

Takings

Private Property and the
Power of Eminent Domain

RICHARD A. EPSTEIN

Takings Private Property And The Power Of Eminent Domain

Richard Allen Epstein



Takings Private Property And The Power Of Eminent Domain:

Takings Richard A. Epstein, 2009-07-01 If legal scholar Richard Epstein is right then the New Deal is wrong if not unconstitutional Epstein reaches this sweeping conclusion after making a detailed analysis of the eminent domain or takings clause of the Constitution which states that private property shall not be taken for public use without just compensation In contrast to the other guarantees in the Bill of Rights the eminent domain clause has been interpreted narrowly It has been invoked to force the government to compensate a citizen when his land is taken to build a post office but not when its value is diminished by a comprehensive zoning ordinance Epstein argues that this narrow interpretation is inconsistent with the language of the takings clause and the political theory that animates it He develops a coherent normative theory that permits us to distinguish between permissible takings for public use and impermissible ones He then examines a wide range of government regulations and taxes under a single comprehensive theory He asks four questions What constitutes a taking of private property When is that taking justified without compensation under the police power When is a taking for public use And when is a taking compensated in cash or in kind Zoning rent control progressive and special taxes workers compensation and bankruptcy are only a few of the programs analyzed within this framework Epstein's theory casts doubt upon the established view today that the redistribution of wealth is a proper function of government Throughout the book he uses recent developments in law and economics and the theory of collective choice to find in the eminent domain clause a theory of political obligation that he claims is superior to any of its modern rivals

Symposium on Richard Epstein's Takings: Private Property and the Power of Eminent Domain, 1986 A History of Water Rights at Common Law Joshua

Getzler, 2004 This volume describes how the courts created rights for land owners and users competing to appropriate water for factories town supply drainage and transport It covers the period from early times to the late nineteenth century illustrating the changing common law of property and tort and throwing new light on the growth of the economy and the social and legal dimensions of technological innovation

A Companion to Contemporary Political Philosophy Robert E. Goodin, Philip Pettit, Thomas W. Pogge, 2009-02-17 This new edition of A Companion to Contemporary Political Philosophy has been extended significantly to include 55 chapters across two volumes written by some of today's most distinguished scholars New contributors include some of today's most distinguished scholars among them Thomas Pogge Charles Beitz and Michael Doyle Provides in depth coverage of contemporary philosophical debate in all major related disciplines such as economics history law political science international relations and sociology Presents analysis of key political ideologies including new chapters on Cosmopolitanism and Fundamentalism Includes detailed discussions of major concepts in political philosophy including virtue power human rights and just war Law of Property Rights Protection Jan Laitos, 2023

Research Handbook on the Economics of Property Law Kenneth Ayotte, Henry E. Smith, 2011-01-01 Leading scholars in the field of law and economics contribute their original theoretical and empirical research to this major Handbook Each

chapter analyzes the basic architecture and important features of the institutions of property law from an economic point of view while also providing an introduction to the issues and literature Property rights and property systems vary along a large number of dimensions and economics has proven very conducive to analyzing these patterns and even the nature of property itself The contributions found here lend fresh perspectives to the current body of literature examining topics including initial acquisition the commons anticommons and semicommons intellectual property public rights abandonment and destruction standardization of property property and firms marital property bankruptcy as property titling systems land surveying covenants nuisance the political economy of property and takings The contributors employ a variety of methods and perspectives demonstrating the fruitfulness of economic modeling empirical methods and institutional analysis for the study of both new and familiar problems in property Legal scholars economists and other social scientists interested in property will find this Handbook an often referenced addition to their libraries

Takings Richard Allen Epstein,1985 Property Rights in the Colonial Era and Early Republic James W. Ely,1997 *The Public Nature of Private Property* Michael Diamond,2016-02-24 What exactly is private property Or to ask the question another way what rights to intrude does the public have in what is generally accepted as private property The answer perhaps surprisingly to some is that the public has not only a significant interest in regulating the use of private property but also in defining it and establishing its contour and texture In *The Public Nature of Private Property* therefore scholars from the United States and the United Kingdom challenge traditional conceptions of private property while presenting a range of views on both the meaning of private property and on the ability some might say the requirement of the state to regulate it

Constitutional Protection of Private Property and Freedom of Contract Richard Allen Epstein,2000 **Constitutional Law for a Changing America** Lee Epstein,Kevin T. McGuire,Thomas G. Walker,2022-03-15 A host of political factors both internal and external influence the Court s decisions and shape the development of constitutional law Combining lessons of the legal model with the influences of the political process *Constitutional Law for a Changing America* Institutional Powers and Constraints shows how these dynamics shape the development of constitutional doctrine

Liability and Environment Lucas Bergkamp,2021-12-06 *Liability and Environment* analyzes the role of law in particular civil liability in controlling environmental pollution and risk In modern environmental policy liability has become a popular instrument In this book Prof Bergkamp takes a fresh look at civil liability for environmental harm in an inter and transnational context Over the last decade industry s liability exposure for environmental harm has expanded significantly At the international EC and national level proposals for onerous strict environmental liability regimes are pending The polluter pays principle which is an articulation of the cost internalization theory in the environmental area is believed to justify such liability regimes Applying an instrumental approach to legal instruments Prof Bergkamp aims to redefine the role of liability in the heavily regulated environmental area He shows that liability for environmental harm is not justified by the polluter pays principle is an uncertain and unreliable instrument for

achieving prevention results in an inefficient insurance scheme and plays a dubious role in adjusting activity levels Based on an analysis of the basic characteristics of alternative legal instruments Prof Bergkamp concludes that civil liability should play a more modest limited role in an environmental law system dominated by public law Where deterrence is not the objective first party insurance compensation funds or other public law regimes should be preferred over liability rules In addition to civil liability of private parties Liability and Environment discusses State liability under international EC and national law Under international law breach of a primary obligation triggers a State s liability Prof Bergkamp argues that this rule should be applied also to liability of private parties In the environmental area a business primary obligations are spelled out in detailed permit conditions regulations and statutes According to Prof Bergkamp only if a primary obligation is breached a private person should be liable for environmental harm The system that Bergkamp advocates is an objective fault liability regime in which public environmental law defines the standard of care for both government and industry In rebuilding our civil liability system we should keep in mind that what is good for industry should be good for everyone or it is not good for anyone we should keep in mind that what is good for private parties should be good for the state or it is not good for either In rebuilding our civil liability system the international law of State responsibility which is unpolluted by risk spreading and activity level considerations will guide us a long way This book is aimed at advanced law students academic scholars and practitioners In addition it will be of interest to policy and legislative analysts legislators and government officials Professor Bergkamp s book cannot be described as solving the problems of legal and regulatory control of environmental harm whether within a nation or internationally As suggested before however the very idea of a solution is illusory All legal and regulatory regimes around the world are today and will remain for the future in a state of perpetually continuing development The virtue of this fine book is that it moves the process of that development forward by a very substantial measure from the Foreword by George L Priest *The Government Took My Property!* Silas Flint,2014-11-14 Most people don t think much about acquisitions or takings of private property by the government until they receive a letter that their land is about to be taken This complex subject is made easy to understand in this volume The author uses zany humor and bizarre examples to describe the history of acquisitions in Australia and the USA and how they have come to be what they are today While the book is written from an Australian perspective it also provides significant insights into American takings and how they operate *Private Property in the 21st Century* Harvey Martin Jacobs,2003-12-19 The ownership and control of privately owned lands is critical for many fields Scholars students and professionals of urban and regional planning geography law natural resources environment real estate and landscape architecture should find this volume useful **The Routledge Handbook of International Planning Education** Nancey Green Leigh,Steven P French,Subhrajit Guhathakurta,Bruce Stiftel,2019-07-23 The Routledge Handbook of International Planning Education is the first comprehensive handbook with a unique focus on planning education Comparing approaches to the delivery of planning

education by three major planning education accreditation bodies in the United States Australia and the United Kingdom and reflecting concerns from other national planning systems this handbook will help to meet the strong interest and need for understanding how planning education is developed and delivered in different international contexts The handbook is divided into five major sections including coverage of general planning knowledge planning skills traditional and emerging planning specializations and pedagogy An international cohort of contributors covers each subject s role in educating planners its theory and methods key literature contributions and course design Higher education s response to globalization has included growth in planning educational exchanges across international boundaries The Routledge Handbook of International Planning Education is an essential resource for planners and planning educators informing the dialogue on the mobility of planners educated under different national schema Property , For-Profit Democracy Loka Ashwood,2018-06-26 A fascinating sociological assessment of the damaging effects of the for profit partnership between government and corporation on rural Americans Why is government distrust rampant especially in the rural United States This book offers a simple explanation corporations and the government together dispossess rural people of their prosperity and even their property Based on four years of fieldwork this eye opening assessment by sociologist Loka Ashwood plays out in a mixed race Georgia community that hosted the first nuclear power reactors sanctioned by the government in three decades This work serves as an explanatory mirror of prominent trends in current American politics Churches become havens for redemption poaching a means of retribution guns a tool of self defense and nuclear power a faltering solution to global warming as governance strays from democratic principles In the absence of hope or trust in rulers rural racial tensions fester and divide The book tells of the rebellion that unfolds as the rights of corporations supersede the rights of humans A Research Agenda for US Land Use and Planning Law John J. Infranca,Sarah Schindler,2023-12-11 Authoritative and multidisciplinary in approach this Research Agenda shapes questions that will underpin future legal and empirical scholarly inquiry on zoning and land use regulation in the US Building on existing debates and providing a comprehensive overview of the current state of academic research it identifies the gaps which need addressing in future research We Want What's Ours Bernadette Atuahene,2014-06-26 Millions of people all over the world have been displaced from their homes and property Dispossessed individuals and communities often lose more than the physical structures they live in and their material belongings they are also denied their dignity These are dignity takings and land dispossessions occurring in South Africa during colonialism and apartheid are quintessential examples There have been numerous examples of dignity takings throughout the world but South Africa stands apart because of its unique remedial efforts The nation has attempted to move beyond the more common step of providing reparations compensation for physical losses to instead facilitating dignity restoration which is a comprehensive remedy that seeks to restore property while also confronting the underlying dehumanization infantilization and political exclusion that enabled the injustice Dignity restoration is the fusion of reparations with restorative justice In We

Want Whats Ours Bernadette Atuahenes detailed research and interviews with over one hundred and fifty South Africans who participated in the nations land restitution program provide a snapshot of South Africas successes and failures in achieving dignity restoration We Want What s Ours is globally relevant because dignity takings have happened all around the world and throughout history the Nazi confiscation of property from Jews during World War II the Hutu taking of property from Tutsis during the Rwandan genocide the widespread commandeering of native peoples property across the globe and Saddam Husseins seizing of property from the Kurds and others in Iraq are but a few examples When people are deprived of their property and dignity in years to come the lessons learned in South Africa can help governments policy makers scholars and international institutions make the transition from reparations to the more robust project of dignity restoration

Property, Power, and American Democracy David Andrew Schultz, 1992-01-01 One legacy of the Reagan and post Reagan years has been a questioning by both liberals and conservatives of recent eminent domain and property rights decisions by the Supreme Court This timely volume examines the changing political and constitutional status of these concepts Schultz argues that we need to rethink the nature of property rights by asking what purpose they serve in American society and whether they deserve special legal and judicial protection against legislative interference Property Power and American Democracy is founded on a searching reexamination of the role of property in early and contemporary American legal and political thought From this perspective Schultz shows that the meaning of property is currently in flux as a result of a failure to sustain those values that property was originally supposed to protect in our society individual liberty limited government and minority rights In keeping with the moral and political values associated with property in the writings of John Locke James Harrington and other classical theorists the author contends that property should not be viewed merely as a thing we possess or an entity we may dispose of at will Instead it is to be seen as an important social relationship to which the law gives special protection thereby furthering a sense of autonomy self identity and community This volume demonstrates that once we view property in this light we can then ask which relations or values are so important in our society that they deserve to be called property Drawing upon both liberal and conservative points of view Property Power and American Democracy is a powerful argument for the reinvigoration of property rights It will be of special interest to political scientists urban planners and specialists in American constitutional history and political thought

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