

# Evict the President

President Biden has reversed himself under pressure from his progressive flank and has given the go-ahead for a new moratorium on renter evictions throughout most of the United States for individuals making up to \$99,000 a year (couples, \$198,000). The twist is that Biden acknowledges that the Centers for Disease Control and Prevention (CDC), which reports to his secretary of health and human services, has no legal authority for the action.

Most courts have agreed about the lack of authority, syndicated columnist Jacob Sullum reports, and Supreme Court Justice Brett Kavanaugh said in June that congressional authorization would be required for an extension of the moratorium beyond last July. Despite that statement, the Supreme Court refused to lift a court's stay of another judge's ruling against the CDC's move. Biden apparently figures that by the time the court thwarts him, he will have accomplished his objective of giving relief to renters.

Doesn't that make Biden's order an impeachable offense? Shouldn't White House eviction proceedings begin in the Senate? Fat chance. Since it's a non-Trump who now flouts the revered rule of law, it's evidently okay. But let's not forget that the first CDC moratorium on evictions came last year, while Trump was still in office. (Some states and localities had already imposed their own moratoriums.)

CDC chief Rochelle Walensky says the moratorium will save lives: it's "the right thing to do to keep people in their homes and out of congregate settings where COVID-19 spreads." In this case, that wins cheers from people who would condemn a similar statement ("it's the right thing to do if X") in the harshest terms had it come from an administration of the opposing party. That's what passes for principle in politics.

Many objections could be made to the CDC order. It could be pointed out, for instance, that allegedly dubious estimates of the lives already saved and to be saved by a moratorium are used to justify it. In at least one case, the data used in a study were not released for independent verification. "These shoddy one-off studies are just ammunition for people who want to put a link saying 'studies prove' in their otherwise completely speculative articles," Aaron Brown, a professor of statistics at New York University and the University of California, San Diego, said in a *Reason* commentary and video.

But even if the studies were trustworthy, would that justify a government's agency's nullification of landlord property rights through its own interpretation of the Public Health Service Act? And even if that interpretation accorded with the legislation's stated intention, where did Congress's power come from? These questions should matter in a society theoretically committed to the rule of law and individual rights, but they don't matter much anymore.

If Congress and the CDC had the power they claim, imagine the floodgates that would open to wholesale violations of personal liberty. We have lived through the lockdowns rationalized by a pandemic, but that might end up looking like child's play. Once we accept the government's public-health assertions as grounds for mass house arrest and deprivation of property, we're in big trouble.

It could also be noted that, by and large, landlords do not constitute an especially wealthy class and might well make less money than their tenants. Those property owners will suffer or try to raise rents on other tenants who are not in default—or both. But even if that were not the case, so what? As a rule, wealthy people have rights too, though I can think of places where that idea would be scoffed at.

Some might say that people who have trouble paying their rent have suffered because of the government's lockdown response to the pandemic. I assume that's true in some cases. The problem is that when politicians do bad things to people, the perpetrators don't suffer the consequences. Rather, the costs of restitution, even when justified, fall on innocent parties: taxpayers, consumers (through inflation), and in this case, people who rent homes to others.

It goes without saying that the moratorium is popular with those who on principle oppose private property. But it doesn't go nearly far enough for some people. We've heard calls not for just a temporary stay, but for the abolition of rent and "landlordism" (and mortgages). "Cancel the Rent" protests have been staged around the country.

Opposition to the freedom to rent one's property to others is a classic case not only of disparaging freedom but of failing to look for what the 19th-century French liberal political economist Frédéric Bastiat called the *unseen*, or secondary, consequences of economic policy. One might feel good at the thought of rent being outlawed, but no one who thought for more than a moment would believe that would be the end of the story. Since the owners would be dispossessed, who would build housing henceforth? But more likely, any ban on renting would be gotten around by calling rent by another name. Why? Because property owners and would-be renters would want the relationship: it yields mutual gains. Not everyone wants the responsibility or burden of owning a home; much depends on a person's stage of life and plans. The rental market permits much-appreciated flexibility. This would be true even if government did not make housing so expensive through elitist land-use controls like zoning and other regulations.

The long-term answer to the housing issue is the free market—which means repeal of all special-interest interventions that keep prices high. The short-term answer is to remove all the pandemic restrictions on economic activity. Meanwhile, let landlords and tenants work things out for themselves.