THE PRIVATIZATION OF PUBLIC LANDS

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1.0 INTRODUCTION

In February, 2006, President Bush's proposed budget included a plan to raise money by auctioning 300,000 acres of national forests in 41 states for an estimated $800 million. A half million acres of Department of Interior land also would be auctioned to reduce the national deficit (New York Times, March 25, 2006, p. A22). In the past year, various members of Congress have proposed that public lands, and national parks that attract fewer than 10,000 visitors annually, be sold to pay for damages from Hurricane Katrina.

At present, these sales appear unlikely as the American public seems deeply committed to its public lands. This attachment may well increase as the population grows. Yet ideas like these arise regularly. For example, the Reagan administration proposed selling nearly 35 million acres of federal lands. That proposal was defeated handily, but what was unthinkable 20 years ago might be much more possible today. As Sax (1984) noted, such ideas are hardly surprising in a country that is firmly committed to the idea of private ownership of resources, capital, and industry. In fact, federal land acquisition (in the form of a Civil War Memorial) was considered to be a major constitutional question until the 1890s; we did not stop disposing of the public domain until the mid-1930s and federal management of most lands was not institutionalized until passage of the Federal Land Policy Management Act in 1976 (Sax 1984).

While selling the land may be the ultimate expression of privatization, privatization actually is a set of processes that exist on a continuum ranging from fully public agencies funded by tax dollars on one end to completely private companies that operate in a free market at the other (Crompton 1998, More 2005). These processes include applying and evaluating techniques such as user fees, outsourcing, marketing, and developing business plans, all of which have been discussed under the general term "marketization" (Lehmann 1995).

Today there are strong pressures toward privatization and a more market-driven approach to the management of public goods. Groups like the Cato Institute, Reason Foundation, and Property Environment Research Center have argued that public lands are inefficient and that the country as a whole would be better off if they were transferred to the private sector. Such claims remain controversial, and understanding them requires examining their theoretical basis. In this paper I present a brief history of the changing attitudes that led to the current interest in privatization, describe the theoretical case for the private and public sectors, and discuss marketization--the middle position between these two extremes.

2.0 HISTORICAL TRENDS IN PUBLIC LANDS

The idea of public spaces is probably as old as the idea of private property: people are social animals who cluster together in communities, and community requires space. But for practical purposes, the idea of public space on a large scale in the United States generally dates to the second half of the 19th century. In cities, members of the garden city movement saw parks and public spaces as a way to relieve congestion and reduce disease. Frederick Law Olmstead called parks the "lungs of the city." The romantic and transcendental movements created a sense of the purity of nature in contrast to urban corruption generally, and Olmstead's urban park designs reflected his belief that people could be improved by access to natural landscapes explicitly.

In the countryside, the garden city movement was paralleled by a desire to preserve the monumental landscapes of the American West as a contrast to Europe's "decadent" cities (Runte 1997). This desire is epitomized in the (perhaps apocryphal) story of the founding of Yellowstone: On September 20, 1870, Nathanial Pitt Langford, a leader of the second Yellowstone expedition, wrote in his diary:

> Last night in camp, the entire party had an unusual discussion. The proposition was made by some member that we use the results of our exploration to take up quarter sections of land at the most prominent points of interest [specifically, those that] would eventually become a great source of profit to their owners. But Cornelius Hedges declared that he did not approve of any of these plans—that there ought to be no private ownership of any portion of that region, but that the whole of it ought to be set aside as a great National Park, and that each of us ought to make an effort to have that accomplished. (in Runte 1997 p. 41).

Such sentiments, although rare in 1870, were becoming more common, eventually leading to passage of the Antiquities Act of 1906, which gave President Theodore Roosevelt the mechanism he needed (Dustin et al. 2004). Characteristically, Roosevelt acted immediately and with vigor, preserving multiple national monuments and nearly tripling the size of the national forest system (More 2005). By the end of his administration in 1909, Roosevelt also had issued 51 executive orders establishing wildlife reservations in 17 states and three territories. The Depression further solidified the government's role in conservation through works projects like the Civilian Conservation Corps and the Works Progress Administration, which completed over 20,000 projects nationwide (Steiner 1972). World War II required massive governmental operations and the war's success confirmed government's efficacy so that by 1950, the country was becoming middle class, people were optimistic, and attitudes about government were positive.

Outdoor recreation increased dramatically as Americans got on the road to visit the great parks and forests of which they had heard so much. They hunted, fished, camped, hiked, and vacationed in parks. The country's wild lands seemed to embody the American spirit, and the people who managed them were considered dedicated civil servants.

This view began to change in the 1970s as Americans' incomes ebbed. While the rich continued to get richer, globalization, technological developments, the decline of the unions, and immigration began taking their toll on the national economy and the middle class. Although these factors may have been the more deeply rooted causes of the decline, the public was encouraged to blame taxation and government spending. For the past three decades, agencies and civil servants have been seen increasingly as the source of America's problems rather than the solution, and budgets have declined dramatically. In the U.S. Forest Service, for example, the number of research positions dropped 50 percent in the two decades from 1985 to 2005 (USDA Forest Servie 2006). And in the National Park System, advocates note that budgets have increased steadily, but not nearly enough to keep up with inflation, newly mandated programs, and the system's growing complexity. The result has been an increasing net deficit. At Acadia National Park in Maine, for example, from 1995 to 1999 (a time when the economy was performing well) these combined factors resulted in a net budget decrease of 29 percent (USDI National Park Service 2001).

In sum, declining budgets and increasing demands of all kinds reduced the capacity of public land managers to solve problems and manage programs. And as the public sector faltered, privatization advocates were quick to take up the slack, developing powerful arguments for increasing the market's role in public land management.

3.0 THE CASE FOR THE MARKET

The central argument for privatizing public land is that privatization will increase the land's productivity. According to Lehmann (1995), who developed (and challenged) this argument, privatization theorists insist that institutions of all kinds should be judged on the basis of how productive they make resources. But what exactly does "productive" mean? Typically, the standard used to judge productivity is the satisfaction of consumer desires: uses of resources (including both natural resources and financial resources) that do a better job of satisfying consumer desires are considered superior to other uses. As sovereign individuals, each of us knows what goods and services will best satisfy our desires, and we can best express those desires by our willingness to pay for particular packages of goods and services in an unfettered, private market. In short, your dollars are like votes so that you can "vote" for one brand of soap over another, one vacation package over another, etc. Your purchases signal producers, who then can make adjustments to fulfill your wants more efficiently. In time, this will result in the most efficient (productive) allocation of resources. But when government intervenes, artificially supporting some activities or restricting others, the signals will not operate well, and this efficiency will be hampered (Crompton & Lamb 1986).

Some of our consumer desires entail the use of land for recreation. Under the current system, individuals have rights to use public lands to fulfill these desires, but these rights are: 1) incomplete (because they cannot be controlled by the individual), 2) nontransferable (because they cannot be sold or traded), and 3) insecure (because they can be taken away by a different government decision) (Lehmann 1995). Privatization theorists argue that these flaws allow some people to benefit by shifting the cost to others. In recreation, this is the essence of the user/nonuser problem (see Grewell 2004). Why should nonusers be taxed to subsidize someone else's recreation? Wouldn't it be desirable to shift the burden of provision to those who obtain the benefit? While nonusers may derive some benefit from existence, option, and bequest values, these are likely to be small or nonexistent for all but the best known parks. And the value of these benefits received by any particular individual can hardly compare with the benefits of actual, direct use. Moreover, when there are external costs to be borne, existence values can be negative (Stevenset al. 1994). It is true that nonusers have the right to become users, but this right is incomplete, nontransferable, and insecure, while its cost is inevitable. In a market (or simulated market where the government sells the rights to defray the costs, these problems are avoided to the extent that the actual users pay for the benefit they derive, thereby reducing or eliminating the burden to nonusers.

Incomplete rights pose problems because they allow a third party to act on your behalf without necessarily obtaining your consent. Our current public land-management system regulates individual use of the land through a series of compromises among legislators, bureaucrats, and the judiciary (Lehmann 1995). In theory, each member of the public counts the same; but in practice, each of these groups which is supposed to act on your behalf actually has its own set of interests. Legislators and the judiciary may seek re-election, while agency officials strive to maximize budgets by seeking work for their agencies. Consequently, some people end up with great influence and can shape the system to maximize their own preferences while others are left out altogether. Privatization theorists believe this problem could be solved by private ownership: If you owned the land, you could be counted upon to put it to its most productive use—the one that is the most important to you.

Insecure rights are problematic because they create uncertainty, which works against the incentive to invest in the future. An example in recreation occurs when agencies contract out facilities like campgrounds to private management. Agencies need to review contracts periodically to ensure standards are met, but private operators may complain that the terms of their lease are too short for them to realize an adequate return for any improvements they might make. Why would a private operator make major capital improvements to a campground when the lease will be up in two years? Again, privatization theorists believe private ownership is the solution.

Sax (1984) summarized the case for privatization succinctly: "In essence, the argument for disposal of the public lands is this: Each person knows what is best for him or her, and, therefore, the best system is the one that permits the real preferences of individuals to be revealed and implemented. With rare exceptions, the ideal mechanism for implementing these preferences is a private marketplace where each individual expresses his or her desires through bidding. Private ownership advances this goal, and public ownership impedes it" (pp. 130-131).

In sum, privatization theorists argue that our present land management system divorces freedom from responsibility, enabling some to benefit at the expense of others. That is the case for the private sector. But what case can be made for the public?

4.0 THE CASE FOR THE PUBLIC SECTOR

The case for public sector land management rests on three related factors: community, equality, and compensation. To understand the importance of community, consider the picture of human behavior presented by the free marketers. They view people as isolated, atomistic individuals expressing their self-interested preferences through unconstrained trading in the marketplace. If an outcome of management differs from that which would have occurred through the expression of individual preference, then they assume it must be wrong, ipso facto (Sax 1984). But do people really behave like this? Public sector advocates think not. Rather, they believe there is more than one category of preferences (see Lehmann 1995). While they grant the self-interested consumer preferences that are typically expressed in the marketplace, they also believe that people have values and preferences that they hold as members of collectives and that find their expression only through the collective. These collectives include the family, community, church, state, or any group to which the individual can belong more or less voluntarily and which compels a loyalty. Who, after all, has not sacrificed their personal desire or preference for the good of their family? Parents sacrifice for their children, patriots for their country, martyrs for their religion. While privatization advocates construct torturous arguments to show how such actions serve individual welfare, it is difficult to imagine how martyrdom could result in a net increase in personal satisfaction! We are social animals and find some of our highest forms of expression through the groups to which we belong. By participating in these collectives, we do express our individual preferences, but these are then taken up and transformed in negotiation with others. The ultimate result of the process may differ from our personal preference, but we generally continue to participate; we do not act like small children who take their ball home when they do not get their own way. The participation process also provides feedback that helps us understand the quality of our own desires and alternatives that we may not have considered—we can, in fact, begin to "see ourselves as others see us." As Lehmann argued, what people do desire is not necessarily what they ought to desire or what they would desire given more information, and reflecting on this "ought" is an important facet of the "public" process that comes with participation in the collective. Our tastes develop. Experience and interaction lead to learning, growth, and development. In some respects, the public sector simply creates opportunities for people to better themselves.

Such an argument puts us on dangerous ground; at best it can sound like paternalistic social engineering. An example would be the old "Sports builds character!" argument that implies that athletes develop more "character" than non-athletes. At worst, it connotes the kind of "improvements" undertaken by Hitler or Stalin. Yet no such criticism delivers us from the need to deal with the value judgments—good/bad, right/wrong, beautiful/ugly—that occur naturally in the context of the group as well as the individual. Freedom of speech builds better people just as much as exercise programs or massage therapy, but it requires a social setting: You must be free to speak *to* someone else, and that individual must be free to listen and respond. So the idea of creating opportunities for people is not intended as a heavy-handed, top-down directed process but one that occurs naturally through interaction with others in social settings.

Nature, too, can stimulate personal growth by taking us outside ourselves. Olmstead believed that we all had a "contemplative faculty"--what today we might consider a sense of aesthetic appreciation. Writing of Yosemite, he noted: "Few persons can see such scenery as that of the Yosemite and not be impressed by it in some slight degree. All not alike, all not perhaps consciously…but there can be no doubt that all have this susceptibility, though with some it is much more dull and confused than with others" (Sax 1980 p. 19).

So both social and natural environments can take people outside of their own individuality and enable them to grow as people by being able to reflect more broadly. Parks are wonderfully social spaces, and natural beauty has the ability to astonish. Yet this is not sufficient reason to justify public sector action; after all, many collectives operate privately and Yosemite would continue to astonish if it were managed by a private corporation rather than a public agency. Thus, we must look beyond community for a justification of the public sector ownership of land.

The second justification for the public sector is equality. To be a genuine member of any group, a person must have a stake in it. While groups sort themselves into different roles, membership generally entitles a person to equal treatment with other members, and this equality represents a big difference between the market and the community. In essence, equality and market efficiency exist as a tradeoff; you can treat people efficiently or you can treat them equally, but you cannot do both at the same time (Okun 1975). The market treats people efficiently by emphasizing their differences. It treats dollars like votes—the more dollars you have, the more votes you get. You can use those dollars to separate yourself from others, purchasing fancier homes or cars, club memberships, or higher service levels. By contrast, the community is expected to treat all of its members equally; it emphasizes what we have together, jointly, in common. And this is the second great justification for public lands: that we are all entitled to be there regardless of our circumstances. On private land, the owner has the right to exclude you—the land is his or hers, not yours. But on public land you have every bit as much right to be there as she/he has, and the differences between you are no basis for exclusion. The person sitting at the other end of the park bench could be far wealthier or far poorer than you, but at that time, on that bench, you are both equals.

The great economic idea behind equality is market failure. Markets actually serve as a mechanism for distributing the goods and services a society produces. But they are imperfect, especially given current levels of social inequality, and social action may be required to redress some of the market's failures. This leads to the third great justification for public lands and programs: compensation. Public programs exist because we need community, and group membership presupposes some sort of equal treatment. Thus, in a largely market-driven economy, public programs help mitigate some of the inequalities caused by the market. The ladies of the playground movement helped to establish public playgrounds to benefit poor children. While later historians have questioned the effects of their involvement, there can be little doubt about their sincerity at the time. Similarly, Caro (1975) wrote movingly about Robert Moses' attempts to establish public parks among the Long Island estates of the elites so that low income city families could have access to decent, unpolluted swimming and picnicking. And Yellowstone itself was established explicitly to keep it outside the market so that it would not be developed for private profit, but would be available to every citizen (Runte 1997). If Yellowstone were turned over to the market today, it seems likely that the market would deliver a mix of private estates, second-home developments, and high-end resorts rather than wildland. So in general, in a strictly economic sense, the public sector is inefficient when compared to the market, but that is because the problems with which it deals—community, equality, and compensation—are inherently inefficient. As Okun (1975) noted, there is a natural tension between efficiency and equality, and both have long traditions in our society.

4.0 MARKETIZATION

Can the public sector's efficiency be increased? That question lies behind the current emphasis on marketization. Marketization is a generic term for having public agencies behave like private companies, trying to simulate perfect markets, and becoming financially self-sustaining by selling the goods and services they produce (Lehmann 1995). It is in effect the middle position between the private market and fully public operations. Under this model, public lands would be kept in public ownership, but the agencies would use techniques like fees, outsourcing, and leasing. Although some environmentalists have argued that marketization can enhance conservation (see Lehmann 1995), I suspect that a good case can be made for its being the worst of all possible worlds: it preserves most of the inefficiencies inherent in the public sector while enhancing the inequalities associated with private markets. With recreation fees, for example, the data now seem fairly clear. Two-thirds to three-quarters of the people do not mind the fees; in fact, some are even eager to pay. But between one-quarter and one-third of recreation users struggle; these tend to be low-income users (More & Stevens 2000). Similarly, as agencies have grown dependent on fees, some have raised prices to generate more revenue. But higher prices can reduce demand and lead to stagnant or declining visitation (Reiling & Cheng 1994). To counter that, many agencies have developed "friends" groups to do fundraising and promote volunteerism. But these groups can have their own agendas, and the very success stories necessary to convince potential donors to contribute may lead to further budget reductions in the public sector (Poppendieck 1998).

Marketization generally tends to defeat the goals of both the free marketers and the advocates of the public sector. It is important to remember that the market itself cannot be counted upon to produce any particular goal over time; what it does deliver is constant adaptation to ever-changing popular taste (Lehmann 1995). If preservation is the goal, neither privatization nor marketization is the solution.

5.0 CONCLUSION

Ideas from the philosophy of economics can be difficult for non-economists to understand, but the issues they raise have major implications for policy and eventually for the ways in which people lead their lives. After grappling with these issues for several years, I have drawn several conclusions:

First, one primary driver of the privatization argument is ideological. Lehmann (1995) pointed out that many of the people who produce such arguments seem deeply suspicious of government and social processes. They certainly question collective values. Of course, their questioning does not negate their logic but it should give us pause to think that other views are possible. More importantly, the logic behind privatization arguments often rests on assumptions that may not fit the real world well, and many of the criteria that economists have advocated to show that one state of affairs is superior to another—the Pareto Criterion, Pareto optimality, the Kaldor criterion, consumers' surplus, or wealth enhancement—also tend to function better in theory than in practice. For each argument there is a counterargument to be made.

While idealism is one driver, self interest is another. It is important to understand that there is a lot of money to be made with both privatization and marketization. For example, as the national parks have struggled with these issues, we have seen growing levels of commercialism, and many of the companies involved are in the resort development and tourism industries. It is perfectly understandable when they urge relaxation of regulations to promote visitation.

That leads to a subtle but important third point: Under both privatization and marketization, the idea is to give the "customers" what they want. But why should we accept this, especially if the goal of public programs is to help people improve themselves? Must we cater to all desires? Or is there some logical way that we can rule out some activities? This issue is central to the current debate over the validity of snowmobiles in Yellowstone, for example.

Once again, Olmstead suggested the answer. As summarized by Sax (1980), Olmstead never objected to development in the parks but he felt strongly that such development always should sustain appreciative use. Appreciative uses are those in which the individual is focused not upon the self but externally on the beauty of nature or the well-being of the group. When the focus is primarily on self gratification, Sax (1984) argued that these activities should be satisfied by the private sector. In the last analysis, it is this idea—that the preservation of wildland is important because it can contribute to our growth both personally and as citizens—that sustains the public ownership of land. To maintain this ideal, constant vigilance will be required.

6.0 CITATIONS

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