

Your Land Is Our Land: Eminent Domain and the Common Good

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Research Questions

- How did the practice of eminent domain fit into the development of English common law in the colonies?
- What was the contemporary English practice of eminent domain?
- What was the relationship between compensation and the availability of land?
- How did colonial notions of liberty and individual rights shape eminent domain as a cornerstone of public property rights?

Research Process

Secondary Sources

- Books
- Journal Articles



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Primary Sources

- Laws
- Legal Texts
- Records

Thesis Presented

The American colonies' approach to eminent domain, as examined in the New England and Chesapeake regions, reveal that contemporary interpretations of natural right and common law predicated the delicate balance between individual rights and the common good.

Historiography of American Colonial Law

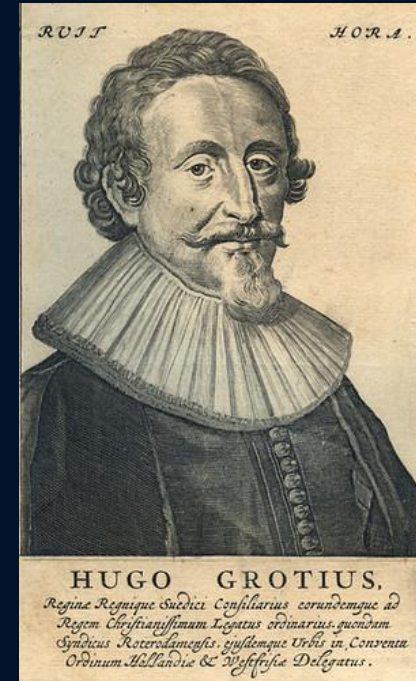
- 19th century: autonomy of law
- Early 20th century: recognition of English contribution
- Mid - late 20th century: recognition of complexities and social considerations in law
- 21st century: intellectual inheritance of law



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The Rationale for Eminent Domain

- Protected property as a natural right
 - Individual Rights
 - Public rights
- Provided for the public (or common) good



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The Regulations for Eminent Domain

- Conditional compensation
 - New England individualism
 - Chesapeake communitarianism
- Private exercise of eminent domain
 - Mill Acts
 - Religious institutions



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The Revelation of Eminent Domain

- The fundamental British identities of the American colonies
- Governing more for the interests of the community than those of the individual



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Conclusion

A study of the reasoning and regulations that defined New England and the Chesapeake's eminent domain procedures indicates that the American colonies balanced individual property rights and the common good according to their interpretations of natural rights and common law.

Implications

- Separate and unique circumstances of the American colonies
- Retention of distinguishing principles of English law
- Preservation of a distinctively English political, legal, and social order



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