Philosophies Behind Private Property Rights



*Scuola di Atene* (*The School of Athens) by Raphael*

By Mark Csoros

It’s funny how changing the way we talk about something changes the way we think about it. A simple name change works so well that even Congress has picked up on it.

* Obamacare is touted as the “Affordable Care Act.”
* A law that gave the government sweeping surveillance authority is known as the “PATRIOT Act.”
* A new law that mandates polygraph tests and jail time for every citizen that jaywalked would probably be titled “The Truth, Justice, and American Way Act.”

Who wants to be caught voting against affordability, patriotism, truth, justice or the American way? Often, debaters use their subtlety to try to change our perceptions on a topic. With the resolution asking us to value public needs over private property rights, Affirmatives will want to take that resolution and skew the terms of the debate right off the bat. They will want to paint a portrait of a few selfish property owners blocking the development of a hospital, or an economic revitalization, or the building of a shelter for all the sad, homeless puppies of the world.

The truth is, the policies listed above don’t always measure up to the title. It can be argued that the Affordable Care Act is much more expensive than previous care. The PATRIOT Act takes away privacy for the sake of national security. And how can mandatory polygraphs be equated to truth, justice and the American way?

So, let’s turn to “private property rights.” To prevent misconceptions, let’s look at what that actually means. We’ll cover here **what the great thinkers of the past have written about this issue, and how their ideas have influenced the ways our constitution protects private property.**

Aristotle and the Problems of the Commons

The first thinker to address private property from a cogent perspective was Aristotle. Plato had already written about a utopia that was so doomed to failure, even he admitted it would never happen. In this utopia, private property was non-existent and communism was in vogue, and so Aristotle rose to the defense of private ownership from a very pragmatic perspective. He writes:

“But indeed there is always a difficulty in men living together and having all human relations in common, but especially in their having common property. The partnerships of fellow-travelers are an example to the point; for they generally fall out over everyday matters and quarrel about any trifle which turns up. So with servants: we are most able to take offense at those with whom we most we most frequently come into contact in daily life.” *[[1]](#footnote-2)*

Aristotle would have made a good LDer, because he supports his contention (having communal property is problematic) with two common-sense, everyday applications (travelers and servants contending over those “shared” goods). He then impacts his contention by writing:

Property should be in a certain sense common, but, as a general rule, private; for, when everyone has a distinct interest, men will not complain of one another, and they will make more progress, because every one will be attending to his own business."*[[2]](#footnote-3)*

So, because of this friction between fellow “owners,” public property isn’t a great system. But why is private property better? To explain why, Aristotle’s “Contention 2” gives a quick summary of the Tragedy of the Commons:

For that which is common to the greatest number has the least care bestowed upon it. Every one thinks chiefly of his own, hardly at all of the common interest; and only when he is himself concerned as an individual.*[[3]](#footnote-4)*

That’s why common property is a failing system. When everyone owns something, no one individual has a reason to care for it. That means that objects that have a lot of owners are usually the most neglected. Private property, rather than feeding greed, simply affirms self-interest. Self-interest, in turn, provides the incentive for progress and innovation.

Locke’s Self-ownership Theory

John Locke, a genius of political theory and one of the originators of the idea of Social Contract, loved to talk about property. Although Locke’s theory built off of Aristotle’s, Locke was more philosophically inclined. Locke held that people were intrinsically entitled to the fruits of their labor, not merely because it made people more productive, but because of an inalienable principle we’ll call “self-ownership.” In his *Second Treatise on Government*, Locke writes:

“…though the things of nature are given in common, man had in himself the great foundation for ownership—namely his being master of himself, and owner of his own person and of the actions or work done by it; and that most of what he applied to the support or comfort of his being, when invention and skills had made life more comfortable, was entirely his own and didn’t belong in common to others.”*[[4]](#footnote-5)*

In other words, natural resources (land, water, livestock, or wildlife) are for the public good, until someone invests labor into those resources. For example, no entity owns the ocean. The ocean is a resource that is meant to fulfill the needs of the public. But if I catch any fish, the rest of society has no claim on those fish, only I have a right to them. Why? Because: “man had in himself the great foundation of ownership.” If I am the owner of my body and mind, and I put my effort into the product that I created, then I have exclusive ownership of that product. Makes sense, right?

Locke extended Aristotle’s train of thought by showing us that property isn’t just a good idea, it’s a right grounded in the sanctity and inviolability of the human spirit.

The Founding Fathers’ Immutable Laws of Nature

This concept of property based on the principle of self-ownership was adopted by America’s Founding Fathers, who then refined and added to that concept. Even before America was an entity, the Founders were up in arms over property rights. At the Continental Congress, they wrote:

That the inhabitants of the English colonies in North-America, by the immutable laws of nature…are entitled to life, liberty and property: and they have never ceded to any foreign power whatever, a right to dispose of either without their consent.*[[5]](#footnote-6)*

The Founders realized the importance of private property. They listed property rights as equal to life and liberty by immutable (unchanging) laws, and they openly defied the idea of any entity taking those rights without consent (*cough eminent domain cough*).

Property rights are so important that the writers of the Constitution cited the protection of owners rights in the Second Amendment (right to bear arms). In the Third Amendment, they gave the right to refuse housing to soldiers, in the Fourth they provided protection from search and seizure, and in the Fifth they gave us protection against the seizure of private property. The Fifth Amendment will factor heavily into this year’s debates.

The Constitution: Turning Theory into Law

Here’s where we switch from theoretical to practical. It’s great to talk about “immutable laws” and “essential rights,” but if we don’t know how to protect those, we’re stuck. The Founders realized this, and so they recognized and enshrined three separate facets of property rights. First of all, the Founders recognized that property owners have the right to the *personal use* of their property. The Third Amendment states:

“No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.”*[[6]](#footnote-7)*

In other words, the government can’t seize private property for public use just because they feel like it. You have the right to use your property in the way you see fit. In the Fourth Amendment, the Founders instated the *sanctity of private property*. They wrote:

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause…”[[7]](#footnote-8)

This means you are able to keep your property secure, unless there is reason to believe you’re doing something illegal with that secrecy. But even then, the government can’t just barge in in the middle of the night, searchlights blazing and Tasers on to rifle through your house. They have to go through the court system, even if the public would be better served by an immediate search. In the Fifth Amendment, the Founders gave us the *right to compensation.*

“…nor shall private property be taken for public use, without just compensation.”*[[8]](#footnote-9)*

So, in the unlikely event that your property is required for public use, it’s not allowed to simply be confiscated. You have to be compensated “justly” for the property you lost. Basically, even when we devalue private property rights through seizure, we still have to swap some property (money) for the property we take.

In Conclusion

Private property rights are not just pragmatically useful, nor are they only philosophically important. Private property is economically useful, as Aristotle pointed out, but it’s also an essential, unalienable, and vital human right, as many of the great minds of the past told us. So, Negatives, resist efforts to put private property rights into the box of selfish, bitterly clinging, Scrooge-like landowners refusing to assist society. Private property rights are way more than that. Stand strong in the knowledge that you aren’t advocating for social stagnation, but for an inviolable right. Revel in the realization that private property is both a means to an end (an incentive for innovation), and the end itself (basic human rights). Don’t let Aff stack the deck by framing the debate, and your win rate will thank you for it.

1. Aristotle. "Politics” *The Internet Classics Archive*. Massachusetts Institute of Technology, n.d. Web. 19 June 2016. <http://classics.mit.edu/Aristotle/politics.2.two.html>. [↑](#footnote-ref-2)
2. Aristotle. "Politics" *The Internet Classics Archive*. Massachusetts Institute of Technology, n.d. Web. 19 June 2016. <http://classics.mit.edu/Aristotle/politics.2.two.html>. [↑](#footnote-ref-3)
3. Ibid. [↑](#footnote-ref-4)
4. Locke, John. "Second Treatise on Government." (n.d.): n. pag. *Early Modern Texts*. Jonathan Bennet, 25 Jan. 2005. Web. 16 June 2016. <http://www.earlymoderntexts.com/assets/pdfs/locke1689a.pdf>. [↑](#footnote-ref-5)
5. "Avalon Project." *Avalon Project - Declaration and Resolves of the First Continental Congress*. Yale Law School, n.d. Web. 16 June 2016. <http://avalon.law.yale.edu/18th\_century/resolves.asp>. [↑](#footnote-ref-6)
6. "The Constitution of the United States: A Transcription." *National Archives and Records Administration*. National Archives and Records Administration, Web. 19 June 2016. <http://www.archives.gov/exhibits/charters/constitution\_transcript.html>. [↑](#footnote-ref-7)
7. "The Constitution of the United States: A Transcription." *National Archives and Records Administration*. National Archives and Records Administration, Web. 19 June 2016. <http://www.archives.gov/exhibits/charters/constitution\_transcript.html>. [↑](#footnote-ref-8)
8. Ibid. [↑](#footnote-ref-9)