

SIXTEENTH ANNUAL BRIGHAM-KANNER PRIZE  
PRESENTATION DINNER  
AWARD RECIPIENT SPEECH

AWARD RECIPIENT

Steven J. Eagle, *Professor Emeritus of Law, Antonin Scalia Law School at George Mason University*

INTRODUCTION

Lynda L. Butler, *Chancellor Professor of Law and Director, Property Rights Project, William & Mary Law School*

BUTLER. Each year, the Brigham-Kanner Prize is awarded to someone who has made significant contributions to our understanding of property and its role in society. The Prize is awarded to someone who has thought deeply about property's relationship to the human condition and about the importance of property rights to political, economic, and social systems.

Prior recipients have included some of the nation's leading property scholars, a Supreme Court Justice, a leading practitioner, and a Peruvian economist. This year's recipient, Steven J. Eagle, is one of the most committed property rights scholars we have recognized. By "committed," I mean his prolificacy as a writer and his willingness to tackle property rights issues totally and completely, no matter how difficult the issue or muddy the field. Steve's numerous publications address such topics as environmental regulation, affordable housing, other tough land use issues, telecommunication and energy siting matters, and of course every aspect of regulatory takings.

His treatise on *Regulatory Takings*, in particular, is widely regarded as the leading treatise on the subject. The work dives deep into murky waters, never leaving the reader disappointed. Thoughtful commentary and analysis confront key issues head on, providing readers much to ponder. Both academics and attorneys find the treatise to be a remarkable resource.

A member of the American Law Institute and a fellow of the American College of Real Estate Lawyers, Steve has served the legal profession in significant ways. He has testified before Congress and has served in a number of leadership positions on ABA committees,

including as an advisor to the National Conference of Commissioners of Uniform State Laws.

Professor Eagle received his bachelor of business administration from City College of New York and his law degree from Yale University. He taught at a number of law schools before joining the faculty of George Mason University in 1987.

Both academics and practitioners have praised his contributions. David Callies described him as a “preeminent scholar,” well deserving of the award. Jim Ely agreed, noting that Steve is “widely respected.” Michael Berger praised Steve’s “prodigious energy toward analyzing constitutional nuances” surrounding property rights—which is high praise indeed, given Mike’s laser-like focus on constitutional nuances. Andy Brigham called Eagle’s scholarship a “beacon of light” allowing attorneys to navigate the murky waters of regulatory takings. He also praised how Steve’s scholarship “broaden[ed]” the landscape of constitutionally protected property by encouraging conversation about critical issues. And I like to think of Steve as providing a very strong bridge between the academe and the practicing bar.

Steve: We are *deeply honored* that you are here to receive the Brigham-Kanner Prize. Please come forward.

EAGLE. Thank you, Dean Douglas and Professor Butler. I also want to thank the many of you here tonight who helped and inspired me over the years. I’m honored to accept the 2019 Brigham-Kanner Prize, which since 2004 has honored towering figures in our field.

I want to mention Joe Waldo, who has been a real leader in initiating and supporting the Brigham-Kanner program; Lynda Butler, Director of the William & Mary Property Rights Project; and Robert Thomas, the indefatigable resource for all things “Inverse Condemnation,” which is the title of his compendious blog. The Dean of the Antonin Scalia Law School, Henry Butler, came down from Arlington for this program, and I want to thank him for his support of me and my work. Not least, I thank my wife and companion, Carolyn, and our son, Alexander, who came from California for this occasion.

I also want to thank two people who can’t be here with us for this program. Gideon Kanner, that lion of the property rights bar and academia, and also Mike Berger, who epitomizes the practitioner-scholar, and had been slated to speak at the first panel tomorrow.

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In elementary school I was a peaceable sort. Except that—while in the sixth grade—I got into a fight with a kid from my block on the way to school. He was slightly injured, and I was called to the principal’s office. Somehow . . . intuitively . . . I pleaded lack of jurisdiction: “The fight took place outside of school boundaries.” I was summarily demoted to the fifth grade, where I remained for a week. The principal summoned my mother and gravely told her that her son ought to be a lawyer.

In college, I minored in Elizabethan Literature, which is still a fine way to learn about human nature. I majored in Economics, which forces us to think about trade-offs, although it cannot tell us what is worth maximizing. But it was clear even in those days that a successful academic career in economics was increasingly about mathematics. I neither had an affinity for math, or, for that matter, for the sight of blood. With being an economics professor or doctor ruled out, I took the only available alternative—law school.

At Yale, I did research for Harold Lasswell, the mid-century pre-eminent political scientist, and Myres McDougal, who became my mentor. Mac was president of the Association of American Law Schools during my senior year, and one day said, “Steve, have you ever thought about becoming a law teacher?” Well . . . in a flash my grade school principal’s career advice and my earlier interest in becoming a college professor came together.

As a novice law professor, I was assigned Property Law, which I took to readily. A thousand-year sweep of history, and the growth of individual autonomy amidst a changing society and economy, were exciting stuff. My inchoate interest in property rights and takings first became manifest regarding residential rent control. (Current developments on that topic, by the way, point to the fact that you can never keep a bad idea down.)<sup>1</sup> In 1992, I wrote an article with Institute for Justice President Chip Mellor on how the Supreme Court’s new decision in *Lucas v. South Carolina Coastal Council* was a breakthrough in the protection of individual property rights and that its

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1. Steven J. Eagle, *Takings as Compulsory Purchase of Commercial Units*, 9 BRIGHAM-KANNER PROP. RTS. J. 249 (2020).

scope would be expanded rapidly.<sup>2</sup> Well, we know it didn't work out quite that way.

But my career in takings law was on its way. Over the years, I've done a fair amount of writing, spoken on many panels and at many law schools, and generally tried to make sense of the tangled relationships of people, the State, and property. I'll say a bit more about the substance of this tomorrow. For now, I'll say simply that it's been an exciting ride. Thank you all for sharing it with me and helping along the way.

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2. Steven J. Eagle & William H. Mellor III, *Regulatory Takings After the Supreme Court's 1991-92 Term: An Evolving Return to Property Rights*, 29 CAL. W. L. REV. 209 (1992-1993).