

# Limitations to Private Property Rights in Land in the United States

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**PROPERTY** means ownership. It is the legal right to the services of wealth or to the services of free human beings, that is, to income, as the word is commonly used by economists. Wealth, as the term is here used, refers to all those things such as food, clothing, automobiles, buildings, and land—things which are necessary for existence and for the enjoyment of life. As regards wealth in general or land in particular, property means the right to acquire, to use, to control, and to dispose of it. Mere possession of an object does not constitute property right in it. There must be some sort of social recognition; the laws and customs of the community in which the wealth is located or in which the owner lives must protect him in the exclusive use and control of the thing owned.

## CONCEPT OF PROPERTY A CHANGING ONE

While the right of property denotes in every state of society the largest powers of exclusive control over wealth which the law accords, yet, as was observed by a distinguished economist writing fifty years ago, these powers of exclusive use and control are various and differ greatly in different times and places. A historical treatment of the institution of property, or a comparative study of the institution as it exists among the various countries of the world at the present time, shows clearly that the word property does not always stand for exactly the same idea. While the concept of property may be explained very satisfactorily in a gen-

eral way, in spite of the fact that it is a changing concept, it always means something more definite when explained in connection with a given group of people at a given time. Private property in general is one of the fundamental institutions of our present economic system; private property in land has always occupied a strong position in the United States, and continues to do so at the present time.

It is scarcely necessary to mention that absolute property hardly exists, that is to say, the right of use, control, and disposal is almost always limited or restricted by law. It is the purpose of this article to call attention to the limitations to private property in land in the United States at the present time, with some regard also to the immediate past.

## TAXATION

Taxes upon land are a distinct limitation of private property rights. Land possesses certain characteristics not found in other classes of wealth, and for this reason it has often been regarded as a subject for special taxes. These taxes in amount may range all the way from a small fraction to the entire income of land. The purpose of such taxes, if they are comparatively small, is to raise revenue for the support of the Government; but if they are very large, the predominating purpose is usually to bring about reforms in the social system. Taxes on land in this country date from the earliest colonial times and have always been one of the important forms of taxation.

Since the publication of *Progress and Poverty* in 1879 by Henry George, in which he advocated what is known as the single tax, there have been numerous individuals and groups who would like to bring about radical changes in the social-economic order by further limiting private property rights through heavier taxes on land. The advocates of the single tax contend that the Government should take in taxes the entire economic rent of land, and that this should be the only form of taxation. The use of the single tax would mean practically the abolition of private property in land and the substitution of community ownership. There would probably still remain the right of private possession, of alienation, and of use for productive purposes, but the user of the land would be compelled to pay to society, in the form of taxes, the full economic rent. By economic rent is meant the income of land itself, exclusive of any improvements on it. Since the market value of land depends upon its present and anticipated future income, the introduction of the single tax would take from the present owners the equivalent of the entire value of their land.

#### ATTEMPTS TO INTRODUCE THE SINGLE TAX

Frequent attempts have been made locally to introduce the single tax. Mr. George ran for mayor of New York City in 1886 on a single tax platform, and though defeated he made a surprisingly good showing. The State of Oregon was a battleground of those for and against the single tax from the years 1908 to 1918, during which time a single tax movement to amend the Constitution was strongly supported, but finally defeated. There has been agitation for the single tax in other states, principally in California, Colorado, and Missouri.

In 1913, the legislature of the State of Pennsylvania provided for a gradual decrease of building assessments for cities of the second class—Pittsburgh and Scranton—until by 1925 the rate was to be fifty per cent of that on land. This is far from being a single tax law, but it does discriminate against land and in favor of improvements thereon for taxation purposes. While both Pittsburgh and Scranton are thus privileged to make land bear a relatively greater burden of taxation than the buildings on it, Pittsburgh is the only one actually doing it.

In 1922, the legislature of New York authorized the various local government units to exempt from local taxes all new buildings planned for dwelling purposes exclusively. Such exemption was not to extend beyond January 1, 1932. The purpose of the act was to relieve an acute housing problem.

Taxes on land will undoubtedly continue to be one of the principal forms of taxation. There will probably continue to be agitation for the single tax, but, judging by the past, there does not seem to be much likelihood that such an extreme measure would be adopted even locally. Private property rights in land are too firmly established. One of the desirable effects of the single tax movement, however, has been to call attention to the "unearned increment" as a subject of taxation. Many fiscal authorities who condemn the single tax see nothing unjust about taking at least a large part of future increases in land values which are socially created, providing the Government announces its intentions beforehand. The Federal income tax law recognizes increases in land values as a subject for taxation by providing that increment and decrement from purchases and sales are to be included in making the return of income for tax purposes.

## EMINENT DOMAIN

Eminent domain, or the right to take private wealth for public or quasi-public purposes by paying just compensation, is a power of the Federal and state governments. This power is also commonly delegated by state legislatures to municipal corporations. City governments generally have power to appropriate private property, under the condition that the wealth be for public use and that the owner be compensated for it in the manner prescribed by law.

At the present time municipal governments have need of a great deal of land, and usually acquire it by "condemnation," as the proceedings are called, when private land is taken for public use under the power of eminent domain. Land is needed for public schools, public libraries, museums, parks, and for other public purposes too numerous to mention. Sometimes the city governments buy their land in the open market, just as a private person would do, but the opportunities for graft are so great that some cities are prohibited by their charters from buying land in this manner. With the growth of cities and the broadening functions of government more land is needed by municipalities, and this is being transferred from private to public ownership under the right of eminent domain.

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