

What is Private Property?

By Michael Shaw



LibertyGarden.com

Individual Liberty and a Healthy Planet are Inseparable

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Cover: Each flower pictured now grows at Liberty Garden. Before Liberty Garden’s creation, most of the plants had entirely disappeared. Now some grow profusely. Others are rarities and treasured all the more.

Photographs by Michael Shaw

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Is, ought, and can;
Life, liberty, and property;
Thought, expression and action;
Prosperity, peace and the pursuit of happiness;
Voluntary trade, mutual benefit, and spontaneous order



“Government is not reason;
Government is not persuasion.
It is force.
Like fire, government makes for a fearful master
And a dangerous servant.”
- *George Washington*



“If enough people get together and act in concert, they can take something and not pay for it.’ * But theft is still theft. Theft is theft even when the government approves of the thievery. Turning a democracy into a kleptocracy does not enhance the stature of the thieves; it only diminishes the legitimacy of the government.”
- *California Supreme Court Justice Janice Brown, Dissenting opinion: San Remo Hotel v. City and County of San Francisco. San Francisco March 8, 2002.*

*Quoting P. J. O'Rourke, *Parliament of Whores* p. 232. Vintage Books 1991.

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A Triumph

Imagine a weed lot transformed into a landscape filled with the sights, the sounds, and the sweetest scents of native California, in a manner that no government-owned land has ever matched. Imagine children barefoot, frolicking in an open meadow or resting on willowy mattresses of native central California oat grass. One lone child gathers a bouquet of blue-eyed grass, sky blue lupines, white and golden yarrow, golden Mariposa lilies, orange monkey flowers, and the prized addition to her array, an 18" tall California rein orchid.

Imagine that child's parents leaving the woods with a basket filled with delicious, sun-roasted California wild hazelnuts. As sunset approaches, they decide to return to the lodge. They hike through the willow swamp with its purple-blue carpets of blooming Douglas iris and a striking array of green and chartreuse sedge plants. They come upon a plot of giant bent grass and admire its golden seed heads against the backdrop of the sunset sky. As they proceed, alluring fragrances rise from the native herbs crushed beneath their feet. They enjoy succulent blackberries before they enter a knoll of lovely managed pink currents. Nowhere else are there such prolific producers.

Pausing, they catch the distant din from Highway 1 to the northeast; from the other direction come the relaxing sounds of the waves from Monterey Bay. Song-like whistles and chirps fill the air from the multiple species of birds, both common and rare, that now inhabit or visit the thriving landscape. They try to count the different species but quickly lose track as the birds mingle and flit from bush and tree. In the distance, they catch sight of a doe and her two fawns resting serenely on the lush native grasses under a fully blooming elderberry. Clearly, people are not the only beneficiaries of the improvements made here.

Once this landscape was an impenetrable thicket of stressed willow, walls of poison oak and bramble, and invasive non-native plants like pampas grass, scotch broom, poison hemlock, and bull thistle. It was then transformed into its present state—a diverse and productive landscape—by rigorous human disturbance directed by reasoned trial and error.

The young couple realizes that gardens such as this one with rich food sources for unusual birds and other species would be plentiful in a region of stewarded landscapes.

Imagine the family reuniting in the tearoom. Each person eagerly chooses from dozens of native herb tea formulations. The father describes his morning spent hunting and gathering herbs. Now a newly budding expert, he offers his advice regarding the selections. Mother and daughter are excited about tonight's dinner, the wild mushroom entrée, for which they gathered twelve very wild-looking varieties. One by one, each person shares the day's adventures, knowing that tomorrow will be just as special.

The place you are imagining is Liberty Garden, a paradise that represents, in the face of considerable odds, a triumph of private property and its responsible use.

A Degradation

Today, the American government owns a growing 53% of the nation's landmass, over 50% of the California coastline, and much of Santa Cruz County. Most of this land is wild. Its ecological condition is degrading while human conflict over its use is rising.

This degradation is occurring as the United Nations rapidly advances its biodiversity-based "Agenda 21" in the United States. Cloaked in terms of "sustainable development" and "smart growth," Agenda 21 seeks to change America and de-industrialize the world. It plans to reach these goals on several fronts: by ending commercial agriculture, creating broad wildlife corridors void of human activity, determining where and how people live, controlling human reproduction and human movement, constraining and controlling energy consumption and water use—in short, by eliminating private property.

All of us should be concerned about these developments. Just as the environment at Liberty Garden represents a complex interplay of plants and animals, soil and water, natural processes and human interventions, our liberty involves the complex interplay of our natural rights, both personal and economic, and our interactions with one another and with our government. At the heart of our individual liberty lies the institution of private property. If the ideals of private property erode away, our personal liberty will wither and die as surely as Liberty Garden would die without wind, rain, and human tending. In what follows, I want to explain why private property is the precious basis of the freedoms we enjoy and why it is worth protecting.

Private Property and Individual Liberty

The institution of private property makes possible three things essential to our liberty:

- It encourages productive activity, allowing us to turn our ideas into actions and to realize the benefits of those actions.
- It allows us to engage in voluntary trade with others, multiplying the benefits of individual action a thousand-fold.
- It enables us to safeguard and develop our resources responsibly and to secure peace and prosperity as a result.

To appreciate the importance of private property in your own life, you need only to consider the significance of these two facts:

- Private property represents everything you obtain through productive effort or voluntary trade.
- Its essence is your right to determine its use.

The Character of Private Property

Productive Effort

Freedom to think and the freedom to express require the freedom to act.

We usually think of private property as the things in which we enjoy exclusive rights of ownership and use: principally our homes and their furnishings and the lots our homes stand on. But private property has a deeper significance. It is synonymous with individual self-ownership. It begins with our persons--our ownership of our bodies. And it extends to our thoughts, expressions, and actions: the productive actions that implement our expressions, which in turn reflect our prior thought. Because private property is so intimately connected to our very beings, it is essential to our self-interest and self-esteem.

Liberty Garden began with a thought. I thought about how to improve the landscape to create value, both as an achievement of my own expression and as a means to procure mutually beneficial trade with others. I wanted to create a place where people would come to enjoy the beauty of a stewarded California landscape. I determined that to best express that thought I ought to create a human-occupied landscape within an unusually productive and diverse native-plant wild land. The actions I took at Liberty Garden brought that expression to life, made the thought a reality. Motivated by the idea of achievement and prospect for trade, my productive effort at Liberty Garden transformed my original private property—a littered weed lot—into a property that expressed my idea of what the land could be.

Suppose, though, that government blocks productive activity by complicating or outlawing human uses of private property and threatens physical force for non-compliance. The effect of this threat is to destroy individual liberty and an individual's pursuit of being who one is. Such harm blocks the path for personal achievement and the societal gains that come from production and trade. When you

know that your productive action will result in personal harm, you usually choose not to carry out that action. When thoughts can no longer find expression in action, thought becomes suppressed.

For precisely this reason, innovation and improvement did not occur in the Soviet Union. For the same reason, the innovation and improvement necessary to reverse the degradation of the American landscape are not occurring.

Voluntary Trade

Spontaneous order results from voluntary trade, causing mutual benefit and leading to societal gains.

Private property is freely created and freely exchanged. In a society rooted in private property, all the people who contribute to the manufacture, distribution, sale, and purchase of an item are each seeking personal gain. To achieve their goal, they must obtain the voluntary consent of those with whom they deal; no one can be forced to carry out his part of the bargain.

For instance, when you go to the market with a dollar in your pocket and a desire for a quart of milk, the trade that follows benefits you because you value the milk more than the dollar; the market's owner values the dollar more than the milk. Those engaged in the supply of milk also each seek personal gain: farmers, feed lot operators, distributors, truckers, equipment manufacturers, the suppliers of the resources used to make the equipment, the processors of those resources, the land managers where the resources came from, and so on through the dizzying series of interactions that enables you to give your child a glass of nourishing milk. Each achieved personal gain by contributing to the production of a quality product at a reasonable price. This uncoordinated cooperation is repeated in industry after industry for the benefit of each of us. This spontaneous order, which no government bureaucracy could successfully orchestrate, makes possible the ease and affordability of obtaining all the products we enjoy. The decentralized knowledge that produces such achievement can be accomplished only in a society operating within the institutions of individual liberty and their corollary, private property.

Productive effort and voluntary trade are the characteristics of private property that promote peace (voluntary consent-based interaction) and rising prosperity through the competitive efforts that cause improvement.

The Essence of Private Property

An Owner's Determination of Use

The essence of private property—your right to determine its use—can best be understood by contrasting a system of private property to the alternative. A system

of private property allows you to do with your property what you please, provided that your use interferes with no one else's property rights. That is, you cannot construct a shed for your lawnmower on your neighbor's property unless your neighbor grants you the right to do so. This clear demarcation between yours and mine underlies the economic system of laissez-faire capitalism, or free enterprise, in which individuals own and control the means of production—all the things we need to turn our ideas into realities. Private property also recognizes that each person possesses a right to his aesthetic choice regarding his property. The clothes he wears and the color or style of his home are not subject to the whim of bureaucracy or the demand of a majority backed by government force.

By contrast, in a socialist system, the government owns the means of production. There is no such thing as private enterprise. If you come up with a way to build a better mousetrap, the government owns the wood and wire—even the bait—that your trap requires. To turn your idea into an actual mousetrap, you must present your idea to a bureaucrat, who may or may not recommend its implementation to those who control the economy. And there your interest in your idea ends—along with your incentive to think of other good ideas. We have witnessed the consequences of such a system in the former Soviet Union, where today its people have limited wealth, a poisoned landscape, and human strife.

Sustainable Development relies upon a mix of socialism and so-called communitarianism. Communitarianism seeks an alternative to socialism and free enterprise by pretending to “split” the difference between them, creating what Benito Mussolini called the “third way.” Today this idea is often termed “government/corporate partnerships” (alternately—“public/private partnerships”). That is, like the enterprise system, the communitarian approach vests ownership in an individual or association; but like the socialist system, it empowers government to make decisions regarding use. This guiding vision of Italian fascism is now familiar to us through the workings of our local government. Communitarians seek to create various rights that conflict with an owner's determination of use; the owner still owns his property, but the government, as the arbiter of competing rights, controls what he can do with it. Socialism and “third way” corporate privatizations or “public/private partnerships” each form the foundation for a state collective backed by force. Thus, the premise of communitarianism is, like socialism, authoritarian. Eventually, as has been the case in Santa Cruz, communitarianism leads to an economic system operated by the favored cronies of government bureaucracy. Business interests shift their allegiance from the consumer—you and me—to the agent of force. In reality communitarianism, common-ism, third way, or public/private partnerships is socialism with economic muscle that, when entrenched, causes economic decline.

Of the political-economic systems, only genuine capitalism protects the essence of private property, the owner's right to determine use. Property law in a free enterprise system seeks to make your rights compatible with those of every other person. It defines the boundary at which your sovereignty ends, so that your rights do not infringe the equal sovereignty of another. You cannot, for instance, have a

property right in the contents of your neighbor's pantry, which you neither built nor stocked.

Communitarian policies complicate this straightforward drawing of boundaries by producing overlapping rights. Suppose you have stocked your own pantry with canned goods. Suppose, in addition, that your local government passes a law prohibiting the storage, disposal, or recycling of metal cans on the grounds that local residents enjoy a right to a tin-free environment. How are you to enjoy the contents of the cans in your pantry when you have no means to deal with the cans themselves? Suddenly, your ownership of the canned goods has been effectively nullified: you cannot use them. Indeed, you will have to transport and sell or give them to someone in another jurisdiction where metal cans are still permitted. Your right to use the contents of your pantry has run up against the supposed right of the members of your community to live without tin. The result is waste, unnecessary conflict, and a crisis of surplus tin that will sooner or later lead to further government intervention in the management of our pantries. Responding to the crisis of its own creation, your local government may make it illegal to purchase canned goods at all.

Communitarian policies similarly complicate the issue of land ownership. Ownership of land includes its surface, the subsurface, and airspace. Communitarian government often seeks to take the use of private land by expropriating control of the airspace through the enactment of scenic-view ordinances. When the owner protests, the government decrees itself the arbiter of competing rights. At that point, bureaucratic labyrinths begin to stretch themselves over the once open terrain of our individual freedoms, complicating and often prohibiting our right to use the property we own.

This process is all too easy to illustrate from the pages of our own newspapers. Consider this familiar scenario: Local government makes laws that create "stakeholder" or neighborhood rights regarding someone's unimproved land. When the owner of that land announces an intention to build new housing, the government responds by declaring a conflict with the neighborhood's rights. It must then arbitrate the landowner's and the neighborhood's competing claims, rendering use of the property subject to its license or permission.

As this process unfolds, the landowner's new housing remains unbuilt. Soon a housing shortage develops, causing the cost of housing to rise. Aggrieved citizens then call upon government to provide subsidized, "affordable" housing. Reacting to the clamor it precipitated, government raises taxes and vests inefficient taxpayer-funded "nonprofit" organizations with the authority to build housing on government-owned land. The government, of course, sets the purchase price for these dwellings and decides who is eligible to buy them.

Not surprisingly, those who obtain their homes through the government's largesse tend to support its policies. As their numbers increase as a percentage of the voting population, an electoral class-battle ensues, pitting them against those who would manage their own lives without government intervention. Such battles splinter communities, breeding ill will, suspicion, and distrust.

As such destructive, unforeseen consequences arise from the creation of “stakeholder” rights, the government reminds those it has injured that it is merely the servant of the popular will. But “the will of the people” seems to include neither the landowner’s will nor his rights. The houses he planned to build remain drawings on a drafter’s table. The land on which he planned to build them has been laden with new taxes and increasing regulation. He can exercise his right to the use of his property—to take the actions that reflect his ownership of himself—only if the government will let him. Therefore, he does what any reasonable person would do in such circumstances: he abandons or postpones his productive activity to acquire sufficient “pull” to win the government’s favor or at least forestall its depredations.

In this downward spiral of centralized authority, at least three precious things are swept away: the consumer’s happiness (yours and mine), the improvement that comes with rising prosperity, and peaceful trade based on mutual consent.

Private Property and Ecological Health

Freedom associates authority with responsibility. In a society that respects individual liberty and private property, a property owner has every incentive to use his property wisely and well. For example, a forestland owner’s interest is served by pursuing a healthy future condition in his forest. He can derive a livelihood from his land over time only by safeguarding its long-term stability and productivity. He must implement the measures to protect his investment and retain the interest of others in the wood his forest produces. Foresters make it their business, for instance, to understand the cost of soil erosion, and they are in the best position to abate it.

Left to his own self-interested devices, the forester may become a wealthy man. Sustaining his wealth depends on sustaining its source, the forest he owns. Other people may use his products to carry out their own ventures, earning wealth of their own by supplying timber and paper to a market eager for quality goods. The wealth that such voluntary trade creates gives rise to the market demand for ecological health. The forester knows that neither he nor those he supplies have any interest in a forest denuded of trees.

Free enterprise seeks and achieves the objective of ecological health, as Liberty Garden also demonstrates. There, a former weed lot now supports a wild wonderland with a plethora of productive native plants, which in turn support an array of indigenous species. Like the forester’s land, Liberty Garden proves that if people are free to create voluntary associations, the laws of economics and the consequence of stewardship will cause the earth to improve. What’s good for the property owner who remains free to pursue his enlightened self-interest is also good for the earth.

The government can undermine or prevent these good things when it assumes the roles of land manager and species savior—roles in which it has repeatedly failed. For instance, the Endangered Species Act (ESA) has made species protection a government monopoly, turning problems that have viable solutions into crises that could become nearly insurmountable to resolve. Liberty Garden illustrates how the

ESA works against the very goals it has proclaimed. The central principle of land management at Liberty Garden is human control over seed-bank production. We eliminate seeds from non-native plants before they become viable, and we nurture the seed-banks of native plants. ESA regulation compromises and complicates this enterprise and devastates the economic value that would normally have resulted from the land's improvement. Such regulations discourage seed-bank management and cause the desirable native seed-bank to die out. The unanticipated consequences of the ESA extend even further. The ESA places in government hands absolute use and management authority over private property when a listed species is found.

Claiming authority at Liberty Garden, the government has prohibited—through obfuscation—commercial human use and peaceful trade there. Lost are the mutual benefits and societal gains that otherwise would have occurred. At risk are the abandonment of Liberty Garden and the creation of other stewarded landscapes. After all, few would choose to invest time, money, and effort to create a dynamic wild habitat at the risk of federal ESA enforcement or a taking of use by a local planning bureaucracy. Such government actions erode the moral foundation of human stewardship by taking the private property on which that foundation rests.

If government continues to take authority over land management, achievement of human values (including ecological health) will remain elusive. This is why the institutions of private property and individual liberty must be protected now.

*In place of the achievement that corresponds with self-interest, the **mutual benefit** that results from voluntary and peaceful trade, and the societal gains that flow from both, the enforcement of the ESA delivers to the ecology and to society what force brings--degradation and the consequent loss of human happiness and peace.*

To be who you are, to own your own self and the product of your energy, and to possess the authority and the responsibility for your actions are the foundations for your pursuit of happiness. A society with an increasing aggregation of happiness promotes peace and rising prosperity. Such a society pursues the ideals and the institutions of individual liberty, i.e. private property.

Now is the Time

This is the best of times and the most threatened of times. It is the best because private property and the productive activity it fosters have brought to Americans longer lives and broadening opportunities for individual realization. It is the most threatened because the collectivization of property is occurring at an increasing rate. The trend is ominous. As factions intensify their struggle for government favor and as the size of government grows, little seems to be gained. But one thing is certainly lost: individual liberty.

At present, every county in America is implementing the United Nations land-use agenda. This agenda calls for the ultimate elimination of private property and the replacement of the United States Bill of Rights by an authoritarian grant of "human rights." As this initiative gains strength, it is wise to recall what George Washington

said: “Private property and freedom are inseparable.” Freedom and a healthy planet are also inseparable. The expression at Liberty Garden is a symbol of these ideas.

Now is the time for all good men to come to the aid of liberty.

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