

BOOK REVIEW

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RUTHERFORD H. PLATT, *Land Use and Society: Geography, Law, and Public Policy*, Revised Edition (Island Press 2004).

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I. INTRODUCTION

*“The American system is one of complete decentralization, the primary and vital ideal of which is, that local affairs shall be managed by local authorities.”*¹

Oliver Wendell Holmes in *Pennsylvania Coal Co. v. Mahon*² edifies us that “[t]he general rule at least is, that while property may be regulated to a certain extent, if regulation goes too far, it will be recognized as a taking.”³ Among the realm of advancing private property rights, weighty public interests will gradually convert substantial of those precious private rights into the public concerns. Holmes instructs that land use regulation succeeds when private property rights are properly balanced with important public interests. As we’ll see, Professor Platt adopts Holmes’ message as a recurring focal point throughout *Land Use and Society*.

Professor Platt brings us from feudal land barons to just eighty years ago in *Ambler Realty Co. v. Village of Euclid*⁴. He advances to *Golden v. Township of Ramapo*⁵ and drives beyond into “Smart Growth” and “New Urbanism.” Platt takes us on a chronological odyssey of land use regulation, geography, and pressing social issues. Professor Platt broadcasts new hopes for successes in legal maneuvers to eradicate harmful land use externalities.

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¹ RUTHERFORD H. PLATT, *LAND USE AND SOCIETY; GEOGRAPHY, LAW, AND PUBLIC POLICY, REVISED EDITION* 236 (Kathleen Lafferty, Ed., Island Press 2004) (quoting Justice Thomas McIntyre Cooley, 1868).

² 260 U.S. 393 (1922).

³ PLATT, *supra* note 1, at 291 (quoting Justice Oliver Wendel Holmes in *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393, 415 (1922)).

⁴ 272 U.S. 365 (1926).

⁵ 409 U.S. 1003 (1972).

Platt's text includes much more than the traditional anthologies of land use case law. Platt explains that effectiveness "depend[s] upon understanding of the geographical context in which such [legal] effects arise. *Law based on sound geography yields beneficial land use policy.*"⁶

II. ORGANIZATION

Professor Platt delivers a bird's-eye view of *Land Use and Society* as he narrates an introduction of an airline flight from San Francisco to Boston. This "high-altitude" entrée to a complex topic provides a vivid topographical contrast while illustrating how land use is geographically interpretive. Along the flight, Platt identifies often-seen, key geographic features while carefully pointing out that the "geographer seeks to discern order, process, and coherency in the seemingly haphazard sequence of images."⁷ *Land Use and Society* is a thoughtfully organized tapestry of the world and how we share it. This book rediscovers the land use body of law on several human and scientific planes.

Professor Platt opens this unique, twelve-chapter journey with broad global resource queries. Such queries may answer how we can sustain a world population that appears to double every 50 years. Platt's refined tact is fresh and unique. *Land Use and Society* not only compiles physical, economic, and other spatial factors, but points to law as the overriding factor in how people settle and use resources. Platt connects law to nontraditional human factors with unexpected geographical linkage. Professor Platt argues that the rules we live under might address one problem, but simultaneously compound others, while such rules often lack solutions to underlying issues. What's more, a rule lacking solutions may linger long after it is rendered useless. Professor Platt offers this text as a *geographer's observation* of how law influences human land use.⁸

Professor Platt presents key lessons from fifty-six cases steeped in the land use, policy, constitutional, and social battlefronts. This updated edition reflects the 2000 Census and the interactions between law, sociology, geography, history, and human culture. *Land Use and Society* accurately portrays the chronology of land use development through a delightfully clear, four-part exposition.

⁶ *Id.* at 419.

⁷ PLATT, *supra* note 1, at xi-xvi.

⁸ *Id.* at xvi.

Part I, entitled “Preliminaries: Land, Geography, and Law,”⁹ offers land use definitions and exposes the intersection of geography and the law. Part II, “From Feudalism to Federalism: The Social Organization of Land Use,”¹⁰ traverses old English land use origins into European urban evolution with summaries of nineteenth and twentieth century U.S. land use and urban experiences. This edition addresses racial issues and social injustice as a driving factor in urban sprawl, exclusionary zoning, and central city neglect.¹¹ Part III, entitled “Discordant Voices: Property Ownership, Local Government, and the Courts,”¹² initiates the reader into basic, practical land use decisions while summarizing geographical and legal property ownership. Part IV reaches “Beyond Localism: The Search for Broader Land Use Politics”¹³ and uproots traditional models. These later chapters deliver insights into reactive federal public land management and major environmental initiatives during the last thirty years. Professor Platt makes the salient point that regional land use cooperation can catalyze political factions. This explains the critical role that regional techniques play in open space preservation.¹⁴ Highlighted here are the leadership of “Smart Growth”, environmental impact assessments, tax-increment financing, coastal management, wetland protection, and hazardous waste issues.¹⁵

Each chapter begins with a unique *head’s-up display* that shows Platt’s land use roadmap. Each chapters ends with a unique conclusion based on meticulous research. Professor Platt notably includes scholarship from E.M. Bassett, Banta, Blackstone, Bosselman, Callies, Daniels, Dukeminier, Gillham, Godschalk, Haar, Juergensmeyer, J.H. Kinstler, Maitland, Mayer, Powell, Prosser, J. Rothchild, S. Toll, W. H. Whyte, and S.R. Woodbury. Platt delivers almost every conceivable statistic on demographics, geographic boundary depictions, “greenpoint” programs, federal land ownership, landscape protection, and natural disasters.

The Book’s conclusion is cautiously optimistic. Although Platt concedes that the land use legal framework surrounding us is good, the “effectiveness and validity of legal measures to control harmful externalities depend[s] upon understanding [or maybe

⁹ *Id.* at 3-62.

¹⁰ *Id.* at 65-206.

¹¹ *Id.* at xvii.

¹² *Id.* at 209-332.

¹³ *Id.* at 335-431.

¹⁴ *Id.* at 336.

¹⁵ *Id.* at 336-83.

balancing] of the geographical context in which such effects arise; [because,] *law based on sound geography yields beneficial land use policy.*"¹⁶ Thus, our involvement must balance private benefit while protecting the public from inherent harms. Platt shares the harmful reality of working class commuters excessively traveling because they are financially ill equipped to afford to live where they labor.¹⁷ Finally, Platt returns to the solution of fundamentals of fostering health, safety, and public welfare — a well-advised destination.¹⁸

III. DISCUSSION AND ANALYSIS

Land Use and Society: Geography, Law, and Public Policy is an effective presentation of the interlaced mosaic of land use benefits, issues, exigencies, history, and related tools. This book is an enjoyable, informative, and relevant document that concisely presents the coterminous intersection of land use law and geography. Clear social and economic "realities" are properly posted throughout the text. Professor Platt has carefully timed the presentation of dozens of technical aids depicting water supply plans, subdivisions, urban statistics, traffic congestion, downtown skylines, and, of course, the house built on the infamous site of *Lucas v. South Carolina Coastal Council*.¹⁹ The careful presentation marshals land use tools and legislation while giving balanced time to the overwhelming demand for private rights and open space.

A geographer, lawyer, and professor at the University of Massachusetts in Amherst, Professor Platt captures the more flexible solution to land use issues. Here, one can synthesize diverse phenomena and freely form theories based on the interplay of related factors. Platt sees a parallel theoretical world that guides an overall land use policy. For example, in the 1920's the theory of "environmental determinism" focused on regional climate. Later, a "central place theory" focused on 1960's economic motivations. In the 1990's, the "political landscape" gave land use further direction. As pointed out above, Platt's depth of analysis and research should be nothing short of reassuring to the reader.

We also learn that Platt is an advocate for social justice, but not in an overbearing manner. Here, we are reminded of negative externalities such as "urban sprawl." Such phenomena affects residents in Atlanta, for example, who must spend an average of

¹⁶ *Id.* at 419.

¹⁷ *Id.* at 423.

¹⁸ *Id.* at 427.

¹⁹ *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992).

sixty-eight hours per year caged in gridlock.²⁰ Platt makes fast work of fresh concepts to “guide” growth rather than halting it. Understanding the monumental problems caused by the destruction of water and air resources, limited affordable housing, and crumbling infrastructure, Rutherford Platt focuses on how metropolitan growth can serve the environment.

Introduced in Chapter Two, Platt’s *Land Use and Society* model tends to encourage a compact, pedestrian-friendly community linked by easy transit while nested within a larger regional plan. This “New Urbanist” view is found in Celebration, Florida where one can enjoy alternatives to conventional subdivisions. And yet, Platt reveals his own sense of balance by showing the reader that the “clever, and in some respects desirable, marketing vision” leaves the *new urbanist* short-changed.²¹ Professor Platt safely grounds us by revealing that places like Celebration might not address all employment or housing needs with starting homestead prices between \$120,000 to \$1 million (circa 1995).²² *Land Use and Society* again drives us back to the fundamental concepts: new urbanism revitalizes the components of today’s life — access to housing, workplace, shopping, education, and recreation.

Rutherford Platt illustrates that although strong, bipartisan environmental legislation was a driving force in land use policy, many initiatives are “themselves ‘endangered species.’”²³ Although overwhelming distractions often shroud environmental or land use initiatives, Americans support federal environmental intervention. Thus, part of reaching beyond localism means locals reaching to Congress to continue innovation through legislation.

Land Use and Society summarily concludes its twelve chapters with a concise, all-encompassing master-conclusion. Platt focuses his review on the “Status and Prospects” of how we are limiting negative land use externalities and how we promote land use positives. Here, Platt carefully recaps his guidance from earlier in the book — and with the depth of research displayed, such a conclusion solidifies many of Platt’s novel viewpoints. Professor Platt leaves us with accessible downtowns, yet seventy years of housing programs only yielded about 1 million family houses plus 375,000 “elderly homes.” This outcome horrifically contrasts the 31 million persons in 6.7 million families federally classified below poverty levels.²⁴

²⁰ *Id.* at 287.

²¹ *Id.* at 289.

²² *Id.*

²³ *Id.* at 414.

²⁴ *Id.* at 421 (providing elements of the 2000 U.S. Census).

In his conclusion, Professor Platt spotlights the proliferation of private SUVs advancing 100% faster than the population. Platt carefully concludes his positions and suggestions for cities, suburbia, and environmental injustice. He underscores energy recovery from waste management.²⁵ Moreover, his summary includes natural hazard areas, smart growth, and an “ecological cities” continuum. Professor Platt opines that “urban re-greening” of open spaces is a mechanism for land use planning. Together with various partnerships, visioning, and persistence, these mechanisms provide much hope for today’s land use challenges.”²⁶

²⁵ *Id.* at 424 (providing elements of the 1984 Hazardous and Solid Waste Amendments and components of the Resource Conservation and Recovery Act. This highlights that leaking underground storage tanks were estimated at 400,000 of the approximately 6 million tanks in existence).

²⁶ *Id.* at 428-29. Here, Platt provides his view of the Central City to Urban Fringe Continuum including his ten key elements of the “Ecological Cities” program. *Id.*