

# "Governing Through Owners"

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Liberalism has reinforced our view of private property as a constraint on state power rather than as a mechanism that enhances state power. When the state supplies property rights, it offers some assurance that private individuals will be able to set the agenda for resources in furtherance of their own ends. A state that promises to leave agenda-setting control in private hands may well produce more freedom than the state that does not. But there is more at stake when the state formalizes property rights than the diffusion of the first-order power to set the agenda for resources. The state in supplying property rights acquires the second-order power to allocate, define and enforce owners' authority to set the agenda for things, a power that in some contexts has the potential to constrain freedom as much as the first-order power to set the agenda for resources expands it.

I argue in this paper that private owners are vulnerable to the state when the state defines their property rights: the very features of a system of formal property that create clear and secure property rights also make owners visible to and dependent on the state. The special vulnerability of owners to state demands creates an opportunity for the state to govern through owners, an alternative to governing by bureaucracy or governing by licensee. A state governs through owners when it devolves duties or burdens of the state upon private owners. These burdens are characteristically unrelated to the management of the resource itself (and are thus importantly different from restrictions on agenda-setting authority or limits on the purposes for which it can be used.). A simple but revealing example of this phenomenon is the reliance of many municipalities on owners to shovel public sidewalks and, in some cases, to repair and even to build them.