Taboo!*

Neoclassical economics, historically, marked the final, total surrender of the profession to this fetish. The modern economist's view runs something like this: "I pledge allegiance to the 14th Amendment, and to the over-interpretation of private landowner supremacy for which it has come to stand."

It is ironic to recall that Radical Republicans passed that amendment, at a time when a "Radical Republican" was one who favored freeing the slaves. The 14th Amendment was designed to protect the rights of freedmen. As interpreted now, the 14th Amendment means that the Emancipation Proclamation itself was unconstitutional! Fortunately, no one has brought that case—yet.

The Neo-classical economists' view of their proper role is rather like that in the Realtor's Oath, which includes a vow "to protect the individual right of real estate ownership." The word "individual" is construed broadly to include corporations, estates, trusts, anonymous offshore funds, schools, government agencies, institutions, partnerships, cooperatives, the Duke of Westminster, the Sultan of Brunei, the Medellin Cartel, Saddam Hussein, congregations, archbishops, families (including criminal families) and so on. But "individual" sounds more all-American and subsumes them all. This is a potent chant that stirs people to extremes of self-righteousness and siege mentality when challenged.

The resemblance between neoclassical economics and the Realtor's Oath is easier to understand when you learn that Professor Richard T. Ely, founder of the modern discipline of

Land Economics, was heavily subsidized by the National Association of Real Estate Boards, the utilities, the major landowning railroads, and others of like mind and property interests.

When it comes to violating property rights, air pollution today is perhaps the greatest invader and confiscator of property. Where do economists stand?

Once a few of them tried to say, following A.C. Pigou, "Let the polluter pay," and in parts of Europe they still do. In our modern backward thinking here at home, however, it's not the polluter who is invading the property of others, nor the human rights of those not owning property. Rather, when you tell them to stop, the government is invading *their* rights. The wage-earning taxpayers must pay them to stop, else you are violating both the 14th Amendment and the "Coase Theorem," a rationalization for polluting now dearly beloved by neoclassical economists.

Floating Value

The environmental damage from those attitudes might not be so bad were it not for leapfrogging, urban disintegration, and floating value. Leapfrogging is when developers jump over the next eligible lands for urban expansion, and build farther out, here and there. This has been a problem in expanding economies ever since cities emerged from within their ancient walls and stockades, but in our times and our country it has gone to unprecedented extremes, with subsidized superhighways and universal auto ownership and truck shipping.

Alfred Gobar, savvy real estate consultant from Placentia, has recorded the amount of land *actually used* by city and suburban dwellers for *all purposes*. From this, he calculates that the entire U.S. population could live in the state of Missouri (68,965 square miles). That would be at a density of 3,625 people per square mile, or 5.67 per acre. That is 7,683 square feet per person. On a football gridiron, this is the area from the goal to the sixteen yard line.

He is not being stingy with land, at 3,625 persons per square mile. The population density of Washington, D.C., is 10,000 per square mile, with a ten-story height limit, with vast areas in parks, wide baroque avenues and vistas, several campuses, and public buildings and grounds.

This is also the density of Whitefish Bay, Wisconsin, a well-preserved upper-income residential suburb of Milwaukee, with generous beaches and parks, tree-lined streets, detached dwellings, retailing, and a little industry.

San Francisco, renowned for its livability, has 15,000 persons per square mile. More than half the land is in non-residential uses: vast parks, golf courses, huge military/naval bases, water surface, industry, a huge regional CBD, etc., so the actual residential density is over 30,000 per square mile.

On Manhattan's Upper East Side they pile up at over 100,000 per square mile. They do not crowd like this out of desperation, either. You may think of rats in cages, but some of the world's wealthiest people pay more than we could dream about to live that way. They'll pay over a million dollars for less than a little patch of ground: all they get is a stratum of space about twelve feet high on the umpteenth floor over a little patch of ground they share with many others. They could afford to live anywhere: they *choose* Manhattan. They actually like it there!

Take 10,000 per square mile as a reference figure, because it is easy to calculate with, and because it works in practice, as noted. You may observe and experience it. At that density, 250 million Americans would require 25,000 square miles, the land in a circle with a radius of eighty-nine miles, no more. That gives a notion of how little land is actually demanded for full urban use. It is 9.4% as big as Texas, 4.2% as big as Alaska, and seven-tenths of 1% of the area of the United States.

And yet, the urban price influence of Los Angeles extends over eighty-nine miles east-south-east clear to Temecula and Murrieta and beyond, at which point, however, it meets demand pushing north from San Diego. ***Urban valuation fever thus affects much more land than can ever actually be developed for urban use.*** Regardless, most owners come to imagine they might cash in at a high price, with high zoning, at their own convenience, with public services supplied by "the public," meaning other taxpayers. This is the meaning of "floating value." Prices, and therefore development fevers, extend far beyond the land actually used, or needed for use.

Double Take

If land is downzoned for farming, open space, or habitat, the owners regard it as a "taking," and plead the 14th Amendment. Once we buy into the Sanctity (Holiness, Sacredness) of private property, we owe them. If we think of the public's buying large quantities of it to preserve habitat or open space, the price is already high above its aggregate value, and the new demand will push the price higher yet.

Here is a case showing how this works. The Los Angeles Metropolitan Transit Authority (MTA) needed the old Union Station, northeast of downtown in a run-down neighborhood, as the centerpiece of its new, integrated mass transit system. With the decline of interurban passenger rail traffic, the old station was unused. The owners, mainly Southern Pacific (SP), asked more than MTA offered, so MTA invoked its power of eminent domain and condemned the land.

The case went to judgment, and in 1984 the court awarded SP an amount about twice the going price for land in the area. The court's reason was that the coming of mass transit would raise values around the new central station, and SP should be paid as much as neighboring landowners would be able to get after the station was built.

Thus, land originally granted to SP to help subsidize mass transit was used instead to obstruct and penalize mass transit. Private property had become an end in itself, Holy and Sacred, a welfare entitlement, rather than a means to an end. MTA (the taxpayers) had to pay a price for land based on the unearned increment that its own construction and operation was expected to create *in the future*.

Later, MTA was to stint on subway construction, resulting in portions of Hollywood Boulevard caving in. But there was no stinting on paying off SP for doing nothing: the award came to \$84.7 million. This is how the 14th Amendment works in practice, making private property an end, sanctified for its own sake, rather than a means to a higher end. It makes landowners the spoiled children of the national family, inflating the cost of every program that entails acquiring land. It means there is no chance that the public, whether through government

or the Nature Conservancy, can preserve more than token areas of habitat by buying it: it would bankrupt us.

Populist Conservation

Gifford Pinchot was a great leader of the Conservation Movement. He defined his central term, conservation, as "the greatest good for the greatest number for the longest time." Notice especially the middle clause, *for the greatest number*. Conservation was not just for landowners, or any other elite. Conservation was part of the Progressive Movement, which had sprung from the Populist Movement. Social equity was at its core.

You modern habitat-savers: Your foes score points against you by calling you "elitists." Sure enough, you do appear a bit above, and therefore outside, the mainstream, especially when you talk down to people from the eminence of "Science." Pinchot saw that brick coming and dodged it before it was even thrown. He teamed up with the populists; he spoke as a man for the people, even if not quite of them. Can you say the same? Is there a place in your plans, and your hearts, for Joe Six-pack?

His problem after all is ours as well. We are all victims of private property rights carried to extremes. Abraham Lincoln, the original Radical Republican, once spoke to the effect that whenever landless people cannot find work and shelter, then the rights of private property have been carried too far and must be curbed. We have seen what Gifford Pinchot said:

"Natural resources must be developed and preserved for the benefit of the many and not merely for the profit of a few. ... the people shall get their fair share of the benefit which comes from the development of the country *which belongs to us all*." (Source? Emphasis added?)

Belongs to us all? Was Pinchot a Communist? Not likely: he was a Republican, an active political one, twice governor of Pennsylvania.

We have too little time together to develop that fully, but here are some ideas. First, environmentalists might rethink what we mean by "open space." To Pinchot, "open" meant the space had public access. Today it often means the reverse: golf courses, duck clubs, sacred Indian lands, private beaches, cemeteries, farmlands, vacant speculative holdings, unpoliced parks taken over by gangs, protected and posted habitat, water from which swimmers are excluded for power boats, rights-of-way closed to hikers, university experimental plots, and so on.

In this sense, there is more open land in downtown Manhattan than in many of our rural and sylvan areas. Many a water reservoir is open to beavers, ducks, and geese, who routinely powder their noses there, but not to humans who seldom do, and can be trained not to.

To get more support for habitat, find ways to open it to people, putting more funds and effort into behavioral controls if necessary. Second, go with the flow for economy in government. In particular, let's look for ways to cut spending by curbing subsidies to urban sprawl.

Use Land, Not Hydrocarbons

Pinchot was not against developing land. He said that "conservation stands for the prevention of waste," not the non-development of land. This could be just a banality, but he gives it a new turn. To him, *waste meant failing to use renewable resources*. His example was hydropower, which he would substitute for coal and oil. That is not such a good example today, when we cherish our few remaining wild rivers, but today urban land makes an even better example.

"Urban land?" you may ask. "What has urban land in common with falling water?" Economists (who are not all bad) classify urban land as a "flow resource." They liken it to flowing water because its *services perish with time*, whether used or not, and we are trapped in the one-way flow of time. Likewise, urban land is not depleted by use. It is an even better example of a "flow resource" than flowing water itself, because, as we are so conscious today, "unharnessed" flowing water may have other downstream uses. Even in wasting out through the Golden Gate, it may repel salinity. The unreaped harvests of idle land, however, flow down the river and out the gates of time like lost loves dimming, and golden moments we let slip away beyond recall.

What is this "service" of urban land that we should be mindful of it? For one thing, using central urban land conserves all the hydrocarbons and other resources otherwise needed to traverse it. Compact urban settlement is a direct substitute for oil, with all that implies—and it implies a great deal, which I will leave you to fill in.

Second, using good central land saves all the costs of settling on other land—including the cost of taking more of the shrinking habitat from endangered species. Therefore, habitat-savers should emulate Pinchot and favor development in the right places, the better to oppose it in the wrong places.

This is the great lost secret of conservation that our times have forgotten. You cannot beat development by opposing it everywhere it pops up. People need land for all kinds of legitimate things, and they will have it. To stop urban sprawl, you must support compact, efficient urban development, including healthy, timely renewal of older cities, inner suburbs, and neighborhoods.

Many people carelessly equate urban growth and urban sprawl, but they are not the same, not at all. Cities may grow like the posh Upper East Side of Manhattan with 100,000 per square mile, or San Francisco with 15,000, or Riverside, California, with 2,500, or Oklahoma City with 734. Metropolitan regions are even more varied. We have seen that 250 million Americans could fit nicely into a small part of Southern California, were it compactly settled at moderate urban densities that are actually found in practice, as in the upper-middle-class suburb of Whitefish Bay, Wisconsin (10,000 per square mile).

Urban sprawl, which creates a psychological effect of great crowding, is not the product of development as such, but of leapfrogging. Leapfrogging means chaos, with development in the wrong places and times. Infilling, on the other hand, is anti-sprawl. It is the cure for sprawl.

Public Works for Private Gain

A favorite fallacy is that sprawl results from free individual choice. In fact, sprawl results mainly from subsidies to sprawl, enforced through taxation and/or utility rate regulation. Thus it is imposed, not freely chosen. The classic case, which exemplifies the whole genus, is postal service. It costs you \$0.29 to send a letter across the street downtown, or from rural Idaho to rural Florida. The pricing system takes no account of distance. The generic name for such subsidies to reckless development, or sprawl, is "postage-stamp pricing" (a species of spatial cross-subsidy), which gives you the idea.

In British Columbia, people move around a good deal by car ferry, because of the terrain. The provincial government ("The Crown Provincial") runs the system. There are many lovely little islands in the Straits of Georgia, between Vancouver Island and the mainland, favored by the wealthy, the exclusive, and the reclusive. Being more sybaritic than Henry D. Thoreau, and politically puissant, they have demanded and received car ferry service. This service costs about \$10 for every \$1 in revenue. The resulting deficit is covered by raising rates on the main plebeian line, Victoria-Vancouver. Naturally, these cheap ferries attract new visitors to the islands, and new demand for land there.

Then these cheap ferries attract new visitors to the islands, and new demand for land there. Developers and hopeful subdividers bid up land prices. This is not what the old settlers had in mind: their environment is threatened, including the habitat of endangered species. They appeal to the Crown, which subsidizes their ferries, to help them preserve land for habitat.

They want the government to buy some of it, paying the high prices created by the ferry subsidy, to keep it from use by people who might use the ferries. Thus the government would pay twice: to subsidize the ferries, and then to retire the land at the high prices partly caused by the ferries. Failing that, they want the Crown to downzone most of it to make it unavailable to developers. The landowners are not charged when the ferries raise their asking prices, but demand compensation when downzoned.

Here, in microcosm, is the American problem with sprawl and habitat. Multiply that ferry subsidy a thousand times, and you have the Great American System of Public Works and Services for Private Gain. First the public pays to bring urban demand to remote lands; now the landowners, the spoiled children of the national family, demand to be paid again for downzoning or selling that same land to preserve habitat. They demand payment not to cash in on the opportunities we just gave them free.

Thus far, it is true, the courts have let us downzone without compensating. However, now a storm has gathered. There is a movement in Congress and the states to require compensation for any regulation that devalues land by more than 50%. The Bush administration has shown itself to be friendly to this view, and has made judicial appointments accordingly. Speculative landowners may soon get everything they demand, leaving heavy debts to which their light tax payments now contribute very little.

See Sydney

How do we dig out from this one? I'll repeat: Go with the flow of cutting public spending by cutting down subsidies to urban sprawl. They are a major source of the problem. We'll never win the environmental fight until those subsidies are withdrawn.

A second proactive solution is to motivate and help the owners of good land to sell or develop it. To help them, make infilling a positive goal. If you put impost fees on new buildings, do so only in outlying areas that require new public services, not on new buildings that help renew already-settled places like South Central Los Angeles. If you ration sewer hookups, save them for central land with street improvements already in place.

Those are the carrots. A good stick is also needed. We have seen how leapfrogging results from the scattered locations of motivated sellers. We can motivate sellers near in, and in compact increments as we expand spatially, by raising land taxes there. In California, Proposition 13, which limits property taxes, makes this difficult, but not impossible. Many special assessments have the same effect as taxes upon land value, in that they nudge land owners towards development. But they have a different legal form that exempts them from Proposition 13.

I could wax rhapsodic about the results to expect from such taxation, but have done so elsewhere and will leave it with a word: Visit Sydney, Adelaide, Brisbane, Copenhagen, or Johannesburg, which have made use of this principle to excellent effect.

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