



# Progress and Property Rights: From the Greeks to Magna Carta to the Constitution

*Walker F. Todd*

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In 2005, the U.S. Supreme Court ruled that, under the Fifth Amendment's takings clause, a municipality may seize land from one private owner and transfer it to another solely to promote economic development. The 5-4 decision in the famed *Kelo v. New London* ruling set off a firestorm of criticism.

Prior to *Kelo*, just eight states had laws limiting or prohibiting the use of eminent domain for economic development. Today, 43 states have such laws.

New York State isn't one of them. So the fight over what properly constitutes public use was recently rejoined in a state court case, *Goldstein v. New York State Urban Development Corporation*. In it, residents and business owners in a Brooklyn neighborhood are challenging the state's use of eminent domain to acquire private property so that it can be turned over to a commercial developer who wants to build a new basketball arena for the NBA's New Jersey Nets.

These ongoing controversies might give the impression that the passion Americans have for private property rights is unique to our country and our culture. That would be wrong.

As Walker F. Todd explains in *Progress and Property Rights: From the Greeks to Magna Carta to the Constitution*, the U.S. concept of property rights can be traced back to biblical times. It was developed further by the ancient Greeks and Romans, and first incorporated in the English Declaration of Rights in 1689. The process has been evolutionary and as *Kelo* and *Goldstein* indicate, the evolution continues.

The purpose of Todd's book is to inform the public of the traditions that underlay the development of modern American property rights. At a time when the issue generates as much heat as light, such a reflective step back can be useful for all of us.

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