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Policy Report

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How Bush Bankrupted America

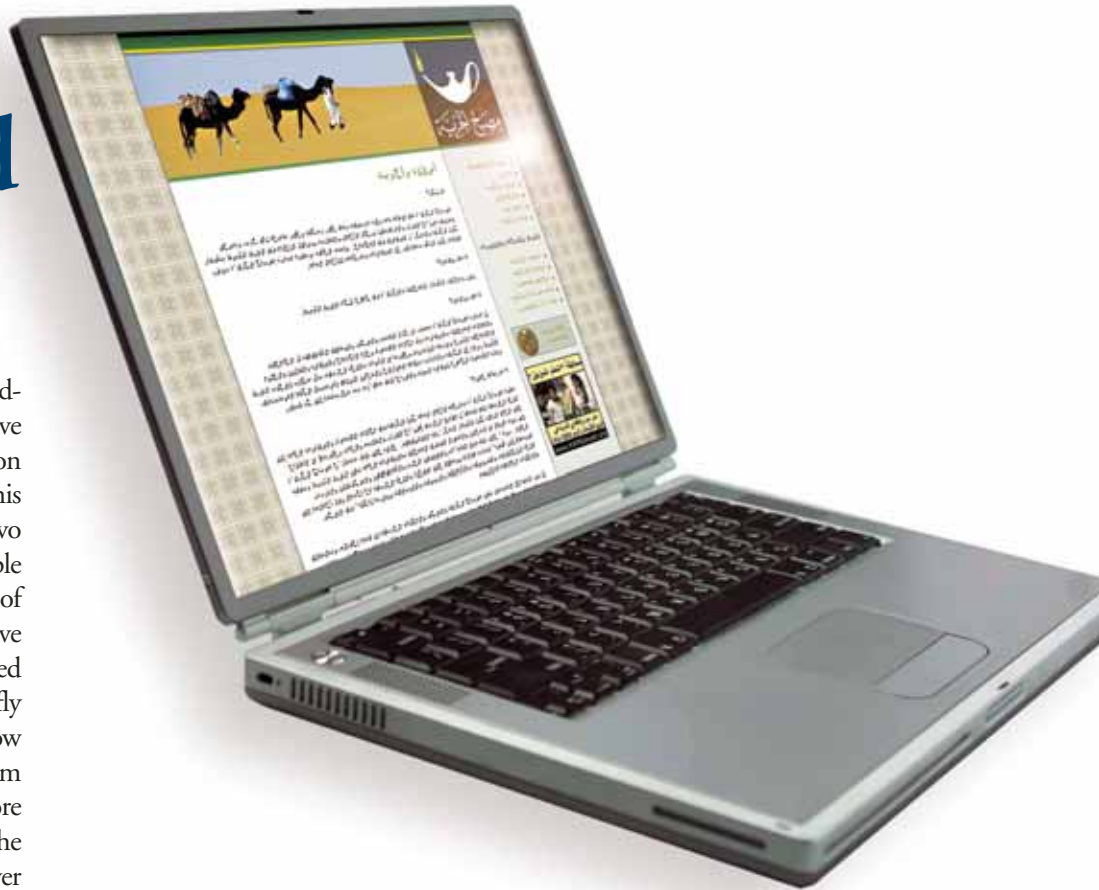
BY BRUCE BARTLETT

George W. Bush is widely considered one of the most conservative presidents in history. His invasion of Iraq, his huge tax cuts, and his intervention in the Terri Schiavo case are among the issues on which people on the left view him as being to the right of Attila the Hun. But those on the right have a different perspective—mostly discussed among themselves or in forums that fly below the major media's radar. They know that Bush has never really been one of them the way Ronald Reagan was. Bush is more like Richard Nixon—a man who used the right to pursue his agenda but was never really part of it. In short, he is an impostor, a pretend conservative.

I write as a Reaganite, by which I mean someone who believes in the historical conservative philosophy of small government, federalism, free trade, and the Constitution as originally understood by the Founding Fathers. On that basis, Bush clearly is not a

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BRUCE BARTLETT is a nationally syndicated columnist and the author of *Impostor: How George W. Bush Bankrupted America and Betrayed the Reagan Legacy*, just published by Doubleday, on which this essay is based.



The Cato Institute has launched three foreign-language websites—in Spanish, Russian, and Arabic—to bring the ideas of liberty to a wider audience. In addition to its main website, www.cato.org, and the non-English sites, Cato also maintains sites at www.socialsecurity.org, www.freetrade.org, and www.cato-unbound.org. **MORE ON PAGE 4**



BY DAVID BOAZ

“Where did Chairman Barton get the idea that a college football championship was a matter of federal concern?”

Editorial Republicans, Smaller Government, and Terrell Owens

The Bible tells us that not a sparrow falls but that God knows about it.

Congressional Republicans seem to have decided that the federal government should follow the same rule. Nothing should happen in America without Congress getting involved.

The latest example comes from Rep. Joe Barton (R-TX), chairman of the House Energy and Commerce Committee, who called a hearing to investigate the “deeply flawed” Bowl Championship Series that determines a national college football champion.

Where did Chairman Barton get the idea that a college football championship was a matter of federal concern? Well, he might have gotten it from all the other Republicans who have recently subjected all manner of sports to congressional meddling.

Take Sen. Arlen Specter (R-PA). He’s suggested that the Senate Judiciary Committee, which he chairs, investigate the Philadelphia Eagles’ treatment of wide receiver Terrell Owens, who was suspended for being a difficult teammate. After all, the Senate Judiciary Committee has nothing else to do these days. Except, you know, Supreme Court nominations, rules for the war on terror, habeas corpus reform, grand jury reform, property rights, immigration, and so on.

Today’s Republicans hold three-ring-circus hearings on steroids in baseball, requiring top stars to testify under oath as if they were Mafia dons. They introduce bills to mandate steroid testing. They threaten to punish Major League Baseball if the owners allow left-wing billionaire George Soros to be a part owner of the new team in Washington.

When Major League Baseball owners suggested that Congress had no authority to investigate steroid use, committee chairman Tom Davis (R-VA.) and ranking Democrat Henry Waxman told baseball that the committee “may at any time conduct investigations of any matter.” So much for James Madison’s promise that “the powers delegated by the proposed Constitution to the federal government are few and defined.”

Republicans have come down with a serious case of Potomac Fever. They believe that their every passing thought is a proper subject for federal legislation. They vote for a federal investigation of the video game “Grand Theft Auto.” They sharply increase the fines for alleged indecency on television. They hold hearings on whether college textbooks are too expensive.

Last year and again this year they held hearings on

whether the TV industry’s ratings czar, which faces little competition, needs government oversight. “It’s impossible to achieve a high quality of broadcasting if shoddy audience measurement practices are permitted to proliferate,” charged Sen. Conrad Burns (R-MT).

Republicans used to accuse Democrats of setting up a nanny state, one that would regulate every nook and cranny of our lives. They took control of Congress in 1994 by declaring that Democrats had given us “government that is too big, too intrusive, and too easy with the public’s money.” After 10 years in power, however, the Republicans have seen the Democrats’ intrusiveness and raised them. They too use the powers of the federal government to lavish money on favored constituents, summon us before congressional hearings to explain ourselves, and intrude into our most local and personal decisions.

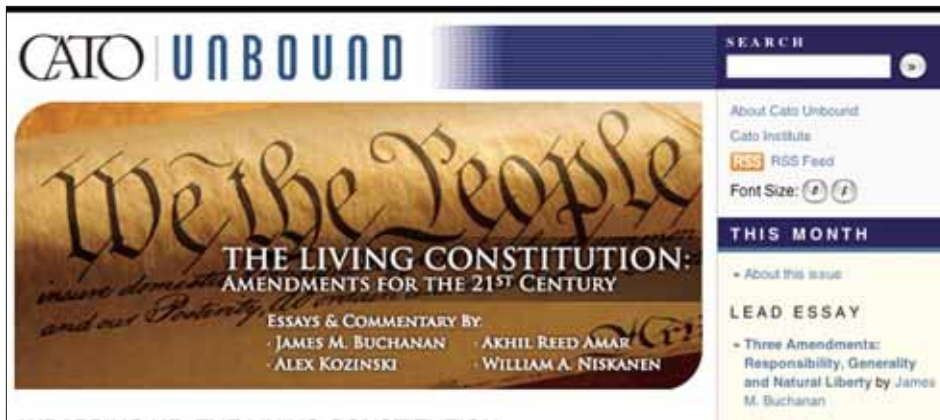
Federal meddling in football games and television ratings may be more ridiculous than ominous. But the busybody Republicans have taken on bigger matters as well. They have pushed the feds further into the local schools with the No Child Left Behind Act and tried to take marriage law away from the states with the Federal Marriage Amendment. They overruled a series of Florida courts in the Terri Schiavo case, imposing the massive power of the federal government on a tragic family matter.

In a free society citizens don’t turn to the national government to solve every problem. Indeed, a free society is measured by the amount of life that remains outside the control of government. We may all be tempted from time to time to say “There oughta be a law!” when we’re angry or frustrated. Indeed, that’s why we wrote a Constitution—to protect us from our own temptations to turn our exasperation into laws and to protect us from our fellow citizens yielding to the same temptation.

As citizens of a free society, we don’t need government to be either Big Brother or a national nanny. We have the right and the responsibility to live our own lives without interference, so long as we don’t infringe on the rights of others. Neither our football teams nor our local schools need Congress’s supervision. Republicans who campaign on the promise of smaller government forget that at their peril.

Buchanan, Kozinski highlight first issue

Online Magazine Launched



The Cato Institute in December launched a new webmagazine, *Cato Unbound*, which features monthly debates on important intellectual issues. Each month a leading scholar presents an essay on a major political or social question. Other notable thinkers are then invited to challenge and critique the essay.

In the first issue, “The Living Constitution: Amendments for the 21st Century,” Nobel Laureate James M. Buchanan proposes amending the U.S. Constitution to limit government spending, prevent discriminatory lawmaking, and protect the right of voluntary exchange. Offering comments on Buchanan’s proposals are Akhil Reed Amar, a law professor at Yale and author of *America’s Constitution: A Biography*; Judge Alex Kozinski of the U.S. Court of Appeals for the Ninth Circuit; and Cato Institute chairman William A. Niskanen.

Editors Will Wilkinson and Brink Lindsey hope to promote an open-ended

conversation where ideas will be advanced, challenged, and refined in public view. Readers of *Cato Unbound* are encouraged to discuss the magazine’s themes on their own

websites and in print publications, and the best reader responses will be published alongside the invited contributions.

The January issue is “Internet Liberation: Alive or Dead?” featuring a lead essay by virtual reality pioneer and technology visionary Jaron Lanier and responses by John Perry Barlow, former lyricist for the Grateful Dead, cofounder of

the Electronic Frontier Foundation, and a fellow at Harvard’s Berkman Center for Internet and Society; open source software guru Eric S. Raymond; and Glenn Reynolds, author of Instapundit.com and a leading proponent of internet-based participatory journalism. Future issues will tackle questions such as “Is ‘Old Europe’ Doomed?” and “Can There Be a Liberal/Libertarian Alliance?”



James M. Buchanan

Cato University

The latest Cato University seminar, held in Washington October 20–23, focused on “The Art of Persuasion.” Dinner speakers Tom Palmer, David Boaz, and Deryo Murdock discussed why and how citizens should learn to be more persuasive in advocating freedom and limited government. Writers, economists, and philosophers helped more than 100 participants learn new skills in advocacy.



Gail Atwater, who was arrested and taken to jail in Lago Vista, Texas, for not wearing a seatbelt, took her case all the way to the Supreme Court. She lost on a 5-to-4 decision. Here Gail Atwater receives her diploma for the completion of Cato University from director Tom G. Palmer.



In “Show and Tell for Grownups,” *Reason* editor Nick Gillespie discusses wider freedom. There used to be one kind of potato and one kind of Pop-Tarts, he said, but now companies offer consumers more and more choice.

The next Cato University seminar will be held July 26–30, 2006, at the Don CeSar Beach Resort in St. Pete Beach, Florida. Details will be posted at www.cato-university.org.

CATO UNBOUND IS PUBLISHED AT WWW.CATO-UNBOUND.ORG.

Libertarianism in



Other Languages

In much of the non-English-speaking world, access to the basic documents of libertarian thought and new libertarian ideas was, until recently, quite limited. Many people had never had the opportunity to read the classic works of freedom.

The Cato Institute has now launched three foreign-language websites—in Arabic, Spanish, and Russian—to help bring the ideas of liberty to people everywhere.

Cato's Spanish-language website, www.elcato.org, was launched in 1998. ElCato.org features Spanish translations of Cato studies and reports, along with special features by Latin American contributors on issues of relevance to Spanish speakers around the world. The site is popular with journalists, academics, and lay readers in Latin America and Europe, garnering more than 65,000 hits each month. ElCato.org was cited more than 500 times in Spanish-language media in 2005.

Cato is also bringing the “lamp of liberty” to the Arabic-speaking world with www.misbahalhurriya.org (www.lampofliberty.org). Launched in October 2005 as an initiative of Cato's Jack Byrne Project on Middle East Liberty, the website has made the works of Adam Smith, Frederic Bastiat, John Stuart Mill, F. A. Hayek, and many others available in Arabic for the first time. Contributors to the site include Shafeeq Gabra, president of American University in Kuwait, whose column tackles issues such as economic liberty and political reform in the Middle East. The site contains Arabic translations of important essays, policy papers, and studies. In addition, Cato's Arabic team is translating such economics textbooks as *Common Sense Economics* by Cato

scholars James Gwartney, Richard L. Stroup, and Dwight Lee and *The Economic Way of Thinking* by Paul Heyne.

At www.cato.ru, Russian-speaking friends of liberty can find in one location hundreds of full-text books, as well as essays, policy studies, interviews, and reports that explain and apply libertarian policies to the post-Soviet world. The site has cooperated on-line with popular Russian news sites, notably Polit.ru, and has garnered coverage in the Russian media for such Cato products as the *Economic Freedom of the World* report. Cato.ru has received more than 18,000 visitors since its launch in September 2005. The site was made possible by a start-up grant from the Templeton Foundation, and ongoing funding is being sought.

According to Kimon Sargeant, vice president of the Templeton Foundation, “The Cato Institute's much-needed website will serve an invaluable role encouraging a greater appreciation of the importance of the free enterprise system and the values that enable it to flourish in Russia.”

Spreading liberty throughout the world requires speaking to individuals in their own languages. By combining new technology, the greatest works of classical liberal thought, and targeted studies of issues of international interest, Cato hopes to enable millions or even billions more people around the globe to enjoy the benefits of freedom.



www.elcato.org



www.lampofliberty.org



www.cato.ru

Looking at Medicare, tax reform, and North Korea

Senators Speak at Cato Forums

OCTOBER 7: The United States can ill afford to spend \$600 billion over the next 10 years on the Medicare prescription drug entitlement. At a Cato Hill Briefing, “**Shared Sacrifice: Delaying the Medicare Drug Benefit,**” Sen. John McCain (R-AZ) said that the only way to pay for the benefit would be to raise taxes to unprecedented levels. Rep. Jeff Flake (R-AZ) explained that, in order to bring the budget under control, Congress must either repeal the prescription drug benefit or cut other, higher-priority spending. Defense and other important federal responsibilities must not be sacrificed to provide a benefit that many seniors neither want nor need. Rep. Jim Cooper (D-TN) estimated that 25 to 35 percent of existing private drug coverage for seniors will be eliminated if this benefit takes effect, leaving many seniors worse off than they were before the benefit. Politicians must behave responsibly, the speakers agreed, and postpone or repeal the benefit so that more pressing concerns can receive the attention and funding they deserve.

OCTOBER 14: Both the House and the Senate are considering bills that would allow workers to invest a portion of the current Social Security surplus in private accounts. At “**GROW’ing Our Way to Social Security Reform?**” a Cato Hill Briefing, Michael Tanner, Cato’s director of health and welfare studies, explained that Social Security surpluses have been used to purchase government bonds and then added to the general revenue. Congress now spends between \$1.50 and \$2.00 for every surplus dollar the government collects in Social Security taxes, creating additional debt that will need to be repaid decades from now when retirees need the money. The Growing Real Ownership for Workers (GROW) Act would force Congress to stop spending the surplus and allow workers to invest a portion of it in private accounts that they would own and control. Private accounts, Tanner argued, would provide a higher rate of return than traditional Social Security does and would be inheritable and transferable, allowing workers to generate real wealth and retirement security for themselves and their families.

OCTOBER 14: If financial markets are to function well, the monetary policies set by the Federal Reserve must be stable and predictable by actors in the market. At a Policy Forum on “**The Fed’s Monetary Policy Rule,**” William



Sen. Jim DeMint calls for replacing the federal income tax with a consumption tax at a Cato Hill Briefing on November 9.

Poole, president of the Federal Reserve Bank of St. Louis, argued that the discretion of monetary economists in setting policy should be constrained by more formal rules in order to preserve stability. The Fed’s goal is to maximize purchasing power and employment to sustain economic growth, and Greenspan-era policy is doing so admirably. Therefore, Poole said, the Fed should attempt to set rules that formalize those successful practices. Cato Institute chairman William Niskanen pointed out that the Fed has sacrificed stability to deal with short-term financial crises in the past and suggested that any rules must include incentives to consider long-term growth when attempting to solve short-term problems.

OCTOBER 17: The Supreme Court ruled in 2005 that the government may use its eminent domain power to take private property from its owners and give it to new private

owners in order to promote private economic development. At a Cato Policy Forum, “**Restoring Property Rights after *Kelo v. New London,*” Sen. John Cornyn (R-TX) predicted that the ruling will increase the taking of private property from the poor and minorities for the benefit of the wealthy and large corporations. He has introduced a bill, the Protection of Homes, Small Businesses, and Private Property Act of 2005, that would prohibit the federal government or state and local governments that receive federal funds from using eminent domain to benefit private developers. John Echeverria of the Georgetown University Environmental Law and Policy Institute argued that the *Kelo* decision is consistent with the view that the judiciary should be restrained in its ability to overrule the legislative decisions of elected representatives. Roger Pilon, director of Cato’s Center for Constitutional Studies, described the *Kelo* decision as a case of judges overstepping their powers by granting unenumerated powers to the government while ignoring the clearly enumerated property rights of the people.**

NOVEMBER 2: North Korea remains a threat to international security as long as it asserts the right to maintain an active nuclear weapons program. At a Cato Policy Forum on “**The Six-Party Talks and the Future of the North Korean Nuclear Program,**” Ambassador Joseph DeTrani, U.S. special envoy for the Six-Party Talks, expressed hope that North Korea will agree to abandon its nuclear ambitions in exchange for energy and economic assistance and reaffirmed U.S. commitments to retrain North Korean nuclear scientists. Jon B. Wolfsthal of the Center for Strategic and International Studies warned that the international community currently has no effective way to ensure that North Korea keeps any promises it makes about its nuclear ambitions. According to Ted Galen Carpenter, Cato’s vice president for defense and foreign policy studies, the United States must make clear that the misuse or transfer of nuclear material will not be tolerated. He added that the United States should be willing to offer normal diplomatic relations to North Korea if it fully and verifiably abandons its nuclear weapons and programs.

NOVEMBER 9: In 2004 farmers in the United States received 18 percent of their income, a total of \$46.5 billion, from taxpayer-financed subsidies. Meanwhile, farmers in the developing world can't compete with domestic producers, and potential trading partners can't afford American products. At a Cato Policy Forum, "U.S. Farm Trade Policies: Ripe for Reform?" Brian Fisher of the Australian Bureau of Agriculture and Resource Economics pointed out that granting U.S. farmers greater access to foreign markets could more than offset the hand-outs they would lose if the government ended farm subsidy programs. Cato's director of trade policy studies Daniel Griswold suggested that products such as corn and wheat could thrive without the need for subsidies just as hundreds of other crops already do. Former U.S. secretary of agriculture and trade representative Clayton Yeutter outlined the current proposal to improve market access and lower price supports but criticized other developed nations for being unwilling to make similar sweeping changes. Former U.S. representative Cal Dooley (D-CA) said that economic growth in poor countries that depend on agriculture to survive will require rich countries to reform their farm trade policies.

NOVEMBER 9: The President's Advisory Panel on Federal Tax Reform has offered two proposals for reducing the federal tax burden to encourage economic growth. However, at a Cato Hill Briefing, "The Bush Tax Panel Proposals: Tinkering or Major Reform?" Sen. Jim DeMint (R-SC) said that neither plan goes far enough to allow the United States to compete with other countries where taxes are lower and regulatory burdens lighter. Cato's director of tax policy studies Chris Edwards showed that the corporate tax rate in the European Union is about one-third lower than in the United States, leaving U.S. businesses struggling in the global market. Senator DeMint suggested replacing the federal tax code with an 8.5 percent national consumption tax that would lower the tax burden on most



Journalists surround Joseph DeTrani, U.S. special envoy to the Six-Party Talks with North Korea, after his talk at a Cato Policy Forum on North Korea's nuclear program.

Americans and spur economic growth. The Heritage Foundation's Daniel Mitchell said that high corporate taxes punish workers and shareholders whose income depends on growth. Stephen Entin of the Institute for Research on the Economics of Taxation pointed out that the current tax code discourages saving and investment in favor of consumption, leaving Americans vulnerable to economic fluctuations.

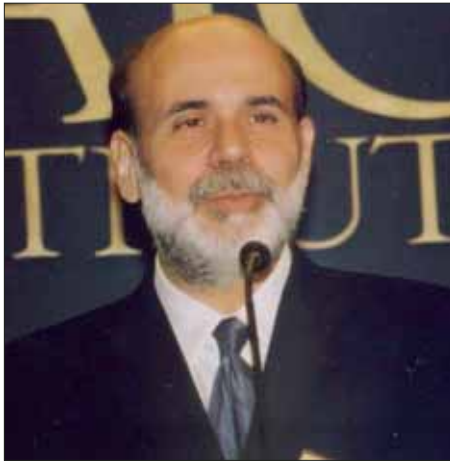
NOVEMBER 15: Efforts to curtail out-of-control federal spending have been hindered by waste, fraud, mismanagement, and a pervasive belief among federal legislators that everything is within their powers and nothing is beyond their abilities. At a Cato Hill Briefing for *Downsizing the Federal Government*, a new book by Cato's director of tax policy studies Chris Edwards, the author argued that new spending imposes a cost on taxpayers but provides a benefit to politicians who can count it as an accomplishment. Rep. Jeb Hensarling (R-TX) outlined his Family Budget Protection Act, which would impose binding caps on government growth and force existing programs to justify continuation of their funding. The Heritage Foundation's Stuart Butler said that politicians must raise taxes, increase the deficit, or cut spending and that taxpayers should insist that their representa-

tives take responsibility for their actions. Donald Lambro, chief political correspondent for the *Washington Times*, contended that government should run more like a business, encouraging growth by keeping spending low.

NOVEMBER 17: Latin Americans are either hostile to globalization and free trade, or they see economic liberty as essential to reducing poverty in the region. At a Cato Book Forum for his new book, *The Roots of Poverty in Latin America*, Guillermo Yeatts of Argentina posited that poverty persists in Latin America because countries colonized by Europe do not have laws to protect the rights of property owners and encourage voluntary exchange. In countries that score well on Cato's *Economic Freedom of the World* index, per capita income is nearly 10 times that of countries with low economic liberty. Alvaro Vargas Llosa, author of *Liberty for Latin America: How to Undo Five Hundred Years of State Oppression*, pointed out that wealth in Latin America is concentrated in the hands of a few people because exploitative laws encourage cronyism and stifle entrepreneurship.

NOVEMBER 28: Many of the world's poorest countries have made significant progress in curbing inflation and improving financial stability but have seen little improvement in the

regulatory and institutional frameworks that help economies grow. At a Cato Book Forum on *Doing Business in 2006: Creating Jobs*, Simeon Djankov, manager of the Monitoring, Analysis and Policy Unit of the World Bank and lead author of the report, explained that countries that have eased regulations on business have seen significant economic growth. After seeing the report's findings, he said, many underperforming countries have requested advice from the World Bank on how to improve their economies. Jaime Aparicio Otero, ambassa-



Ben S. Bernanke, recently named by President Bush to succeed Alan Greenspan as chairman of the Federal Reserve Board, spoke at Cato's Annual Monetary Conference in October 2004. His paper from that conference is in the Winter 2005 issue of *Cato Journal*.

dor of Bolivia to the United States, commented that when business regulation is overly burdensome, the underground economy will grow, encouraging corruption and unsafe working conditions. Djankov urged the international community to direct more aid toward economic reform and business growth.

NOVEMBER 28: On November 2, Christopher Dell, the U.S. ambassador to Zimbabwe, gave a speech at the Africa University in Mutare condemning the human rights abuses and economic mismanagement of the Mugabe regime. In that speech, he cited a Cato Institute paper, "How the Loss of Property Rights Caused Zimbabwe's Collapse" (Economic Development Bulletin no. 4), blaming the collectivization of private farmland for Zimbabwe's current economic and agricultural crisis. At a private lunch at the

Cato Institute, Ambassador Dell recounted the regime's threats to expel him from the country for his "undiplomatic" remarks. He warned that respect for private property rights is a necessary part of reversing the country's economic woes.

NOVEMBER 29: Rhetoric on Social Security reform has shifted from asking whether changes must be made to assuming that they must and asking how to reform the system. Still, many politicians have avoided committing to the systemic transformation that is necessary to keep the system solvent in the long term. At a Cato City Seminar in Indianapolis, Indiana, "Social Security Reform: Where Do We Go from Here?" Rep. Mike Pence (R-IN) described his experience as one of the few members of Congress committed to keeping the federal government within its constitutionally prescribed limits. Entitlement spending, he said, is out of control, and reforming Social Security is a necessary component of reducing dependence on the federal government and shrinking the size of government. Michael Tanner, co-chair of Cato's Project on Social Security Choice, affirmed Cato's commitment to creating ownership, inheritability, and choice in our nation's retirement system.

NOVEMBER 29: Market economies work best when information is widely available, consumers are free to make decisions, and barriers to entry are low. None of those is true of the health care industry, according to Cato director of health policy studies Michael Cannon at a Book Forum for *Healthy Competition: What's Holding Back Health Care and How to Free It*, and patients suffer. Sen. Jim DeMint (R-SC) called for reforms that would move choice and responsibility from third-party payers to consumers by expanding health savings accounts and health insurance portability. Jonathan Cohn of the *New Republic* agreed that reforms were necessary but cautioned that government programs must make health care affordable for poor and sick Americans. Cannon responded with evidence that where free markets for medical treatment exist, they make care more affordable for all patients. Dr. John Nelson, immediate past president of the American Medical Association, predicted that consumer-driven health insurance would improve patient care by making preventive care more affordable and allowing doctors and patients, not insur-

ance companies, to make medical decisions.

NOVEMBER 30: Hong Kong was scheduled to hold elections in 2007–08 until the Chinese government decided that it was too soon for democracy there. Martin Lee, a member of the Hong Kong Legislative Council and a strong advocate of democracy, brought a delegation of democratic leaders to the Cato Institute to discuss the future of Hong Kong and what the international community could do to help. He said that China must commit to the "one country, two systems" plan under



Martin Lee, the leading advocate of democracy for Hong Kong, told Cato scholars at a seminar that the United States should press China to keep its promise to hold free elections in Hong Kong.

which Hong Kong would have its own elected government in order to protect its economy from corruption. Democracy, he believes, safeguards civil liberties and economic freedoms by ensuring that the government's decisions can be scrutinized by the people. He urged the United States to support democracy in Hong Kong and ask China to keep its promise to allow free elections.

Most Cato forums can be viewed online or downloaded to an MP3 player at www.cato.org/events.

“Even in front of explicitly conservative audiences, Bush continued his theme that government was not the enemy; it just wasn’t being used for the proper ends.”

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Reaganite or “small c” conservative. Philosophically, he has more in common with liberals, who see no limits to state power as long as it is used to advance what they think is right. In the same way, Bush has used government to pursue a “conservative” agenda as he sees it. But that is something that runs totally contrary to the restraints and limits to power inherent in the very nature of traditional conservatism. It is inconceivable to traditional conservatives that there could ever be such a thing as “big government conservatism,” a term often used to describe Bush’s philosophy.

Traditional conservatives view the federal government as untrustworthy and undependable. They use it only for those necessary functions such as national defense that by their nature cannot be provided at the state and local level or privately. The idea that government could ever be used actively to promote their goals in some positive sense is a contradiction in terms to them.

George W. Bush, by contrast, often looks first to government to solve societal problems without even considering other options. Said Bush in 2003, “We have a responsibility that when somebody hurts, government has got to move.” A more succinct description of liberalism would be hard to find.

When George W. Bush first came on the radar screen as a potential presidential candidate, all that most conservatives knew about him was that he was the son of a president who had abandoned a successful conservative governing philosophy in favor of what they saw as squishy moderation and was appropriately punished by voters for his sins. Right from the beginning, George W. Bush made it clear that he was not a conservative in the Reagan mold. In a speech in Indianapolis on July 22, 1999, he called the idea that our problems would be better solved if government would just get out of the way a “destructive mindset.” Government is “wasteful and grasping,” Bush said, but “we must correct it, not disdain it.”

Even in front of explicitly conservative audiences, Bush continued his theme that government was not the enemy; it just wasn’t being used for the proper ends. In a speech to

the Manhattan Institute on October 5, 1999, Bush put it this way: “Too often, my party has confused the need for limited government with disdain for government itself.” He went on to complain that the government was too weak to do what was needed. It was “grasping” and “impotent,” he said.

The Medicare Debacle

Bush’s instincts for activist government were evident in his No Child Left Behind bill, his steel tariffs, and his vigorous spending increases. They may have culminated in his administration’s pulling out all the stops to pass the prescription drug entitlement for Medicare recipients.

Just how serious the administration had been about passing that monstrosity became apparent after the bill was safely signed into law, when it became known that the administration had covered up internal estimates of the true cost of the legislation, which was limited to \$400 billion by the congressional budget resolution. Any amount higher than that would have been subject to a point of order that at least would have delayed the legislation and more than likely derailed it altogether.

The Congressional Budget Office, under pressure from the Centers for Medicare and Medicaid Services, published a 10-year cost estimate of \$400 billion, even though CMS chief actuary Richard Foster knew that the cost would be at least \$534 billion. As the *Wall Street Journal* observed, “It is undeniable that the Medicare bill wouldn’t have passed in its current form had \$540 billion been the accepted cost fiction.” The CMS administrator threatened Foster’s job, and the true cost of the program was not revealed until after the bill had passed.

But as is so often the case in Washington,

the truth did eventually come out, disclosed by reporter Amy Goldstein in the *Washington Post* on January 31, 2004—almost six weeks after the drug benefit had been signed into law by President Bush. She reported that the \$534 billion estimate, which eventually appeared in the president’s budget, was widely known among those who negotiated the final provisions of the legislation. The CBO was eventually forced to admit that its original estimate was off and that the 10-year forecast should have been \$557.7 billion.

The clearest indication of precisely how costly the drug bill will actually be came on March 23, 2004, when the Medicare trustees issued their annual report, as required by law. They showed that over the first 75 years of the drug program, now known as Medicare Part D, the cost would be \$10.8 trillion in present value terms, with taxpayers footing the bill for \$8.1 trillion of that.

But even that massive figure is only part of the story. In the 2004 Medicare trustees’ report, the actuaries presented for the first time cost estimates in perpetuity. The actuaries estimated this cost, again in present value terms, at \$21.9 trillion, of which \$16.6 trillion would come out of future income taxes to pay for the drug benefit.

Once upon a time in the not-too-distant past, Republicans were deeply skeptical about so-called entitlement programs like Medicare. These are programs for which no annual appropriation is necessary. Spending is automatic for everyone and everything that meets specified criteria. In the case of Medicare, the principal criterion is simply being at least 65 years old. Historically, Republicans have felt that such programs—virtually free of budgetary control—were the epitome of bad policy.

Fast forward 22 years and we see a very different philosophy within the Republican Party. Instead of fighting entitlements, the party now embraces them.

The Rest of the Story

No sensible person argued that Medicare’s policy of paying virtually unlimited sums for hospital care while paying nothing for prescription drugs made

“The Medicare drug bill may well be the worst piece of legislation ever enacted.”

any sense. And no one denied that some seniors needed help paying for prescription drugs. But many already had perfectly good prescription drug coverage from their employers. Yet they, too, ended up being covered by the Medicare drug benefit.

I puzzled for a long time about why Republicans would write a bill that provided benefits even for those who had no need for them. They were making it more expensive without improving health care in any way at all.

The answer became clear when the *New York Times* reported that the drug program would reimburse corporations for the drug benefits they were already providing to their retirees. The federal government would send huge checks to some of the largest corporations in the United States for the costs that they were already contractually obligated to pay. The final legislation provides a 28 percent tax-free subsidy that is expected to average \$660 per retiree per year.

The numbers are huge. After passage of the legislation, the *Wall Street Journal* reported that General Motors anticipated receiving \$4 billion to cover its prescription drug costs. Other recipients included Verizon (\$1.3 billion), BellSouth (\$572 million), Delphi (\$500 million), U.S. Steel (\$450 million), American Airlines (\$415 million), John Deere (\$400 million), United Airlines (\$280 million), and Alcoa (\$190 million).

Other companies planned to drop their drug coverage and let the federal program take over. Either way, the effect is to substantially raise corporate profits. *Business Week* estimated the aggregate profit increase at \$8 billion per year—\$6.5 billion for the subsidy itself and another \$1.5 billion because the subsidy is tax-free.

Oddly, that aspect of the drug bill has been almost entirely ignored even on the political left. Instead, the left has concentrated its criticism on the pharmaceutical companies: The added drug demand will fatten their profits, they say, and the federal government will have no power to control them because the drug bill prohibits using the government's buying power to negotiate lower prices.

That may be true in the short run. But in the longer run, it is inevitable that price controls will be imposed on drugs. Realistically, it will be the only way that exploding costs can be controlled quickly. Indeed, some new cancer drugs now cost \$100,000 for a single course of treatment. There is no way that taxpayers will be able to afford that expense. That is why virtually every other industrialized country substantially controls the prices of most prescription drugs. It is also the reason why Canada sells the same drugs available here for lower prices.

The problem is that price controls eventually dry up the supply of new drugs—just as rent controls in New York City led to a decline in new apartment building. Unfortunately, it takes a long time for this effect to become apparent because there is a large existing stock of drugs and housing. It will be very hard to know in the future what drugs might have been discovered if price controls had not been imposed. Someday people are going to die because price controls prevented the development of new drugs that would have saved them.

For these reasons, I believe that the Medicare drug bill may well be the worst piece of legislation ever enacted. That it was enacted by a president and Congress controlled by my party is a source of great distress to me. It will cost vast sums the nation cannot afford, even if its initial budgetary projections prove to be accurate, which is highly doubtful. It will inevitably lead to higher taxes and price controls that will reduce the supply of new lifesaving drugs. And all of this will be done without even gaining any long-term political benefit; after supporting the drug bill, the AARP immediately launched an intensive attack on Bush's Social Security reform.

More Profligate Than Clinton

In light of Bush's big-spending ways, Bill Clinton now looks almost like another Calvin Coolidge. Compared with Ronald Reagan, Clinton was awful. Compared with George W. Bush, he looks a lot better.

Election of a Republican Congress in November 1994 put an end to any expansive spending plans Clinton may still have had. The resulting gridlock meant that government spending effectively was on autopilot for the next six years—Congress wouldn't fund Clinton's plans and he vetoed those of the Republicans in Congress. All of Clinton's 38 vetoes came after Republicans took control of Congress and half of those were either authorizations for spending or appropriations bills.

This era of benign neglect meant that as defense spending fell, following the end of the Cold War and the first Iraq war, the money didn't automatically flow into increased social spending, as had been the case following the Vietnam War. Defense spending fell by 1.4 percent of GDP between 1993 and 2000, and domestic discretionary spending fell from 3.8 percent to 3.3 percent. Even spending on entitlements fell for temporary demographic reasons, from 10.2 percent of GDP to 9.8 percent. In all, lower spending and higher revenues constituted a fiscal turnaround of 6.3 percent of GDP, which explains how a deficit of 3.9 percent of GDP in 1993 became a budget surplus of 2.4 percent by 2000.

For these reasons, growing numbers of conservatives now view Clinton as having governed as one of them—at least on economic policy. *Los Angeles Times* columnist Max Boot has called him the most conservative Democrat in the White House since Grover Cleveland—which is saying a lot, since Cleveland was more conservative on economics than most Republican presidents. “Clinton had better economic policies than most American presidents, fiscal policy included,” says free-market economist Tyler Cowen of George Mason University.

Much of this reassessment of the Clinton record has come about because of the

“According to Citizens Against Government Waste, there has been more pork-barrel spending during the Bush years than at any time in American history.”

extremely poor budgetary performance of his successor. George W. Bush has turned out to be one of the most free-spending presidents on record, even after discounting the effects of the Iraq War and post-9/11 homeland security requirements. Apparently, there is no pork-barrel program so egregiously unjustified that he won't sign it into law. Amazingly, he is the first president since John Quincy Adams to serve a full term without vetoing anything.

Congress quickly figured out that Bush could easily be rolled on spending. Although he often threatened to veto legislation, he always backed down, usually without receiving anything more than cosmetic concessions in return. Michael Franc of the Heritage Foundation called the veto “an empty threat” in the Bush administration. Congress larded on ever more pork, confident that any veto threat was unlikely to be carried out. In my opinion, just one veto by Bush early in his administration probably would have saved many billions of dollars of wasteful spending, because future veto threats would have been credible.

According to Citizens Against Government Waste, there has been more pork-barrel spending during the Bush years than at any time in American history. Both the amount of money and the number of pork-barrel projects have risen every year, from \$18.5 billion and 6,333 projects in 2001 to \$27.3 billion and an amazing 13,999 projects in 2005.

Further hindering White House efforts to restrain spending has been Bush's own proclivity for “big projects.” In the words of journalist Fred Barnes, whose reporting often reflects the Bush White House viewpoint: “For Bush, achieving these is more important than balancing the budget. By definition, that makes him a big government conservative willing to embrace deficit spending for the sake of large, critical government programs.”

A Nixonian Legacy?

Bush has also recently been compared with Richard Nixon, whose reputation as an archconservative has been challenged over the last 20 years. Increasing

numbers of historians now view Nixon as basically a liberal, at least on domestic policy. They have learned to look past his rhetoric and methods to the substance of his policies and discovered that there is almost nothing conservative about them.

I believe that in time George W. Bush may come to be viewed the same way. He infuriates liberals the same way Nixon did, and he has also pursued what could be described as a Nixonian agenda using Nixonian methods. The danger, of course, is that Bush could end up having the same negative effects as Nixon on the economy, his own reputation, and the Republican Party. Whether Bush's legacy suffers the same fate as Nixon's will depend on whether future generations see him as responsible for the explosion of spending and tax increases that is inevitably coming.

George W. Bush's budgetary actions, especially strong-arming the Medicare drug benefit into law, are going to force a massive fiscal retrenchment starting very soon—the first baby boomer starts drawing Social Security benefits in 2008. I believe that the most likely scenario when the bills start coming due is a huge tax increase, probably involving establishment of a value-added tax. But whatever is done will certainly be unpopular, and the Republican Party will, rightly, be blamed. President Bush didn't destroy the budget all by himself. He had a lot of help in Congress.

The rumblings of a conservative revolt are starting to be heard. A common cocktail party joke among conservatives is that the latest budgetary outrage in Congress never would have occurred if only the Republicans were in control. Some conservatives continue to blame Bush's “compassionate conservatism” for getting Republicans on the

wrong track.

From the point of view of political conservatives, gridlock is clearly preferable to unified government. Divided government from 1994 to 2000 was a key reason for the slow growth of spending and emergence of budget surpluses. According to economist Bill Niskanen of the Cato Institute, this is not an isolated example. The growth of federal spending is almost always slower during periods of divided government than during periods of unified government. Every entitlement program in American history was enacted by unified governments. Divided government, therefore, might have saved us from the monstrosity of the Medicare drug program.

A Wakeup Call

The grotesque highway bill, enacted in August 2005, was a wakeup call to many conservatives who believed that Republicans were still fiscal conservatives. The spending proposals in the wake of Hurricane Katrina were the final nail in the coffin. Republicans aren't opposed to spending—only spending on things Democrats want to spend money on. Republican pork, it seems, is okay.

If Republicans have any hope of holding the White House in 2008, it is essential, in my mind, that they repudiate the big government policies of George W. Bush and stop aping the Democrats by throwing money away on wasteful subsidies, pork-barrel projects, and tax giveaways. Voters don't automatically reward the party that spends the most to buy their votes. On the contrary, research shows that they are more likely to reward presidential candidates who demonstrate fiscal restraint.

The Republican Party needs to start a dialogue that will get it back on track as the party of small government before it loses what is left of its principles, reputation, and heritage. If the American people conclude that it stands for nothing except payoffs for those on its team, it will have lost something precious that, like one's virtue or good name, is awfully hard to get back.

Theory and practice

Restoring Private Property after *Kelo*

The Supreme Court ruling in *Kelo v. City of New London* allows state and local governments to seize private property from owners and transfer it to other private parties in the name of increasing the local tax base and stimulating economic growth. The decision has sparked a backlash from citizens of all political stripes who fear the power of government to take their homes and businesses. At an October 17 Cato Policy Forum, Sen. John Cornyn (R-TX) and Cato vice president for legal affairs Roger Pilon discussed the current state of property law, the implications of the *Kelo* decision, and legislative measures to restore the constitutional rights of property owners.

ROGER PILON: The Supreme Court's modern property rights jurisprudence is all but incoherent. Justice Antonin Scalia said as much in 1992 in *Lucas v. South Carolina Coastal Council* when he noted the Court's 70-odd years of ad hoc regulatory takings jurisprudence, even as he was adding another year to the string.

Yet property rights and state power can be rationally related. To do that, however, we've got to look not to the errant jurisprudence of the last 80 or so years but to the principles of the matter. In particular, we've got to relate the state's eminent domain power, through which it takes property, to its police power.

John Locke argued that the police power is derived from the "Executive Power" that each of us has in the state of nature to secure his rights. When we create government, we yield that power up and ask government to exercise it for us. But because the police power is limited mainly to securing rights, whatever else we want government to do must be done under some other power.

Eminent domain, by contrast, is the power of government to take private property for "public use" provided "just com-

ensation" is paid to the owner. Implicit in the Fifth Amendment's Takings Clause, eminent domain was known in the 17th and 18th centuries as the "despotic power" because it effects a forced association when used against unwilling "sellers." No one could have had such a power in the state of nature. At best, two rationales underpin it.

First, when we created government we gave it that power, as the Fifth Amendment implies. That rationale is less than satisfying, of course, but it's the best we have for getting positive law off the ground generally. Second, the eminent domain power yields Pareto-superior results, as economists would say. If we want the government to build a road efficiently, for example, it must

“Government today, far from protecting property, is its main threat.”

have a way around holdout sellers demanding extortionate prices. Thus, through eminent domain the public is made better off and no one is made worse off—provided just compensation is paid, which too often is not the case.

Now let's put those two powers together in four basic scenarios—mindful that as government has grown, the opportunities for clashes between government and owners have grown as well. In scenario one, owners sometimes believe they are entitled to compensation when some government action reduces the value of their property—when government closes a school or a military base, for example, or builds a new road some distance from an existing motel. Yet those owners are not entitled to compensa-

tion because the government took nothing they owned. We own our property and all the uses that go with it that can be exercised without taking what belongs free and clear to others. We don't own the value others may attach to our property.

In scenario two, the government uses its police power to prohibit uses that amount to private or public nuisances—to prohibit excessive noise, particulate matter, odors, vibrations, and other such "pollution." Here, too, no compensation is due the owners thus restricted, even if their property values are reduced by the regulations, because they had no right to engage in those uses to begin with. Thus, the government isn't taking anything that belongs to them. In fact, it's protecting the property rights of others—their right to the quiet enjoyment of their property.

Under a third scenario, however, government takes not wrongful but rather legitimate uses, not to prevent harms, as under the police power, but to provide the public with various goods—lovely views, historic preservation, wildlife habitat, and the like. Often this regulation is done under the police power: yet it's not securing rights; it's providing goods. Thus, it should be done under some other authorized power, with eminent domain employed instrumentally and owners compensated for their losses. The *Lucas* case illustrates such "regulatory takings" perfectly.

In 1986 David Lucas paid nearly \$1 million for two undeveloped ocean-front parcels near Charleston, South Carolina, planning to build a home on each lot—nothing extraordinary as homes stood on either side of each. Shortly thereafter, however, to promote tourism and to help preserve certain flora and fauna—public goods—the state passed its Beachfront Management Act. The effect was to deny Lucas any use of his land, save to picnic or tent, and hence to render it nearly worthless. He retained the titles, but they were effectively empty.

Naturally, he sued, claiming the state had

taken his property without just compensation. He was fortunate to have the Supreme Court agree ultimately to hear his case. By a narrow 5 to 4 majority, the Court reversed the state supreme court, holding that Lucas was entitled to compensation, but only because the act had taken nearly all of the value of his property. Most such regulations fall short of that all-or-nothing rule, however. Thus, in most cases, owners get nothing.

What we have here, then, is the modern regulatory taking nightmare. Through regulation, government takes otherwise legitimate uses in order to provide the public with various goods; those regulations reduce the value of the property substantially, yet the government pays the owner nothing because he still has some value in his property. There's nothing wrong, of course, with government providing such goods to the public—that's what eminent domain enables—provided it's authorized to do so and it compensates owners for their losses. What *is* wrong is to provide the goods “off-budget,” with the costs falling on innocent owners. If the public wants those goods, it should pay for them.

Properly understood, then, scenario three should be adjudicated under eminent domain, not under the police power, because government is taking property—the uses that belong to the owners of the underlying property. Scenario four, by contrast, ordinarily raises no such confusion: government takes not only the uses, leaving the empty title with the owner, but the whole property, taking the title for itself or transferring it to another private party. Here we have eminent domain in its fullest application, with compensation plainly required. And here, too, we have basically four scenarios.

In scenario one, the property is taken for a clear “public use”—for a fort, a public road or school, or some other public project. The use of eminent domain here is constitutionally sound, provided just compensation is paid, because the public use restraint of the Takings Clause is clearly satisfied.

Scenario two is less straightforward: it involves private network industries such as railroads, cable, gas, and telephone lines, and utilities like water and sewer. Eminent

domain is used here to transfer title from one private party to another, but the public use restraint is satisfied because the subsequent use is open to the public on a nondiscriminatory basis and often at regulated rates. Collusion must be guarded against here, of course, but the virtue of this reading of “public use” is that it avoids state ownership and enables the public to take advantage of the economic efficiencies that accompany private ownership.

“Owners elsewhere will have to implore their own states for better protection, a process that is well under way thanks to the public outcry that followed *Kelo*.”



Scenario three, the use of eminent domain for “blight reduction,” is another matter altogether. Here, government transfers property from one private owner to another not for a public use but to “improve the community.” Whether it’s called “blight reduction” or “urban renewal” or whatever, it’s a rank abuse of eminent domain. If there is a genuine nuisance, labeled “blight,” the police power can be used to enjoin it; titles don’t have to be transferred. Whole neighborhoods have been uprooted under this

rationale, often after the infusion of “free” federal funds.

The final scenario, and the most egregious use of eminent domain, is for “economic development,” as in the *Kelo v. New London* case the Supreme Court recently decided. The seminal case of that kind, however, was *Poletown v. Detroit*, decided by the Michigan Supreme Court in 1981. There the court upheld Detroit’s use of eminent domain to condemn the homes and small businesses of some 4,200 people to make way for a General Motors plant. The rationale was one of “public benefits”—the plant would provide jobs and increase the city’s tax base—benefits that never did materialize as promised.

In the years that have followed, as research by the Institute for Justice has shown, many other states have relied on *Poletown*’s “public benefits” rationale to undertake naked transfers from one private party to another. All such transfers invariably involve some benefits for the public, of course, but rarely in proportion to the losses suffered by those driven from their homes or businesses. As a legal matter, however, the Constitution speaks of “public use,” not “public benefit.” And the reason is plain. “Public benefit” facilitates government; “public use” restrains it, which is why the Framers used those words.

In 2004 the Michigan Supreme Court overturned its *Poletown* decision, which means the state can no longer condemn property to promote economic development. Owners elsewhere will have to implore their own states for better protection, a process that is well under way thanks to the public outcry that followed *Kelo*. Ultimately, however, it is the U.S. Supreme Court that needs to come to grips with its unprincipled property rights jurisprudence. For that, the case law is a monumental distraction. The principles of the matter are the proper guide.

James Madison, the principal architect of the Constitution, held that the main business of government is the protection of property, defined by Locke as “Lives, Liberties, and Estates.” Government today, far from protecting property, is its main threat. The courts, then, must rise to be an

“impenetrable bulwark against every assumption of power in the legislative or executive” branches. That, too, was Madison.

SEN. JOHN CORNYN: It’s amazing to me, and I guess maybe it shouldn’t be, how much interest the Supreme Court’s decision in the *Kelo* case has brought. Immediately after the decision was handed down, we began to draft legislation to address the problem. The Senate Judiciary Committee has already had a hearing on this issue, and I trust that there will be other ideas and other legislation introduced. But, ultimately, I do expect the U.S. Congress to pass legislation to rein in this virtually unlimited expansion of the power of eminent domain beyond any that we have previously contemplated.

The Cato Institute, in addition to its other good work, filed a brief, written by Professor Richard Epstein of the University of Chicago School of Law. That was an outstanding piece of advocacy. Dating back to the famous 1789 case of *Calder v. Bull*, the Supreme Court has regularly held that the sovereign could not take the property of one person for the sole purpose of transferring it to another. It is accepted doctrine that the Fifth Amendment reserves the power of eminent domain for public uses.

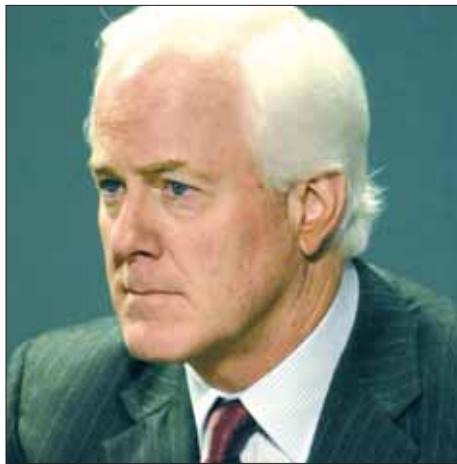
The Supreme Court last summer held by a five-to-four vote that a state government may seize a home, small business, or other private property from one owner and transfer it to another if the state believes that the transfer would benefit the community by improving economic development and increasing the tax base. This decision came as a shock to many who believed that their rights to their property were safe.

The protection of homes, small businesses, and private property rights generally against government seizure and other unreasonable government interference is a fundamental principle and a core commitment of our nation’s Founders. As Thomas Jefferson wrote on April 6, 1816, the protection of such rights is “the first principle of association, the guarantee to every one of a free exercise of his industry, and the fruits acquired by it.”

The Fifth Amendment to the U.S.

Constitution specifically provides that private property shall not be taken for public use without just compensation. The Fifth Amendment thus provides an essential guarantee of liberty against the abuse of government power by eminent domain by permitting government to seize private property only for public use and only with just compensation provided.

The Court’s decision in *Kelo* alarmed many because, as Justice O’Connor wrote



“Within hours of the decision, officials in many states and localities began filing paper to seize homes or businesses to make way for others.”

in her dissenting opinion, the Court has “effectively deleted the public use requirement from the takings clause of the Fifth Amendment, and thereby refused to enforce properly the federal Constitution.”

Under the Court’s decision in *Kelo*—and this is the sound bite that has been repeated over and over again, but I think it colorfully describes the essence of the Court’s decision and why so many are alarmed by it—Justice O’Connor warned: “The specter of condemnation hangs over all property. Nothing is to prevent the state

from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall, or any farm with a factory.”

She warns that under *Kelo* any property may now be taken for the benefit of a private party and that fallout from this decision will not be random. The beneficiaries are likely to be citizens with disproportionate influence and power in the political process, including large corporations and development firms. As for the victims, the government now has license to transfer property from those with fewer resources to those with more. The Founders cannot have intended such a perverse result.

Indeed, the amicus curiae brief filed by the National Association for the Advancement of Colored People, the AARP, and other organizations noted: “Absent a true public use requirement, the takings power will be employed more frequently. The takings that result will disproportionately affect and harm the economically disadvantaged and, in particular, racial and ethnic minorities and the elderly.”

The implications of this decision are already being felt across the country. Local governments have become further emboldened to take property for private development. Within hours of the decision, officials in many states and localities began filing paper to seize homes or businesses to make way for others.

And worse yet, courts are already using the *Kelo* decision to reject challenges by owners to the taking of their property for other private parties. On July 26, 2005, a court in Missouri relied upon *Kelo* to reluctantly uphold the taking of a home for a shopping mall. The judge’s comments in this case particularly resonated with me. He said: “The United States Supreme Court has denied the Alamo reinforcements. Perhaps the people will clip the wings of eminent domain in Missouri. But today in Missouri, it soars and it devours.”

This is an issue that will not go away. *U.S. News & World Report* recently published an article describing the struggle faced by Stan and Barbara Dunn. This couple recently learned that developers were considering tearing down the home they plan to retire in, in a Buffalo suburb, along with

nearly 300 nearby homes. The developers want to build another complex of townhouses, apartments, and businesses, and the city hopes the development will boost the area's economy. The city claims that the Dunns' pleasant, working-class neighborhood is blighted. But clearly, one man's blight may be another man's castle. The Dunns have been looking forward to retiring in their home, and now they have to contemplate the possibility that they may lose it. This is not a situation that any American should have to face.

In order to protect the property rights of the American people, shortly after the Court's ruling, I introduced legislation, the Protection of Homes, Small Businesses, and Private Property Act of 2005. Currently, the bill has 30 sponsors from both sides of the aisle. This legislation would declare Congress's view that the power of eminent domain should be exercised only for public use as explicitly guaranteed in the Fifth Amendment of the Constitution. The bill states that the power to seize homes, small businesses, and other private property should be reserved only for true public benefits, not used simply to provide private

economic development.

The bill would extend this protection in two ways. First, the federal government would be held to its constitutionally pre-

“This legislation would declare Congress's view that the power of eminent domain should be exercised only for public use as explicitly guaranteed in the Fifth Amendment of the Constitution.”

scribed power. Second, all exercises of eminent domain power by state and local government using federal funds would be similarly circumscribed. It is likewise appropriate for the states to take action in

response to this decision to voluntarily limit by legislation their own power of eminent domain. As the Court in *Kelo* noted, “Nothing in our opinion precludes any state from placing further restrictions on the exercise of its takings power.”

A number of states, including Texas and Alabama, have already acted. Texas signed into law on August 30 a new statute that would prohibit governmental entities from condemning private property for economic development purposes. I applaud this effort, and I hope Congress can pass complementary legislation soon.

The protection of homes, small businesses, and other private property against the awesome power of the government and government seizure is a fundamental principle and a core commitment of our Founders. The *Kelo* decision was obviously a disappointment. But I congratulate Cato and other advocates for leading the charge when it comes to protecting private property rights. In the aftermath of *Kelo*, we must take all necessary action to restore the protections of the Fifth Amendment. Our fundamental freedom to enjoy our private property is at stake.

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23rd Annual Monetary Conference

Best Rules for Economic Development

Monetary aid to the developing world rarely improves standards of living in the poorest countries. Billions of dollars in aid have been poured into struggling economies in Africa, Asia, and elsewhere, and those countries remain impoverished. Although better technology and free trade have brought some improvements, the problems that keep countries poor are systemic and cannot be remedied with cash assistance. The crucial factor in turning poor countries into pros-

worsens already shaky monetary stability.

Rodrigo de Rato, managing director of the International Monetary Fund, delivered

“The crucial factor in turning poor countries into prosperous ones is improving the institutions that make economic development possible.”

nearly double in the long term. Rato also recommended that the flexible U.S. labor market be used as a model for lowering unemployment in even the advanced nations of the Euro area.

Sustainable development depends on stable currency. Roger W. Ferguson Jr., vice chairman of the Federal Reserve Board, pointed out that foreign investors stay in markets where monetary credibility is high. Central banks must be independent in order to resist politically motivated



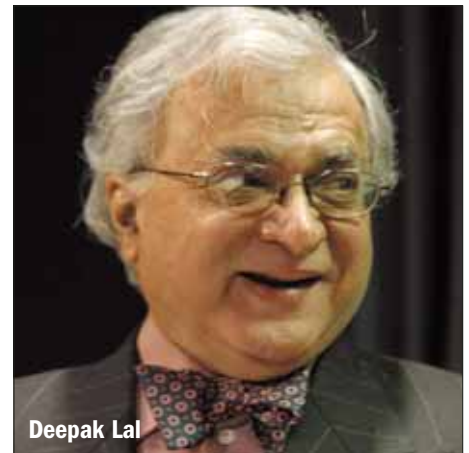
Rodrigo de Rato

perous ones is improving the institutions that make economic development possible.

Stable monetary institutions and property rights allow potential trading partners to feel confident about investing in emerging market economies. A strong currency allows markets to grow without overheating. Monetary stability helps keep inflation low and brings new capital into struggling economies. Unfortunately, many developing nations have yet to learn those lessons.

At the 23rd Annual Cato Institute Monetary Conference, “Monetary Institutions and Economic Development,” co-sponsored with *The Economist*, leading monetary economists explained why institutions matter and suggested ways that emerging market economies can improve their monetary institutions to encourage trade. Participants agreed that reliance on foreign aid has failed, and many also suggested that relying on debt for development only

the keynote address, which focused on the structural reforms that the IMF and other international financial institutions must make to encourage growth in burgeoning economies. The IMF, Rato said, can offer valuable advice to nations wishing to strengthen their monetary regulations, reform tax administration, and make other structural reforms. If average institutional



Deepak Lal

desires to stimulate the economy through budget deficits and wealth redistribution. Jonathan Anderson, UBS’s chief economist for Asia, pointed to China as a country where bank privatization could reduce incentives for central financial planning. Chinese banks are currently doing well, he said, but privatization would lessen the chances of bad policy emerging in the future.

China was also the focal point of the discussion on financial market liberalization and economic development. Yasheng Huang, professor of international management at MIT, made the case that poor financial institutions are hampering micro-economic development, especially in rural areas. Foreign firms investing in China have their property rights protected, he said, but many private Chinese firms do not enjoy such protections, which dissuades domestic investment, especially in rural areas. University of California–Los



Roger Ferguson

quality in Africa could be improved to the level of developing Asia, he said, per capita gross domestic product in Africa would

Angeles professor Deepak Lal criticized the Chinese government for pouring money into poorly run state-owned enterprises. That misallocation of investment could threaten China's high rate of household savings, which fuels the Chinese economy. Raghuram G. Rajan, director of research for the IMF, suggested that allowing private investment and increasing the flexibility of the exchange rate would increase confidence in the economy and aid growth.

Impoverished countries often turn to debt-based development plans to improve their economic prospects, but that strategy is rarely successful. Argentina has defaulted on its foreign debts multiple times, and, according to Buenos Aires-based attorney Eugenio Andrea Bruno, the international community should stop approving financial support to force the country to be

more fiscally responsible. Instead, the developed countries should promote free



Raghuram G. Rajan

trade and responsible project financing to stabilize the economy.

Even the most stable market economies

can be hurt by financial crisis and the policies engineered to combat it. Cato chairman William A. Niskanen offered suggestions for improving the U.S. Fed's response to financial crises, showing how the Fed overreacted to financial crises in the 1990s. Fed tightening in response to crisis led to deflation of demand, which triggered recession. Niskanen recommended that financial institutions like the Fed develop sound policies for whether and how to respond to crisis so as not to overreact to the possibility of near-term contagion effects.

Papers presented at the Monetary Conference will appear in the Winter 2006 issue of *Cato Journal*. The Monetary Conference can be viewed at www.cato.org.

CATO PUBLICATIONS

Three Nobel laureates highlight *Cato Journal*

Remembering Peter Bauer

Three Nobel laureates—Milton Friedman, James Buchanan, and Amartya Sen—highlight the Fall 2005 issue of *Cato Journal* (vol. 25, no. 3), which is dedicated to the memory of economist Peter Bauer, winner of the first Milton Friedman Prize for Advancing Liberty in 2002. Bauer was among the first development economists to warn that central planning, protectionism, and foreign aid perpetuate rather than reduce poverty. At a 2004 conference hosted by the James Madison Program in American Ideals and Institutions at Princeton University, many prestigious economists and longtime friends paid tribute to Bauer's work. This special issue of *Cato Journal* reprints several papers from that conference, as well as other articles about Bauer's contributions to development economics.

Friedman and Thomas Sowell of the Hoover Institution discuss how Bauer's views moved from the fringes of economic

“Bauer was among the first development economists to warn that central planning, protectionism, and foreign aid perpetuate rather than reduce poverty.”

theory to become key tenets of mainstream development economics. Sen, professor of economics and philosophy at Harvard University, writes about Bauer's belief that the freedom to trade—the right of access to opportunities for economic advancement—is a basic human right held by all people. UCLA professor Deepak Lal, *National*



Interest editor John O'Sullivan, Nicholas Eberstadt of the American Enterprise Institute, and Professor Emeritus Israel M. Kirzner of New York University also contribute to the volume.

One-year subscriptions to *Cato Journal* can be purchased from the Cato Institute at 800-767-1241 or at the Cato online bookstore at www.catostore.org for \$24.00. Articles are available online at www.cato.org/pubs/journal.

Markets work in India, drug war fails in Mexico

Strategically Unwise Petroleum Reserve

The Strategic Petroleum Reserve was established in 1975 to prevent fuel shortages in times of dire energy crisis. However, in “The Case against the Strategic Petroleum Reserve” (Policy Analysis no. 555), Cato’s Jerry Taylor and Peter Van Doren argue that the \$42 billion to \$51 billion cost to date of the SPR—\$64.64 to \$79.58 per barrel of oil deposited—is far too high a price to pay for the benefits the reserve promises. Past disruptions in global oil supply have been infrequent and have had little impact on the overall economy. The SPR, they suggest, can never be large enough to meet our energy needs in a true catastrophe, and private actors will be more effective than the government at maintaining sufficient supplies during smaller disruptions. The cost of the SPR is higher than the global price of oil during supply shocks, suggesting that the government should sell off the oil in the SPR and get out of the oil business.



Peter Van Doren

How a Freer Market Saved India

Critics of free-market reforms have recently

charged that India’s impressive 6.1 percent annual growth during the 1990s was not the result of trade liberalization and regulatory reform because that growth began before reforms were initiated. In “The Triumph of India’s Market Reforms: The Record of the 1980s and 1990s” (Policy Analysis no. 555), Columbia University professor Arvind Panagariya demonstrates that the economic growth of the late 1980s was precipitated by significant government spending that led to fiscal crisis at the end of the decade. The 1991 market reforms were systematic and produced even higher growth than the earlier expansionary policies, allowing India to recover from that crisis. In sectors where reform has been slow, such as industrial production, India still lags behind China and other major competitors. Panagariya’s evidence suggests that India should continue to reduce tariffs and end government involvement in the business sector to promote more growth. Moreover, he recommends that other developing countries follow India’s example and liberalize their economies to promote sustainable growth.

Protectionism in Disguise

Preventing the Chinese oil company CNOOC from purchasing Unocal was billed as a way to protect national security by ensur-

ing that American strategic assets did not fall into the hands of a foreign power. However, in “U.S.-China Relations in the Wake of CNOOC” (Policy Analysis no. 553), Cato’s vice president for academic affairs James A. Dorn argues that the interference was actually a protectionist move designed to punish China and reward California-based Chevron.



James A. Dorn

Preventing China from trading freely with the United States will undermine both the progress of freedom in China and peaceful U.S.-China relations. Members of Congress involved in blocking the CNOOC bid used the legislation to fuel unwarranted fears of Chinese hegemony, sacrificing free-trade principles to American special interests. Dorn warns that, if Congress continues to meddle in commercial transactions with China, our future national security interests may be at risk.

School Choice for Smaller Budgets

As student enrollment and local budgets expand, state governments have taken on the burden of funding an increasingly expensive

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public education system. Private schools, by contrast, provide comparable services at an average cost of 30 percent less. In “Saving Money and Improving Education: How School Choice Can Help States Reduce Education Costs” (Policy Analysis no. 551), David Salisbury, former director of Cato’s Center for Educational Freedom, shows how school districts in Arizona, Wisconsin, Ohio, Florida, Pennsylvania, Maine, and Vermont have cut costs by allowing families to use school vouchers to send their children to private schools. A variety of voucher programs have allowed parents to choose the best schools for their children, saving the states millions of dollars and increasing per pupil expenditures for students in public schools. In Arizona, allowing 5 percent of students to transfer to private schools would save the state \$32.4 million. Maine and Vermont have used school vouchers in rural areas since the 1880s to save a total of more than \$32 million per year in education costs. Salisbury analyzes proposed school choice programs in Utah, South Carolina, New Hampshire, Maryland, and Virginia and concludes that school choice should be part of education budget reform in those states, too.

Mexico’s Drug War Crisis

Drug trafficking is a \$300 billion a year enterprise, and Mexico is capturing an increasingly large share of the market. In “Mexico Is Becoming the Next Colombia” (Foreign Policy Briefing no. 87), Cato vice president for defense and foreign policy studies Ted Galen Carpenter documents the disturbing increase in drug-related violence, corruption, and gang activity. Mexico, he argues, is harmed by U.S. policies, designed to stem the flow of drugs into the United States, that create opportunities for violent criminals to generate revenue and gain status in Mexican society. Chaos in Mexico has begun to spill over the border to the United States, generating crime here and imperiling U.S.-Mexican trade relations. If Mexico is to stop this trend, the U.S. government must rethink its absolutist position on drug interdiction abroad and allow the Mexican authorities to tackle corruption and violence without also having to fight our war on drugs.

Lower Drug Costs, at What Price?

Federal price controls on pharmaceuticals have already cost Americans an estimated 140 million life-years because treatments that

would have prolonged life were too expensive to bring to market. Former Cato senior fellow Doug Bandow asks what effect European-style price controls on drugs for Medicare patients would cost in lost research and development in “Avoiding Medicare’s Pharmaceutical Trap” (Policy Analysis no. 556). He concludes that, although lower drug prices would save money in the short term, they would reduce R&D of new treatments by 36.1 to 47.5 percent. Countries that rely on price controls free ride on American R&D, and if U.S. companies could no longer recoup their costs through domestic sales, they would not undertake the expense of developing many life-saving new treatments. Bandow suggests that the Medicare prescription drug benefit be repealed or delayed until Congress can find ways to lessen the financial burden on American patients without reducing available funding for future research.

Law of the Sea Treaty: It’s Ba-a-a-ck!

Our allies have long criticized the United States for failing to join international treaties meant to safeguard the environment and international security. However, as former Cato senior fellow Doug Bandow explains in “Don’t Resurrect the Law of the Sea Treaty” (Policy Analysis no. 552), the proposed Law of the Sea Treaty (LOST) will protect neither environmental interests nor international law. The most objectionable section of the LOST governs the nascent seabed mining industry, deterring corporations and nations from attempting to harvest the natural resources that lie on the ocean floor. The LOST authorizes commodity cartels and forces countries to provide interest-free loans and subsidies to private corporations that may in the future want to mine the seabed. The LOST provides little security for ships traveling in international waters. It provides neither effective protection for U.S. vessels nor mechanisms for the United States to use to prevent foreign ships from transporting weapons and other dangerous materials into our waters. The treaty is both collectivist and ineffectual and, Bandow says, the United States should not ratify it.

Dumping U.S. Trade Policy

The United States is attempting to negotiate reductions in trade barriers with other countries in order to expand markets for U.S. goods around the world. However, in “Abuse of Discretion: Time to Fix the Administration of the U.S. Antidumping Law” (Trade Policy

Analysis no. 31), Cato trade policy analyst Daniel Ikenson argues that the discretionary enforcement of World Trade Organization antidumping regulations is unfairly penalizing foreign goods and creating ill will between the United States and some of its biggest trading partners. The U.S. Import Administration has wide



Daniel Ikenson

latitude to determine when dumping is taking place and to set remedies, and it often abuses that discretion because it suffers no consequences for overenforcing antidumping policies, even though other U.S. interests are harmed. In addition to hurting trade negotiations, unfair enforcement of antidumping policies makes terrorism more attractive in developing nations by lessening economic opportunities and engendering hostility toward the United States. Ikenson suggests creating an oversight board to review the IA’s antidumping determinations to ensure that both U.S. industries and foreign competitors are treated fairly.

Spending Caps Protect Colorado’s Economy

Colorado’s Taxpayer’s Bill of Rights (TABOR) has been the most effective limit on the growth of any state government. Unfortunately, when recession and drought hurt tax revenues, the governor and other politicians asked voters to dramatically weaken TABOR by suspending its limits on spending. In “Dispelling the Myths: The Truth about TABOR and Referendum C” (Briefing Paper no. 95), Cato director of budget studies Stephen Slivinski and University of Alabama professor Michael J. New warn that loosening TABOR would lead to many more years of budget deficits and unnecessary spending. Under TABOR, taxpayers can see the costs of additional spending because they are entitled to income tax rebates when spending is curtailed. Referendum C allows the state government to spend the rebate money for the next five years and recalculate future spending limits on the basis of that increased spending. Slivinski and New believe that Colorado’s budget problems will ease as the national economy improves and predict that the suspension of TABOR will dangerously impede Colorado’s ability to keep its economy strong.

“To Be Governed...”

NO WONDER THEY USE SO MUCH RED TAPE

Two government employees were charged Tuesday with taking kickbacks on the purchase of 100,000 rolls of red tape.

Veterans Affairs workers Joseph Haymond and Natalie Coker were arrested in Murfreesboro [Tenn.] and charged with taking bribes for buying the tape, normally \$2.50 per roll, for \$6.95 each, U.S. Attorney Jim Vines said in a statement.

The two got kickbacks of \$1 per roll for the purchases made between 1999 and 2001, Vines said. They could each face up to 15 years in prison if convicted.

Haymond and Coker worked at the VA's Consolidated Mail Outpatient Pharmacy, which mails prescription medicines to veterans.

—Associated Press, Nov. 29, 2005

OOPS

District [of Columbia] officials routinely violate city spending laws, avoiding competitive bidding, masking purchases under unrelated contracts and paying vendors without contracts or legal authority, according to D.C. records.

Out of \$2.5 billion in purchases last year, the city spent roughly \$425 million in unauthorized payments and no-bid contracts. . . .

“We screwed up,” said Anthony F. Pompa, head of accounting for Chief Financial Officer Natwar M. Gandhi, when he was shown hundreds of millions of dollars in unauthorized checks. “We shouldn't do those things. We're going to clean it up.”

—Washington Post, Nov. 27, 2005

NOW THEY'LL KNOW THEY LIVE IN GERMANTOWN

Germantown, an unincorporated part of Montgomery County, doesn't even have an official Web site. Until this year, there were no signs on state roads letting drivers know when they enter the community. . . .

Lately, however, citizen groups and officials at two county agencies are pushing a proposal they say will give this fragmented place something it

has been struggling to develop for decades: a sense of community and a spirit of unity.

The idea is to levy a tax on residents and businesses to generate money to enhance services and amenities.

—Washington Post, Nov. 25, 2005

THAT'S TWO SEX SCANDALS AND A PARTISAN GERRYMANDER

[Congressional] incumbents in Maryland are so entrenched that in the past 25 years they have lost only three of 94 general elections, a *Washington Post* analysis has found.

—Washington Post, Nov. 25, 2005

TAX COMPETITION

Sun Gazette readers again this year have an opportunity to select the county government's new vehicle tax decal, in a competition that pits two photographs of nature against two graphic illustrations of buildings.

—Sun Gazette (Arlington, VA), Nov. 17, 2005

NICE LITTLE COMPANY YA GOT THERE, SHAME IF ANYTHING HAPPENED TO IT

The plea came in a letter from a group of U.S. senators to nine big oil companies: With huge increases in winter heating bills expected, the letter read, we want you to donate some of your record profits to help low-income people cover those costs.

—Washington Post, Nov. 22, 2005

TAX WINNERS, SUBSIDIZE LOSERS

Ford Motor Co. Chairman William C. Ford Jr. urged the government yesterday to help struggling U.S. automakers by expanding subsidies for companies that make components for hybrids and other fuel-efficient vehicles, as U.S. automakers race to close a widening technology gap with the Japanese. . . .

In an interview following the speech, Ford said his company is not looking for a bailout from the federal government. “We're just looking for our government to help us,” Ford said.

—Washington Post, Nov. 23, 2005

CONGRESS TAKES A STAND

Congressional Republicans decided Wednesday to take a legislative wrecking ball to two Alaskan bridge projects that had demolished the party's reputation for fiscal austerity.

Straining to show new dedication to lower spending, House and Senate negotiators took the rare step of eliminating a requirement that \$442 million be spent to build the two bridges, spans that became cemented in the national consciousness as “bridges to nowhere” because of the remote territory and small populations involved.

The change will not save the federal government any money. Instead, the \$442 million will be turned over to the state with no strings attached, allowing lawmakers and the governor there to parcel it out for transportation projects as they see fit, including the bridges should they so choose.

—New York Times, Nov. 17, 2005

TAKING ON BIG GAME, IF NOT BIG ISSUES

Big-game hunters will find it far more difficult and less lucrative to donate their extra trophy mounts and claim charitable tax deductions under new tax rules being debated this week on the Senate floor.

Tightening the trophy-mount tax break, and making sure that museums do not accept donated items with the intention of quickly selling them off, have been identified as priorities by Sen. Charles E. Grassley (R-Iowa), chairman of the Senate Finance Committee.

—Washington Post, Nov. 17, 2005

HOW MANY NONESSENTIAL EMPLOYEES HAVE THEY BEEN PAYING?

[New Orleans'] hoped-for comeback from the devastation of Hurricane Katrina suffered a setback yesterday, as Mayor C. Ray Nagin announced “with great sadness” layoffs for half the city's work force because he was unable to get state or federal assistance to rescue the municipal budget. . . .

The mayor said the 3,000 layoffs would involve only “nonessential” workers.

—Newsday, Oct. 5, 2005

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