

property rights, a sense which is much obscured in our time. Take, for example, the human right of freedom of assembly. Suppose that a certain group wants to demonstrate for a particular idea or bill in a street meeting. This is an expression of the right of assembly. On the other hand, suppose that the police break up the meeting on the ground that traffic is being disrupted. Now, it is not sufficient simply to say that the right of assembly has been abridged by the police for political reasons. Possibly, this was the case. But there is a real problem here, for maybe traffic was disrupted. In that case, how is one to decide between the human right of free assembly and the "public policy" or "public good" of clear and unobstructed traffic? In the face of this apparent conflict, many people conclude that rights must be relative rather than absolute and have to be curbed sometimes for the common good.

A Question of Ownership

But the real problem here is that the government owns the streets, which means that they are in a virtual state of no-ownership. This causes not only traffic jams, but also confusion and conflict over who should use the streets at any given time. The taxpayers? In the last analysis, we are all

taxpayers. Should the taxpayers who want to demonstrate be allowed to use the street for that purpose at the time they choose, or should it be reserved for use by other groups of taxpayers as motorists or pedestrians? Who is to decide? Only government can decide; and whatever it does, its decision is bound to be a wholly arbitrary one that can only aggravate, and never resolve, the conflict between the opposed forces.

Consider, however, a situation where the streets are owned by private individuals. In this case, we see clearly that the whole question is one of property rights. If Jones owns a street and the Citizens United want to use it for a demonstration, they may offer to hire the street for that purpose. Then it is up to Jones to decide whether he will rent it out and at what price he will agree to the deal. We see that this is not really a question of the human right of the Citizens United to freedom of assembly; what is involved is their property right to use their money to offer to hire the street for the demonstration. But, in a free society, they cannot force Jones to agree; the ultimate decision is Jones', in accordance with his property right to dispose of the street as he sees fit.

Thus, we see how government ownership obscures the real issue

— how it creates vague and spurious "human rights" that seemingly conflict with each other and with the "public good." In situations where all the factors involved are owned privately, it is clear that there is no problem or conflict of human rights; on the contrary, only property rights are involved, and there is no vagueness or conflict in deciding who owns what or what is permissible in any particular case.

Property Rights Are Clear

In short, there are no human rights that are separable from property rights. The human right of free speech is only the property right to hire an assembly hall from the owners, to speak to those who are willing to listen, to buy materials and then print leaflets or books and sell them to those who are willing to buy. There is no extra right of free speech beyond the property rights that we can enumerate in any given case. In all seeming cases of human rights, then, the proper course is to find and identify the property rights involved. And this procedure will resolve any apparent conflicts of rights; for property rights are always precise and legally recognizable.

Consider the classic case where "freedom of speech" is supposed to be curbed in "the public in-

terest": Justice Holmes' famous dictum that there is no right to cry "fire" in a crowded theater. Holmes and his followers have used this illustration over and over to proclaim the supposed necessity for rights to be relative and tentative rather than absolute and eternal.

But let us further analyze this problem. The fellow who brings on a riot by falsely shouting "fire" in a crowded theater is, necessarily, either the owner of the theater or a paying patron. If he is the owner, then he has committed fraud on his customers. He has taken their money in exchange for a promise to put on a movie; and now, instead, he disrupts the movie by falsely shouting "fire" and breaking up the performance. He has thus welshed on this contractual obligation, in violation of the property rights of his patrons.

Suppose, on the other hand, that the shouter is a patron and not the owner. In that case, he is violating the owner's property right. As a guest, he has access to the property on certain terms, including an obligation not to violate the owner's property or disrupt the performance that the owner is putting on for his guests. His malicious act, therefore, violates the property rights of the theater owner and of all other patrons.