

dais, behind the President of the United States, knowing that what the President was saying was not factual. He knew that. How can the President of the United States explain to the American people how he sent people out to find out all this information, found it out, and still was allowed to come before the American people and the Congress and the diplomatic corps and the Supreme Court and the whole administration and tell them something that was not true.

Now, what this event does, and they may try and brush this off as a minor technicality, or it is just perjury; well, we impeached or tried to impeach President Clinton over just perjury, and that was about a sex act. No one died. Two thousand people have died, our people, untold numbers of Iraqis have died, and 10,000 of our people have come home badly, badly wounded. It has cost us \$240 billion, money that we did not use to fix the levees in New Orleans or other places in this country where there are problems today.

□ 2000

The question that comes up again and again: Is there no limit in this administration to what will be said or done to promote this war and to protect it? Will they say anything? Is there any limit on what they will bring here as evidence?

The fact is that we hear there is a terror alert. If you look at those terror alerts, they always follow some disaster someplace to get people's mind off it. What has happened this week since the President was made aware of the fact that we had an indictment of the Chief of Staff to the Vice President of the United States? That man works in the White House or in the Executive Office Building right next to it.

What do we have? Well, we certainly have a lot of things here. We today had a big exposé about a flu epidemic. Now, did that just happen yesterday? That has been going on for a long time. The President said he had a flu shot. That flu shot had nothing to do with the avian bird flu from Asia. That is this year's strain of virus. We get them every year. Everybody gets a flu shot every year. They have nothing to do with this pandemic we are talking about. Yet the President makes a big exposé in the White House. And the fact is that this kind of thing to divert people's attention will continually be done to keep them from focusing on the disaster of this morally bankrupt war we are in in the Middle East.

It is time for us to call an end to this. The President has no plan to get out of it. We have no plans. There are no benchmarks for anything. They are going to stay there, and they intend to stay there. As long as there is chaos, they will be able to justify staying there, and that is what they want. They have wanted chaos.

Why did they disband the army? Why did they disband civil service? Why did they not prepare? Because they were

intending to have things be in turmoil. Because in turmoil they can keep justifying their existence in Iraq. They should come home. The Vice President, as Mr. Christoff said, should either tell us what was going on or resign.

PRIVATE PROPERTY RIGHTS

The SPEAKER pro tempore (Mr. FITZPATRICK of Pennsylvania). Under the Speaker's announced policy of January 4, 2005, the gentleman from Georgia (Mr. GINGREY) is recognized for 60 minutes as the designee of the majority leader.

Mr. GINGREY. Mr. Speaker, my fellow colleagues on both sides of the aisle, and our constituents who may be listening to this hour this evening, we are going to talk about something that is well known to the general public, and that is the subject of eminent domain. It is well known, maybe not particularly liked by the general public, but certainly it is well known that, under the power, the government has the power under the Constitution and the fifth amendment to take private property for public use. This is something that has been recognized for 200 years.

An example, the obvious example, of course, of public use would be for a school in a community that is growing rapidly, and youngsters need a place to get that public education. That is a public use of the power of eminent domain, that ability for a government entity, the Federal Government, the State government, a county government or municipal city government to literally take a person's private property for public use purposes and, of course, with just, fair market value compensation. That is something that we all recognize.

As I said, when it is the individual who may have that little tract of land that they have owned for their lifetime and it was willed to them by their parents and willed to their parents by their grandparents, and maybe it is 50 acres, maybe it started out as farmland and ended up as just a homestead and a paid-for residence and a front porch with rocking chairs and a great view and clean air and clean environment and a place for the children and the grandchildren to come and play on the weekends. It is pretty painful indeed when John Q. Public comes knocking on the door. It may be the local school board, good, dedicated men and women who are trying to provide education for the children in the community; and that 30 acres is the last remaining plot of land in the whole county where a new high school is desperately needed because of development, economic development, new subdivisions, new roads.

And people, of course, are powerless in the face of that authority of eminent domain. The only recourse they have, of course, is a plea and an appeal for fair market value of the land that they do not want to sell, they are

forced to sell under this constitutional right of eminent domain.

Maybe there is some negotiation. Maybe they are not happy with what is the public entity that is doing the taking, has set the price; and the homeowner, the property owner, small business owner, feels that that is not fair. Then certainly they have the right to appeal in our court system and our judicial system to the superior court of the judicial area in which they happen to lie.

My colleagues, I think you all know that the Supreme Court on June 23 of this year, 2005, made a decision, a narrowly split decision, as this court has done in so many other cases, particularly regarding our traditional values. That is not the purpose of this debate and this discussion, Mr. Speaker, tonight on the floor of this House.

But this 5 to 4 decision all of a sudden expanded this power of eminent domain to include the taking of a person's home, small business for economic development, that is now being interpreted by this split decision of the Supreme Court to qualify under the fifth amendment, under the Constitution, the right to take someone's property by eminent domain for economic purposes, redefining, completely and totally redefining this definition of public use that probably a sixth grader would answer correctly if you asked them: Well, give us an example of public use. They would say a road or a bridge or possibly a public library, certainly a school, maybe even a sewer line easement, a natural gas line easement.

But to suggest to them that, oh, no, now we are talking about taking somebody's property for the purpose of increasing the tax revenue. Let me just kind of set the scenario for my colleagues just as a perfect example.

Under this ruling, June 23, 2005, this atrocious, we think, and of course on the floor of this body of this House with overwhelming bipartisan support, not unanimous but overwhelming bipartisan support, we expressed our outrage over this, the sense of the House, a concurrent resolution expressing our absolute outrage over this decision.

What it basically says and what prompted and predicated this Supreme Court decision was a case in the State of Connecticut, the City of New London, and New London in this case being the defendant, the plaintiff was the property owner, Kelo. Their property was being taken for the purpose of nothing other than increasing the tax base, the tax revenue of that particular section of town where their property happened to be.

The justification for it from the standpoint of the City of New London, that local jurisdiction, was, well, if we are able to take this property, which in our opinion, Mr. Speaker, I think everybody knows I am not a lawyer nor am I a real estate expert, I am just a little old meat and potatoes OB/GYN physician. But what they were going to

do was take this property so they could redevelop it. And, again, maybe it could have been a bakery, a small business that some immigrant family two generations came to this country, could not even speak English, but started on a street corner selling bagels and finally developed this little business and had that loyalty and that customer base and that value which we call blue sky on that business; and yet the tax revenue from that little business could be a house, could be your home, was not sufficient.

So the local government entity, in this case the City of New London, decides, well, you know, if we can take that property, that business, indeed maybe even that church or synagogue or mosque, and we can take it by the power of eminent domain and get this broad definition of public use, and we could say, gosh, you know, the increased revenue will allow us to build more soccer fields in the county, more bike trails in the county. Well, maybe, just maybe, and I think without a shadow of a doubt Kelo felt that they did not want another soccer field and they did not want another bike trail, they wanted their property which had been willed to them and their family. They had obtained that property in a legal way. It was theirs. They are good public citizens, pay their taxes on time, contribute to the community, send their children to the public schools, volunteer for the booster's club, doing everything they can to make that community a better place to live.

But can they help it that their business base was such that they only had a certain amount of revenue in any one year? There were just so many doughnuts and bagels to be sold. So they did not have an opportunity to have a high value on their business so that the local community could tax them, and so now they are going to come along and they are going to take that business so somebody else could come in.

Mr. Speaker, in no way am I disparaging any good companies, but I mean, a Ritz-Carlton, even a Starbucks in this area that needs redeveloping pays a lot more taxes; and, yes, maybe some of that money could be put to the public use. But it is not at all what we understand and know and have known for 200 years the definition of a public use.

So that is what we are talking about here, my colleagues, on both sides of the aisle. That is why we are here tonight. I am very fortunate that I have several of my colleagues who have joined me during this hour. They know how important this issue is. It is an important issue of the right to property, second only maybe to life and pursuit of happiness. But the right to property, Mr. Speaker, is one that cannot, should not be abridged.

We are going to have legislation, we are going to have legislation this week, so this is a timely hour so we can explain to our colleagues a little bit about what this bill coming through

the House, hopefully the Senate will have a companion bill, this bill coming through the House Judiciary Committee. This majority, this Republican majority is not going to let this Kelo v. New London decision stand, and my colleagues are here with me tonight to talk about that.

The gentlewoman from Tennessee (Mrs. BLACKBURN) is here, and I want at this time to call on her for her remarks, because I know she cares so much about this issue and cares about the folks back in Tennessee.

Mrs. BLACKBURN. I thank the gentleman from Georgia for yielding to me and inviting me to participate this evening as we do talk about our rights and private property rights and what makes America great.

As we begin this discussion, Mr. Speaker, I want to touch on something that a couple of our previous speakers, our colleagues across the aisle, had brought up, because we talk so much about what makes America so unique and so wonderful, and private property is one of those.

□ 2015

I know the gentleman from Georgia (Mr. GINGREY) and so many of our colleagues have joined me in working with some of the individuals in Iraq as they have fought to establish their freedom and to seek to have the opportunity to own private property. And I found it so interesting listening to some of my colleagues as they were talking about how Iraq was a quagmire and things were not going right. And I thought, my goodness, you think about the thoughtfulness that our Founding Fathers put into establishing this Constitution and the years and years and the hard work that went into this as they came together as a body, as they met, as they came about developing that Constitution, as they worked to list out a Bill of Rights and things that they thought would be so important. It did not happen overnight. It did not happen within a year, and it did not happen within 2 years.

I could not help but think we have just witnessed a big vote in Iraq, very successful. Over 65 percent of the people in that great nation came out and voted on a Constitution. We are watching a nation walk very consistently and very slowly. Some days they take a few steps forward. Some days they take a step or two back; but they have to keep plugging along, working toward the time when they will enjoy the freedoms and the fruit and the benefits of a free society. And one of those definitely is private property.

Many of my constituents, as the gentleman from Georgia (Mr. GINGREY) said, they know that that fifth amendment is important. They have worked hard to be able to stake out their little corner of the world. As some of them have said to me, We know something is wrong. It is not happening right in Washington when they see decisions like the Kelo decision. The people have

a very fine-tuned sense of right and wrong, and they know it is wrong when the Supreme Court paves the way for the government to come in and seize private property in order to build malls and other commercial-venture structures. They know there is just not something right about that.

I rarely use the term un-American; but, Mr. Speaker, if there is anything that strikes me and my constituents as contrary to our values, it is this Kelo decision and there is just something about it that strikes it being un-American. It was a stunning display of judicial activism as the gentleman from Georgia (Mr. GINGREY) has pointed out.

The Supreme Court stepped all over our property rights. And in Tennessee we watched this with a little bit of added interest because not only did we think in terms of those tangible property rights, but we think about those intellectual property rights that are so very important to our creative community, to our writers, to our television producers, to our film producers, looking at protecting both the tangible and the intellectual property rights. Our rights as Americans, our economy are based on very strong principles of private property ownership, private property protection, and the ability to work hard and to benefit by exercising those rights. It is such a fundamental right that it is hard to imagine our courts infringing upon it, but that is what they have done.

I certainly hope, and I know my colleagues that are gathered here tonight join me in having hope, that American property owners at home will know that they have an ally in this fight and they have an advocate in this discussion, and it is the majority here in this House of Representatives. It is this Republican majority. And I hope that the 69 percent of American homeowners who were watching this debate and watching our work on this legislation this week will know that we stand with them in maintaining that home ownership. We are just as concerned with this eminent domain issue as the American people are and we are going to work to strengthen the laws to protect private property, both real and intangible.

This week we are taking up the Private Property Rights Protection Act. We might not be able to overturn the Supreme Court's Kelo decision, that is not within our jurisdiction; but we can make sure that not one single penny of taxpayer money, not one single penny of Federal funds is used to support the forced taking of your private property by local and State governments. This bill will ensure that any State or locality abusing their eminent domain power by using economic development as a rationale for a taking will not be trusted with Federal economic development funds that could contribute to similarly abusive land grabs. And we are going to provide access to State and Federal courts for those who believe this bill has violated, has been

violated in the seizure of their property.

All of us want economic development for our community. We also want our citizens to be secure in the knowledge that their property is just that, that it is their property. We do not want them to fear that that fundamental right has been infringed upon and their property taken for development.

I hope all of my colleagues on both sides of the aisle will join with us in supporting this much-needed legislation.

Mr. GINGREY. Mr. Speaker, I thank the gentlewoman from Tennessee (Mrs. BLACKBURN). It gives me a little bit of a segue as she used the term “activist judges” and I think that that absolutely, Mr. Speaker, is what is going on here. We are in the process, of course, we have just confirmed our new Supreme Court Chief Justice, and now there will be hearing soon in the Senate Committee on the Judiciary for the confirmation, hopefully, of a judge to replace retiring Justice Sandra Day O’Connor. And all the talk, of course, is about the litmus test of abortion. Has the judge, the candidate judge in this instance, a judge, a circuit court judge of some 19 years of experience, what is his record on abortion? Is he pro-life? Is he pro-choice?

Although our colleagues on the other side of the aisle, the members especially of that Committee on the Judiciary, say there is no litmus test; it is not, and that is a huge concern, I think, that issue for the American public. And they are watching very, very closely these proceedings that are going to occur, the hearings in the Senate Judiciary Committee. But this is an example of other things of judicial activism, of legislating literally from the bench. They may not rise quite to the level of the issue of what happened in 1973 in *Roe v. Wade*, but this is an important issue as is taking God’s name, the name of God out of the Pledge of Allegiance.

This is hugely important, and I think we are going to go a little deeper in the hour. I am very pleased that one of our former judicial members probably will be talking to these same issues. At this point, I would first like to call on the gentlewoman from Ohio (Mrs. SCHMIDT), one of our newest Members elected to this body recently in a special election. The gentlewoman and I have had conversations about this issue since June 23, 2005, shortly after she got here, as well as the outrage that she has expressed and the concerns that her constituents have over this back in Ohio.

Mrs. SCHMIDT. Mr. Speaker, I thank the gentleman from Georgia (Mr. GINGREY). I am so glad that you pointed out about the importance of having the right people at the Supreme Court. I think that the judges that serve on the Supreme Court should take another look at the Constitution and recognize that their duty is to not make the law but to interpret the law, be-

cause in the *Kelo* decision, they trampled all over amendment five, or article V, of the Constitution and that is a right to own property.

Our Supreme Court, since the 1940s, has become a little schizophrenic on issues near and dear to our hearts. The right to own property, the right to have liberty before birth, the right to have one Nation under God in the Constitution, is something that is going to be questioned, the right to have public expression, displays of public expression like the Ten Commandments paid for by citizens, they are not clear on whether that can stand or that cannot stand.

Let me backtrack and say what I am talking about. See, for Christmas displays such as the crib or a menorah, you are allowed to put that on public property as long as you also allow on public property something generic like Santa Claus or Rudolph the Red Nosed Reindeer. But in my community in Adams County, when the good people of Adams County wanted to put the Ten Commandments on the four new high schools and they realized that because it was just all by itself it was too religious, they then garnered their money on their own, not public money, to put the Bill the Rights, the Declaration of Independence, other bodies of law surrounding these Ten Commandments to show that it was not isolated and not just a religious expression. But the Supreme Court said, no, you have got to remove the Ten Commandments.

Now we see the same schizophrenic reaction with the right to own property, and I would like to look at the time line in how we got to where we are today and to tell you why I am so impassioned about this.

This really began 50 years ago in 1954 right here in Washington, D.C., when the Supreme Court with *Berman v. Parker* decided that the city could take blighted property or property that they determined blighted, take it for a public use. But it was not until 1981 in the *Poletown Neighborhood Council v. The City of Detroit* that the Supreme Court really abridged our right to own property.

In that case General Motors wanted to expand their plant and there was some blighted property there, and some of the home owners did not want to vacate that property. So the city of Detroit determined that they would be better off financially by purchasing the property, allowing General Motors to expand their plant; and the Supreme Court agreed.

In 1984 they reaffirmed this in the case of *Hawaii Housing Authority v. Midkiff* in the United States Supreme Court. But in 2004, the Michigan Supreme Court backpeddled on the *Poletown* case. And in the County of Wayne *v. Hathcock*, the Michigan Supreme Court said, wait a minute, you cannot take private property, not for public use but for a developer’s use, and said, no, you cannot take this property because a developer wants to

get rich. And this was very important to me, and I will get to it in a minute. But on June 23, 2005, all this was changed with the *Kelo* case.

Now, why should I care about the *Kelo* case in this second congressional district? Because of one resident in the city of Norwood, Ohio. Norwood is a great city within the city of Cincinnati, an old German city. And those Germans knew how to build homes. And I know that because my dad, son of German immigrants, built homes in Norwood, Ohio, 70 years ago, and they are still standing today.

□ 2030

He knew how to build a brick structure, solid as a rock. Some of those homes now are ones he built, but some of those homes are right next to a very profitable shopping center.

A developer decided he would like to expand the shopping center. So he went in and told the City of Norwood that he wanted to use eminent domain to take those homes. He offered those people a lot of money, and most of them bought into it because they are getting twice, three times the price that they could get on the open market.

But there is one old man who is 82 years of age. He does not want to give up that home. He has lost his wife, but he raised their children in that home, and her smell is still inside those walls. It is more important for him to live inside those walls, regardless of what money you are offering him, because that is all he has got left in his old age is the memory of the woman he loved. And yet *Kelo* would say, too bad, too sad, this developer has the right to take your property, to take away your memory.

I am going to stand proud on Thursday and vote for this very important bill. I am going to vote for it not just for the citizens of Ohio or the citizens of the 2nd Congressional District but, most importantly, for that 82-year old man.

Mr. GINGREY. Mr. Speaker, I thank the gentlewoman from Ohio, and I thank her for bringing this right down on a personal level because this is personal and she described it to perfection.

I did not go into the details of what happened in New London, Connecticut. Maybe we will touch on that in just a minute. But the gentlewoman from Ohio (Mrs. SCHMIDT) is absolutely right. That shopping center mogul had the opportunity to offer a fair price, an attractive price, and ended up buying most of the property without exercising or some government entity on his behalf exercising the power of eminent domain.

That gentleman, that 82-year-old gentleman that the gentlewoman described so well, that felt the presence of his wife within the walls of that structure, that German structure, it is okay if he smells popcorn and doughnuts and sees youngsters going to the theater that has been developed all

around him. He has the right of property ownership to have that shrine of his, that little shrine right in the middle, and if they want another shot at it after he is gone and they want to deal with his heirs and his children, his grandchildren, then let him offer a price and buy the property.

Mr. Speaker, I want to point your attention to this first poster I have. I do not have many, but this is exactly what the gentlewoman was talking about.

It shows in the baby carriage homeowners and small businesses in the baby carriage. It shows the wheeler dealer with the lollipop. You cannot see it, but on that lollipop, the attraction of the lollipop, is the enticement or the power of eminent domain. And this little youngster on the other side is that shopping center mogul that the gentlewoman was talking about or maybe it is the pharmaceutical company that wanted to build this new research development center in the heart of New London, Connecticut. But not only did they want to develop the property for this research center, God knows we need research and I pay tribute to some of our pharmaceutical companies that bring us these wonder drugs, but they did not, in my opinion, the opinion of Suzette Kelo and the other homeowners that had 15 homes in and around that area, they did not have to take that as well. It was absolutely unnecessary.

And that is the whole issue here, this ability to take, the powerful, in conjunction with a local government jurisdiction, for this expanded purpose of public use or economic development and a higher tax base, somebody's God-given right, constitutional-given right to their own property.

We talked a little bit about the courts. I think at this time it is entirely fitting and appropriate to call on my good friend and colleague from the great State of Texas who knows a little bit about the courts. We are talking about municipal, State, superior, Federal, district, circuit and Supreme Court; and I yield to my colleague, the gentleman from Texas (Mr. POE).

Mr. POE. Mr. Speaker, I want to thank my friend from Georgia for yielding to me.

It is true, I spent a lot of time as a trial judge down in Texas, about 22 years, trying a whole lot of cases. I have had the fortune, once I came here to Congress, to meet individually with some of our members of the United States Supreme Court to discuss philosophies, certainly not to try to influence them on specific cases but to talk about philosophy, about the United States Constitution. I respect the position that they hold, but to me, this ruling is wrong. It is a misinterpretation of a simple provision in the United States Constitution.

The right of property in this country, sometimes we as Americans take the right of property for granted, but I think a little history is in order.

When people started coming to the United States from Europe and from England, back in those days, in the middle ages, the king or the queen owned all the land, and the king or queen would bequeath certain portions of the king's property to the nobles. The nobles would have extensive land grants, and then they would have serfs, regular folk, work that land. But the real people, the working folks, never owned the land they worked on. It belonged to the nobles and then off to the king.

So when people started coming to America, they started owning their own land. It was an individual right to own property; and, today, it is still, I think, the greatest American desire to own a piece of America, own the land. Usually, we get that with a house, but it is the greatest desire that most Americans have, and more Americans now own homes in this country than ever before, the right to property.

When our forefathers got together and started talking about this new government, this new country, they were influenced a lot by John Locke. John Locke took the position that all of us are born with certain rights because we are individuals. He said hundreds of years ago that man has the natural right to life and to liberty and to property, three rights that really all other rights come from, the right to life, liberty, or freedom as we call it now, and the right to property.

He influenced Thomas Jefferson so much that in the Declaration of Independence Thomas Jefferson wrote that we are given by our Creator certain rights, and he said they were life, liberty and the pursuit of happiness, which includes the right to property.

Then, of course, in the fifth amendment of the United States, in our Constitution, our forefathers reaffirmed the basic rights that John Locke talked about hundreds of years ago and said that no person shall be deprived of life, liberty or property without due process of law. They went on to say in the fifth amendment, nor shall private property be taken for public use without just compensation, a very simple statement, and it is not difficult to understand.

With all due respect to our northeastern law schools, I do not think you have to go there to figure out what the fifth amendment means. It is relatively simple.

You may recall in the movie "The Patriot" with Mel Gibson, that somewhat fictional approach to the American Revolution, how in one scene there General Cornwallis of the British empire was talking to Colonel Tarleton and telling him, if we retake America, you will have all of these lands bequeathed to you by the king, the concept being, in the eyes of the British, the land in America still belonged to the British empire. That is why the American Revolution was so important. It not only gave us life and liberty, it gave us the right to own property.

So property in this country is not just available to kings and to nobles, but it is available to the rest of us. This is why this fifth amendment was put in our Constitution, to give us the right of property.

The argument in the fifth amendment was the whole concept of compensation, the idea that government could take property only if it paid for it and paid the owner of the property. It was never misinterpreted until this summer to have the right of government, we are talking about city councils generally, to take your private property for private use. We are not talking about public use. We are talking about private use, take our property and make a parking mall, a parking lot out of it. No offense to Wal-Mart, but Wal-Mart pays a lot of taxes. They could take my house and much of my neighbors' houses, make a Wal-Mart out of it, and they get a whole lot more tax incentives or taxes from that business than they would from the property owners. So that is the motivation to seize private property, to hand it over to other private entities for money. Mr. Speaker, it boils down to money. Too often, it often always boils down to the money trail.

So the Bill of Rights certainly does not give, I think, government the authority to take private property for private use. The Constitution protects the rights of people. It does not give rights to government. Sometimes we think government has a lot of rights. Government, in our philosophy, only has the power we give it. Government is controlled by us, the people. The Constitution gives the rights to individuals, to people; and one of those rights in the fifth amendment is the sovereign right to own the land, to own a piece of America.

So the Supreme Court has misinterpreted this simple provision of the Constitution and allows city councils to take land, bulldoze our houses without our consent and build a parking lot or a shopping mall. Those citizens' property is safe because it is given this authority, and I am glad to see that this House is doing something about trying to prevent any funding to allow this misinterpretation by the Supreme Court to take place. Certainly, this decision slaps in the face of our heritage. It slaps in the face of our history, our philosophy and what America is all about.

Private ownership of property is vital to freedom. It is vital to liberty, and it is vital to certainly prosperity, and I think the Supreme Court has authorized land grabbing. They have sacrificed private property on the altar of greed. I think it is a big mistake. I think they are wrong. I think they violate the Constitution, and I think this is another example that the Supreme Court has lost its way in this decision and would hope that we can return to an understanding of the Constitution that was intended when it was written, an understanding that most Americans have.

I want to thank my friend from Georgia for allowing me to make some comments on this 5-4 decision by the Supreme Court, this error in judgment that the Supreme Court justices have made.

Mr. GINGREY. Mr. Speaker, I thank the gentleman from Texas, the judge, for sharing those thoughts with us.

I wanted to assure the judge, as he well knows, that we intend to do something about it this week, and this is what H.R. 4128 does. It protects private property rights, and we will get into that in just a few minutes.

Earlier we heard, Mr. Speaker, from our colleague from Ohio, and the gentlewoman talked about her father in fact who built some of these little German homes, he being of German ancestry. I am not sure that this next poster that I have got is a picture of a home in Ohio, for that matter even in New London, Connecticut, but, boy, it sure has a German look to me.

I have been to Germany a time or two, a lovely country, and I have seen some residences, some houses, free-standing houses, look a little bit like that. But look at that sign in the front yard, for sale, not by owner, but by government, and that is what we are talking about here. That is exactly what the gentlewoman from Ohio was describing in her district, and this is what the people, quite frankly, in New London, Connecticut, were fighting for.

□ 2045

As I said a little earlier, a developer who wants to put up a mega store, a big box, a new luxury five-star hotel or a four-star restaurant, or whatever they want to do, expand that shopping center I think we were hearing about earlier, let them do it and let them buy what property they can buy. If a price is offered that is attractive enough, you will have plenty of willing sellers.

And if you have one or two that are unwilling, for the reasons the gentlewoman was describing, I think she pointed out a gentleman 82 years old, been married 50 years, lost his wife, been in the home their whole married life, let some creative architect figure out a way to build around that home and still have an attractive development. It can be done, no question about that, Mr. Speaker.

This next poster, my colleagues, I think is the most important of the three. Because while I have emphasized that under this new expanded ruling of this activist court, this 5-4 decision, that a person's home, where they have raised their children and maybe even their grandchildren and lost their spouse, can be taken for this expanded so-called public use called economic development, bigger tax base, more bucks, or the small business I described, the little bakery.

But look at this, at this poster, this slide. You recognize it. That is a church. It could just as well be a mosque or a synagogue. A place of worship basically is what it is. Guess how

much taxes God pays to the local government? None. None.

So if we allow this decision to stand, there will be plenty of incentive to take a small business or a home where the property taxes are not enough. You know, if it were a bigger home and it had 5,000 square feet instead of 2,000 square feet, you could raise the tax base, and if it were a business. But it is paying some taxes. There is revenue, hopefully a profit. These small business owners are definitely taxed, and that tax goes to support the local community.

So if there is an incentive to take their property when there is a tax base, think about what the incentive is going to be for the local government to take God's property, where there is no tax base. It is tax free. We cannot allow that to happen, Mr. Speaker.

I know my colleagues on both sides of the aisle understand this. I know it from the fact that I brought a resolution to this House floor shortly after June 23, and we had Members on both sides of the aisle running to the voting machine to punch that green light expressing their outrage over this decision. So it is certainly not a partisan outrage. We are all upset about it.

This week we intend to do something about it. Indeed, to take God's property so we can put in some high-tax-paying business, restaurant, hotel for the purposes of increasing that tax base. Then you say, oh yes, but this is for the public good because we are going to have money to build more parks and recreation facilities. Indeed. Indeed.

My colleagues, I mentioned the facts in the New London case, and I will not go into that in any more detail, but listen to some of the arguments in that case. The residents, the petitioners, argued the condemnation by the City of New London constituted a violation of the fifth amendment's public use provision: Nor shall private property be taken for public use without just compensation. The judge from Texas talked about that. The gentlewoman from Ohio and the gentlewoman from Tennessee all talked about that.

The residents argued that economic development in and of itself does not constitute a public use. But the City of New London, the defendants in this case, argued that, hey, new jobs, increased tax revenue, that is qualification enough for taking as a public use and, therefore, this taking did not constitute a violation of the Fifth Amendment. They also argued that they were operating in accordance with Connecticut law.

Well, unfortunately, unfortunately, Mr. Speaker, the majority, five of our Supreme Court justices, Justice Stevens, Justice Kennedy, Justice Souter, Justice Ginsburg, and Justice Breyer, agreed with the City of New London, and the majority opinion focused on a broad, very broad interpretation of the term public use in the Fifth Amendment.

The opinion states that there is no way to distinguish between economic development from other types of public use development. The majority did not want to second-guess local government. They did not want the State and local government to say a particular development project is for public use. They are the only final arbiters of what is and what is not public use. I think I can say that it was a ridiculous majority opinion.

In the dissenting opinion, Justice O'Connor, Justice Renquist, God rest his soul, Justice Scalia, and Justice Thomas cite the majority opinion for what it is, an abandonment of over two centuries worth of precedent. In the dissenting opinion, Justice O'Connor stresses that the term public use is very explicit and that the Founders intended that the term public use needed to be there. Justice O'Connor writes that the majority's opinion nullifies the term public use, and now State and local government can justify any taking of land from one individual to another to give to another private party if it presents any economic benefit to the tax base or any other aspect of the community.

This, Mr. Speaker, cannot, shall not stand. And I want to take this opportunity tonight during the remaining time that we have to pay tribute to the sensible chairman, who has great wisdom and a lot of common sense, the chairman of the House Judiciary Committee, and I am talking about the gentleman from Wisconsin (Mr. SENSENBRENNER). He will bring to this floor, probably on Thursday of this week, H.R. 4128.

I would like to take this time to explain the provisions of that bill, because it is so very important. In this bill, it will say that Congress' power to condition the use of Federal funds will extend to prohibiting States and localities from receiving any Federal economic development funds for a specified period of time if such entities abuse their power of eminent domain, even if only State and local funds are used in that abuse of power.

H.R. 4128 also includes an express private right of action to make certain that those suffering injuries from a violation of the bill will be allowed access to a State or Federal Court to enforce its provisions. It also includes a fee-shifting provision, and listen to this, identical to those in other civil rights laws that allows a prevailing property owner attorney and expert fees as a part of the cost of bringing the litigation to enforce the bill's provision, as it should.

Under H.R. 4128, States and localities will have the clear opportunity, we are going to give them a last chance, to cure any violation before they lose any Federal economic development funds by either returning or replacing the improperly taken property. We are giving them a chance to make amends before the hammer falls.

H.R. 4128 also includes carefully crafted refinements of the definition of

economic development that specifically allows the types of takings that prior to Kelo had achieved a consensus as to their appropriateness. I want to mention some of these.

These exceptions include: Exceptions for the transfer of property to public ownership, to common carriers and public utilities, and for related things like pipelines. I mentioned that earlier.

The bill also makes reasonable exceptions for the taking of land that is being used in a way that constitutes an immediate threat to public health and safety. Of course. That is common sense.

The bill also makes exceptions for the merely incidental use of a public building by a private entity, such as a small privately run gift shop on the ground floor in a public hospital, or the acquisition of abandoned property, and for clearing defective chains of title in which no one can be said to really own the property in the first place.

A good bill, Mr. Speaker. I commend it to my colleagues. H.R. 4128 was introduced by the gentleman from Wisconsin on October 25 of this year. The bill was reported from the Judiciary Committee by a vote of 27 to 3 on October 27, 2005; and I can assure my colleagues that there are not 27 Republican Members of the Judiciary Committee. We have a majority, yes, but a narrow majority. So, clearly, this bill has strong, strong bipartisan support.

Mr. Speaker, in conclusion, this time that we have taken to talk tonight about this situation of the abuse of the power of eminent domain is so critical. It is so critical, and this bill is so important. We need balance. Certainly we need economic development. We need to develop blighted areas in our cities across these States, but we can do it in the right way. And we do not need to violate someone's constitutional and God-given rights of life, liberty and property.

I hope that we have in this time, Mr. Speaker, made a strong case for this. I know my colleagues who spoke earlier spoke well, spoke eloquently, and I am deeply appreciative of their spending a little of their evening tonight to discuss such an important issue. We look forward to Thursday. We look forward to the passage of H.R. 4128 to restore the natural and constitutional right to property.

30-SOMETHING WORKING GROUP

The SPEAKER pro tempore (Mr. CONAWAY). Under the Speaker's announced policy of January 4, 2005, the gentleman from Florida (Mr. MEEK) is recognized for 60 minutes as the designee of the minority leader.

Mr. MEEK of Florida. Mr. Speaker, once again, it is an honor to come before the House. We want to thank not only Democratic leadership but everyone within the Democratic Caucus for coming to this floor night after night in a fight for what is right in America and to make sure that we work as

much as we can in a bipartisan way to bring about the best of America. We have to fight for that position.

A lot has happened today, Mr. Speaker, in the Capitol. A lot has happened in the capital city in the last days. A lot will happen in the days to come. And it is how we move from this point on. If we are willing to travel the road of bipartisanship, carrying out oversight, making sure that our country is being told the truth, making sure that our troops are being told the truth, making sure that we as a Congress do what we are supposed to do constitutionally for the American people, then I believe that our future will be bright.

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Or there is another road that could be traveled and has been traveled upon quite a bit in the 109th Congress, the road of strict partisanship, abusing the rules of the House to extend votes even when the majority is not winning so that they can win even though the ideas may not be in the best interest, in many cases, of the reason why we came to the floor in the first place, i.e., the energy bill, the prescription drug bill, et cetera, et cetera, et cetera.

Also on that road is the road of cronyism, the culture of corruption and cronyism; and I think it is something that we need to disabuse ourselves of and move on the road of bipartisanship, move on the road of cooperation, move on the road of leveling with the American people.

So we do have a choice. There is a fork. Unfortunately, I would say that just picking up the paper, Mr. Speaker, just looking at the news, it looks like the majority has taken the fork of partisanship, endorsing the culture of corruption and cronyism. I want to make sure I am clear when I say culture of corruption and cronyism: A, condoning it, not calling Federal agencies, the executive branch, and some legislative branch operations or on the floor or before committee when we see this activity taking place.

Cronyism: a perfect example, Mr. Speaker, as I stand here now, Mr. Michael Brown still enjoys full salary at FEMA even after the debacle of Katrina, admitted by the administration, admitted by many Members of this House; but he still enjoys full salary of the taxpayers' dollars, \$148,000-and-change. The Secretary of the Department of Homeland Security has endorsed his extension by saying that we can learn from Michael Brown.

Mr. Speaker, I cannot wait until Secretary Brown comes before the Homeland Security Committee, because I have one question: What benefit to the taxpayers of the United States does Michael Brown have or possess as it relates to his experiences from Katrina? Did we not already have 60 days of a contract that was extended and then 30 days more extension of the contract? Mr. Speaker, I ask the colleagues of the House and level-minded Members of goodwill to please answer the De-

partment of Homeland Security, to save the taxpayers' money, and turn their back on cronyism in the Federal Government.

Today I am joined once again by the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) and also the gentleman from Ohio (Mr. RYAN); and we come to the floor, as the Members know, Mr. Speaker, week after week and now night after night, to not only bring to the Members but to the American people what we are doing and also what we are doing wrong. But it just seems like the wrong is overwhelming, and we feel it is our obligation to bring it to the attention of the Members and the American people.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, will the gentleman yield?

Mr. MEEK of Florida. I yield to the gentlewoman from Florida.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I thank the gentleman for yielding to me.

It is a pleasure to join him once again, and we appreciate Leader PELOSI's giving us this opportunity to talk about the issues that are important not just to our generation but to the citizens of this country who really need to hear both sides of the story, which they are most definitely not hearing from now.

And the gentleman mentioned the extension of Brownie's contract. I was struck by the fact when we learned that, and I think we just learned that last week, that his contract was extended ostensibly to glean more advice from him on what the Department of Homeland Security and FEMA should be doing in the aftermath of hurricanes. And we are still, unfortunately, in the middle of hurricane season. Our respective districts were just struck by Hurricane Wilma, and one of the things that we have learned in the aftermath of Wilma now is that it has really become clear that the Department of Homeland Security and FEMA have learned nothing from the aftermath of Katrina, the blown aftermath of Katrina, and then Rita and then from Rita to Wilma.

Communication failures, an inability of our cities to get generators to run their lift stations, sewage backing up in the streets, gaping holes in condominiums and mobile homes. It is pouring rain today in south Florida, which is pouring more misery on top of people who have already been through so much. And how does Secretary Chertoff respond? He extends Michael Brown's contract by 30 days. This is a person who President Bush ultimately was forced to admit was not able to handle a job the size of Hurricane Katrina and her aftermath, so much so that essentially he was forced out.

But now, because they are so married to the cronyism, the culture of corruption and cronyism and the lack of competence runs so deep and they are so unwilling to give it up and to admit that they are incorrect that they give him an extension and continue to pay