by the public as a whole."[748] Thus a taking may be found if the effect of regulation is enrichment of the government itself rather than adjustment of the benefits and burdens of economic life in promotion of the public good.[749] Similarly, the Court looks askance at governmental efforts to secure public benefits at a landowner's expense—"government actions that may be characterized as acquisitions of resources to permit or facilitate uniquely public functions."[750]

On the other side of the coin, the nature as well as the extent of property interests affected by governmental regulation sometimes takes on importance. Some strands are more important than others. The right to exclude others from one's land is so basic to ownership that extinguishment of this right ordinarily constitutes a taking.[751] Similarly valued is the right to pass on property to one's heirs.[752]

Failure to incur administrative (and judicial) delays can result in dismissal of an as-applied taking claim based on ripeness doctrine, an area of takings law that the Court has developed extensively since *Penn Central*. In the leading decision of *Williamson County Regional Planning Commission v. Hamilton Bank*,[753] the Court announced the canonical two-part ripeness test for takings actions

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[748] Armstrong v. United States, 364 U.S. 40, 49 (1960). For other incantations of this fairness principle, *see Penn Central*, 438 U.S. at 123–24; and Tahoe-Sierra Pres. Council v. Tahoe Regional Planning Agency, 535 U.S. 302, 322, 333–42–89 (2002).

[749] Webb's Fabulous Pharmacies v. Beckwith, 449 U.S. 155 (1980) (government retained the interest derived from funds it required to be deposited with the clerk of the county court as a precondition to certain suits; the interest earned was not reasonably related to the costs of using the courts, since a separate statute required payment for the clerk's services). By contrast, a charge for governmental services "not so clearly excessive as to belie [its] purported character as [a] user fee" does not qualify as a taking. United States v. Sperry Corp., 493 U.S. 52, 62 (1989).

[750] Penn Central Transp. Co. v. New York City, 438 U.S. 104, 128 (1978). In addition to the cases cited there, *see also* Kaiser Aetna v. United States, 444 U.S. 164, 180 (1979) (viewed as governmental effort to turn private pond into "public aquatic park"); Nollan v. California Coastal Comm'n, 483 U.S. 825 (1987) ("extortion" of beachfront easement for public as permit condition unrelated to purpose of permit).

[751] Nollan v. California Coastal Comm'n, 483 U.S. 825, 831–32 (1987) (physical occupation occurs with public easement that eliminates right to exclude others); Kaiser Aetna v. United States, 444 U.S. 164 (1979) (imposition of navigation servitude requiring public access to a privately-owned pond was a taking under the circumstances; owner's commercially valuable right to exclude others was taken, and requirement amounted to "an actual physical invasion"). *But see* PruneYard Shopping Center v. Robins, 447 U.S. 74, 84 (1980) (requiring shopping center to permit individuals to exercise free expression rights on property onto which public had been invited was not destructive of right to exclude others or "so essential to the use or economic value of [the] property" as to constitute a taking).

[752] Hodel v. Irving, 481 U.S. 704 (1987) (complete abrogation of the right to pass on to heirs fractionated interests in lands constitutes a taking), Babbitt v. Youpee, 519 U.S. 234 (1997) (same result based on "severe" restriction of the right).

[753] 473 U.S. 172 (1985).