

Legislated robbery must be restrained

[Economics & Deregulation](#) and [Ideas & Liberty](#) | [Alan Moran](#)
Herald Sun 23rd January, 2010



New South Wales landowner Peter Spencer recently ended a hunger strike protesting about a state government zoning that prevented farming on his property.

His actions have drawn attention to the abilities of state governments to take people's property without compensating them.

The issue stems from decisions 15 years ago by the Howard government to reduce greenhouse gas emissions. The federal government saw preventing land clearing for agriculture as a costless way of achieving this. It recruited the state governments, which control land use, to administer the measure.

Unlike the federal constitution, state constitutions do not provide for fair compensation for land or any other property taken from individuals.

Canberra thought it had discovered a magic pudding. Politicians were faced with noisy demands to reduce greenhouse gas emissions and an electorate reluctant to pay for this.

An apparently costless way out of the dilemma was to prevent farmers from using their land.

While farmers may have unwillingly donated their land assets, there are few of them and they have little political power. Moreover, after decades of land-use controls, clearing prevention looked like just another regulatory restraint.

After years of litigation, the NSW Government offered Peter Spencer \$2 million in compensation. That was the value of his land after the regulations had made it unproductive.

That's like the government deciding that nobody may ever again inhabit your \$500,000 family home or visit your \$500,000 tourist facility, thereby reducing its value to \$20,000 and claiming \$20,000 is fair compensation!

And there are a dozen different laws allowing state governments to do this. These range from zoning restraints, laws regarding heritage and species conservation, through to land acquisitions for new roads.

Prime Minister Kevin Rudd's advice to Peter Spencer was to let the law take its course. But that entails accepting the theft of property that the government has sanctioned through legislation. That's how the rule of law used to work in communist countries.

Fairness aside, there are very good reasons why governments should be restrained from taking people's property. Without such restraint, people's incentives to save, build businesses, even acquire family homes, are undermined.

Saving and investing is based on people having confidence that their property rights are secure. Laws that are not enforced or are arbitrarily used by government cause economic decline.

Secure property rights therefore underpin economic prosperity. They are crucial for productivity growth, which Mr Rudd this week announced as a new priority for Australia.

But productivity growth requires more than lofty statements. It requires less -- not more --

government control and regulation throughout the economy.

Government respect for property rights is one essential feature of this. Property rights would be more secure if all governments were obliged to provide full compensation for measures that devalue property.

For short-term political gain and to avoid expense, governments are often tempted to take unfair and economically harmful measures against those with little political muscle.

There can be no guarantee against arbitrary use of government powers to prevent such actions but constitutional provisions provide a useful restraint.

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