

Taking Private Property for Public Purpose

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SUBJECT(S): CONSTITUTIONAL LAW

KEYWORD(S): POWER OF EMINENT DOMAIN, EXPROPRIATION

The Article discusses the government's power of eminent domain. It begins by outlining how the said power was exercised in the early times, in the middle ages, and in countries like England, America, Spain, and Philippines.

After giving a review on the nature of the power of eminent domain, the Author continues by focusing on the concept of taking. He also individually discusses the concepts of public use, choice of property, necessity of the taking, just compensation, and procedure. In discussing these concepts, he gives special focus on the shift of the concept of public use from the traditional to the progressive one. He also concentrates in just compensation, discussing under it the effects of consequential damages and benefits; the connection of judicial determination to the computation of just compensation; the role that commissioners play during expropriation; the necessary form of payment; the time of payment; prescription; and waiver of state immunity from suit.

The Article also makes a discussion of the sundry issues related to the exercise of the power of eminent domain. These issues are passing of title, registration in name of owner, recovery of possession, collection of rent, construction of improvements and tax implications.

As a conclusion, the Author states that the development of society demands an expanded promotion of the general welfare. The Author advises that expropriation being a tool in advancing the common good, the courts should remain attentive in ensuring that its exercise are within the limitations marked by the Constitution.