

Jedediah Purdy, *The Meaning of Property: Freedom, Community, and the Legal Imagination*, New Haven, Conn.: Yale University Press, 2010. Pp. 225. \$28.00 cloth (ISBN 978-0-3-11545-1). doi:10.1017/S0738248010001161

The Meaning of Property offers an argument in favor of a classic, liberal view of private property in which property arises out of and helps foster a society in which individuals can enjoy freedom and can flourish. In earlier books, the author, Duke University law professor Jedediah Purdy, has commented on the political and cultural values of the modern age. In his new book, he continues that commentary, situating himself in the category of those who largely endorse atomistic, contractarian social views and who see individual freedom as the “single master value” (4). Private property is beneficial, Purdy contends, because it expands the freedom of owners and allows them to develop and express their personalities. As they acquire and use property, pursuing personal gain, they are motivated to interact socially with others, thus aiding the social order. Owners are encouraged also to work hard, thereby augmenting overall wealth. Purdy’s task here is to blend these points—sometimes associated with separate perspectives—into a single, multipart justification for private property.

Purdy begins his tale of liberalism’s rise with favorable comments on Adam Smith and the Scottish Enlightenment. He surveys and reinterprets the law of waste in antebellum landlord–tenant law to illustrate the rise and economic benefits of relaxed limits on land use. He probes the varieties of irony in John Marshall’s opinion in *Johnson v. McIntosh*, using the case—and the instance of British dealings in East India—to comment on the slow expansion of personal freedom for all individuals. He takes up the difficulties experienced by antebellum southern lawmakers in their efforts to treat slaves both as property and as persons, a clash that could find resolution only with abolition. Jumping to the present, he surveys in turn the core values of welfare economics, the virtues of microfinance, the challenges of addressing climate change, and debates about intellectual property rights in the digital age. In the case of the latter two topics, he observes that property rights and one-on-one bargaining are unlikely to yield sound results; responses must be guided instead by “moral and social vision, a conception of economic life as inherently incorporating qualitative engagement with values” (146).

In his book, Purdy mostly draws upon and interacts with the works of scholars who share his emphasis on liberal individualism. As he says plainly, “*property* in this book means, unless otherwise stated, liberal property, the kind that is intimately tied to markets and liberal society” (4). His summary of current legal scholarship does not really cover work by property scholars who emphasize the community as such and who see property chiefly as a tool used by communities to foster their overall welfare. We hear nothing of the now-sizeable literature contending that liberal property norms contribute to and help defend ecological degradation. Purdy also limits his comments

to individually owned property; we have no mention of collective or communal property (water, wildlife, rivers, or cultural treasures).

Purdy's book will probably be satisfying to those who share his emphasis on liberal individualism and his belief that the actions of free-acting individuals will give rise, pretty much automatically, to sociable communities. Critical readers, however, may sense that he has failed to deliver fully on an important opening promise (4) to locate freedom as "a plural value" within property thought. The rise of liberal property that Purdy illustrates with his scattered examples brought reductions in freedom as well as expansion; there were clear losers as well as winners. For example, the embrace of English common law ideas of trespass to land in nineteenth century America—an expansion of landowner freedom—meant the loss to ordinary citizens of their freedom to use the vast unfenced countryside. More generally, he largely avoids discussing the challenges lawmakers faced and still face when resolving clashes between and among property owners, with their conflicting claims of liberty and property. Freedom as a guiding principle is simply not a clear beacon. Property owners on both sides of a dispute can also rightly assert that their personalities are wrapped up in their claims of right. As for the public welfare, Purdy acknowledges that private transactions alone will not serve it adequately. The community as such needs to identify its interests and tailor private rights to serve them, necessarily reformulating the liberties that are protected and those that are curtailed.

Purdy helpfully explains the important role of liberal property in fostering individual liberties and encouraging individuals to become productive members of society. To get the full picture of modern property, however, we need to consider also its role in fostering ecological degradation, economic inequality, and weakening democracy.

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Johann N. Neem, *Creating a Nation of Joiners: Democracy and Civil Society in Early National Massachusetts*, Cambridge, Mass.: Harvard University Press, 2008. Pp. 259. \$49.95 cloth (ISBN 978-0-674-03079-4). doi:10.1017/S0738248010001173

Using Massachusetts as a case study, Johann Neem argues in this important book that the rise of civic associations in the antebellum era was far from an inevitable development. Instead, Neem contends, the nation of joiners de Tocqueville observed in the 1830s resulted from political struggles that began