

vania during the 1980s. These states were selected as prototypical, he explains, because California courts displayed the most deference to legislative authority and the least protection for property rights, Pennsylvania was relatively supportive of property rights, and New Jersey's Supreme Court aggressively fought "exclusionary zoning."

Coyle begins with three brief chapters; a mostly utilitarian "Why Land Use Rights?," an introduction to "Land Use and Culture," and a lament on "The Demise of Landowner Rights." The heart of the book are three longer chapters on "Cultural Conflict in Pennsylvania and New Jersey," "California: Where Deference Reigns Supreme," and "The United States Supreme Court: Hesitant Steps toward the Protection of Landowner Rights." He ends with brief chapters on "Feudalism and Liberalism" and "Land, Culture, and the Constitution."

The book is a useful and quite readable introduction to American land use law from a largely libertarian perspective. Its tone is uniformly partisan but not overly querulous. The main virtue of *Property Rights and the Constitution* is that its relative brevity provides an accessible examination of the theoretical and ideological aspects of zoning and its more recent refinements that allow fewer uses of right and increase governmental discretion. In particular, the chapters on New Jersey and Pennsylvania and on California show how the characters of the individual judges and the political pressures around them led to the shaping of land use law in those bellwether jurisdictions.

Constitutional theory, rights theory, ideology, culture, and the detailed development of land use law in three states (with U.S. Supreme Court cases as a backdrop) is a heady mixture for any one volume. While brevity provides an accessible panorama, the disadvantage of a 260-page book (with appendices) of this scope is that no topic could be covered very thoroughly.

Given the limitations of space, I would have preferred to see a general tightening of style and a reduction of the overlap between the introductory and the closing chapters. A number of additions would have benefited the reader.

First, an early and systematic treatment of property rights theory from explicit natural law and utilitarian perspectives would give the reader a better basis on which to consider Coyle's ensuing discussion of jurisprudential arguments and cultural (i.e., "hierarchical," "libertarian," and "egalitarian") viewpoints.

In the discussion of U.S. Supreme Court cases, there is no mention of *Penn Central Transp. Co. v. City of New York* (1978). While it came before the decade of the 1980s, on which Coyle concentrates, *Penn Central* is the definitive statement of the Court's present (and almost ludicrously lenient) "balancing test" for determining when a taking occurs.

In the Pennsylvania materials, it would have been interesting if Coyle could have related some of the strange saga of *United Artists Theater Circuit, Inc. v. City of Philadelphia*. In July 1991 the Supreme Court of Pennsylvania held in a seminal opinion that the requirement that the

owner undertake substantial expenditures to maintain the art deco facade of a theater amounted to an unconstitutional taking under the state constitution. An extensive hue and cry from planners and preservationists followed, which caused the court to withdraw its opinion. (Not until November 1993, after Coyle's book was published, did the court issue a replacement, in which it withdrew from its constitutional position and instead struck the historic designation on narrow statutory grounds.)

Coyle does a good job recounting the development of the New Jersey Supreme Court's *Mount Laurel* doctrine, which parlays the state constitution's "general welfare" clause into a state-wide affirmative action mandate for low- and moderate-income housing. He should have discussed, however, the extensive scholarly and journalistic empirical accounts of how poorly the scheme has worked. I must note also that, on page 80, Coyle unfairly suggested that New Jersey Chief Justice Robert Wilentz is far more solicitous of freedom of expression than property rights. Not so. In 1990, Wilentz ignominiously lost a suit in Federal District Court brought by the producers of the movie version of Tom Wolfe's "Bonfire of the Vanities." Wilentz had denied the producers the right to film in an old courthouse often used for that purpose, on the grounds that he objected to some of the book's portrayals.

Dennis Coyle has performed a valuable service in writing *Property Rights and the Constitution*. I look forward in his future work to an expansion of some of the themes to which he brought considerable enthusiasm in the present volume.

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