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# **Beyond Red and Blue**

How Twelve Political Philosophies Shape American  
Debates

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# Introduction

## Political Conflicts

Political conflicts exist when people disagree about what the state should do or permit. This book is about those conflicts and the twelve, not merely two, political orientations that guide our deliberations on such matters as these:

Darlene Miller was making decent money dancing in pasties and a G-string at the Kitty Kat Lounge in South Bend, Indiana, but she thought she could do better. Chief Justice William Rehnquist, not a known patron, explained: “Dancers are not paid an hourly wage, but work on commission. They receive a 100 percent commission on the first \$60 in drink sales during their performances. . . . Miller wishes to dance nude because she believes she would make more money doing so.”<sup>1</sup> But Indiana’s public indecency statute required dancers to wear pasties and a G-string when they danced.

The court of appeals ruled against the state, arguing “that nonobscene nude dancing performed for entertainment is expression protected by the First Amendment, and that the public indecency statute was an improper infringement of that expressive activity because its purpose was to prevent the message of eroticism and sexuality conveyed by the dancers.”<sup>2</sup>

The Supreme Court reversed the appeals court and held that Indiana was within its rights to outlaw nude dancing. The statute was not aimed specifically at nude dancing, an expressive activity, but at public nudity of all kinds, which has long been considered something bad in itself. Rehnquist concluded: “The statutory prohibition is not a means to some

greater end, but an end in itself.”<sup>3</sup> Justice Souter, agreeing to uphold the statute, noted Indiana’s contention that nude dancing leads to other evils. It “encourag[es] prostitution, increas[es] sexual assaults, and attract[s] other criminal activity.”<sup>4</sup> Justice Souter didn’t think the state should have to prove any of these claims.

Justice White, writing for the minority of four in a 5–4 decision, thought Indiana’s statute unconstitutional.

The purpose of forbidding people to appear nude in parks, beaches, hot dog stands, and like public places is to protect others from offense. But that could not possibly be the purpose of preventing nude dancing in theaters and barrooms since the viewers are exclusively consenting adults who pay money to see these dances.<sup>5</sup>

Then why does the state require pasties and a G-string? White concludes:

It is only because nude dancing performances may generate emotions and feelings of eroticism and sensuality among the spectators that the State seeks to regulate such expressive activity, apparently on the assumption that creating or emphasizing such thoughts and ideas in the minds of the spectators may lead to increased prostitution and the degradation of women. But generating thoughts, ideas, and emotions is the essence of communication.<sup>6</sup>

Preventing such communication violates the First Amendment, according to White and the other dissenters. The Court majority, by contrast, believed that the First Amendment does not cover Ms. Miller’s dancing, so pasties and a G-string must.

Should animal sacrifice in religious rituals be outlawed as cruelty to animals or protected as freedom of religion? United States Supreme Court Justice Kennedy explained, “Animals sacrificed in Santeria rituals include chickens, pigeons, doves, ducks, guinea pigs, goats, sheep, and turtles. The animals are killed by the cutting of the carotid arteries in the neck. The sacrificed animal is cooked and eaten, except after healing and death rituals.”<sup>7</sup> The religion couldn’t continue without animal sacrifice, because the initiation of new priests requires it.

Santeria expert Migene Gonzalez-Wippler emphasizes the difference between animal sacrifice and ordinary slaughter:

The first time I saw an animal sacrifice . . . , my knees and my teeth knocked together all through the ceremony. In an animal sacrifice there is something primeval, something deeply connected with the collective unconscious of the race. It is all so simple. A quick twist of the hand and the chicken’s head is gone, and a thick

stream of dark-red, hot blood is streaming from the severed neck. But it is not the beheading of the animals that is so earth-shaking. It is the giving of the blood, the acceptance that blood is the life, the spirit; and that it is being returned to the divine source from where it came.<sup>8</sup>

The phrase “washed in the blood of the chicken” may lack religious resonance for most Americans, but the Santeria seem to find it meaningful.

Opponents of animal sacrifice claim that the killings are more painful to animals than ordinary slaughter,<sup>9</sup> and that animals sacrificed for healing and death rituals die for no good reason because they’re not eaten.<sup>10</sup> This is cruelty to animals, they say.

Kerrigan and Mock had been living together for twelve years and believed it was about time they got married. The thirteen-year-old babysitter of their adopted Guatemalan twin boys, Fernando and Carlos, assumed they were married, but Connecticut law forbids Beth Kerrigan to marry Jody Mock because both are women. Connecticut’s civil union law for gay couples defines marriage as solely between a man and a woman.<sup>11</sup> Kerrigan and Mock sued Connecticut for the right to marry. Most of Connecticut’s registered voters, however, thought that civil union is enough. Just over 50 percent opposed gay marriage in polls taken in 2005 and 2006.

Many conservative Christians oppose both civil union and gay marriage because they believe homosexuality conflicts with the laws of God and nature. Brian Racer, pastor of the Open Door Bible Church at the Arundel Mills Mall in Maryland, explained to Russell Shorto of the *New York Times Magazine*:

It’s unfortunate that homosexuals have taken the moniker “gay,” because their lifestyle and its consequences are anything but. Look what has happened in the decades since the sexual revolution and acceptance of the gay lifestyle as normal. Viruses have mutated, S.T.D.’s have spread. It shows that when we try to change the natural course of things, what comes out of that is not joy or gayness.<sup>12</sup>

Bryan Simonaire, another anti-gay-marriage activist added: “Once you start this, you could have a 45-year-old man wanting to marry a 9-year-old boy. That could be O.K. in 20 years. That’s what you get with relative moral truth. Whereas with absolute moral truth, what was O.K. 50 years ago will still be O.K. 20 years from now.”<sup>13</sup> From this perspective, we can’t be certain that slavery was wrong two hundred years ago without absolute values.

But the inability to marry can jeopardize family life, as Jeffrey Busch and Stephen Davis, partners for sixteen years, found while returning home from Canada. They were traveling with their three-year-old son Elijah when Canadian officials noticed that Elijah's birth certificate listed his mother as "unknown." The official said, "Here you are, two men with a child, how do we know it's not a kidnapping." It shook the couple up. Busch said, "If we were a married couple, I could say, 'I'm Eli's dad and this is my spouse.' But I couldn't, so six weeks after that happened, we decided to enter into the lawsuit to secure our rights."<sup>14</sup> The lawsuit, which claimed that Connecticut's constitution implies a right to same-sex marriage, included Kerrigan and Mock among its plaintiffs.

James Canter is a cancer survivor who used marijuana for medical reasons, a practice later approved by California voters in 1996. Canter writes:

Doctors and patients should decide what medicines are best. Ten years ago, I nearly died from testicular cancer that spread into my lungs. Chemotherapy made me sick and nauseous. The standard drugs, like Marinol, didn't help. Marijuana blocked the nausea. As a result, I was able to continue the chemotherapy treatments. Today I've beaten the cancer, and no longer smoke marijuana. I credit marijuana as part of the treatment that saved my life.<sup>15</sup>

But federal law, which pre-empts state law, lists marijuana as too dangerous for medical use. Accordingly, "the federal government stopped supplying marijuana to patients in 1991. Now it tells patients to take Marinol, a synthetic substitute . . . that can cost \$30,000 a year and is often less reliable and less effective."<sup>16</sup> Ed Rosenthal, who grew marijuana in Oakland for medical purposes under state license, was convicted in January 2003 of a federal drug violation. Jurors at his trial were not told that he was licensed by the state.

The federal government worries that if marijuana can be grown legally for medical purposes, much will be diverted for recreation, which can lead to increased drug abuse. Others favor legalizing marijuana for recreation.

State responses to sexual harassment (or is it free speech?) can be controversial. Freelance writer Sarah Glazer describes one such case:

Peggy Kimzey, a Wal-Mart shipping clerk in Warsaw, Mo., was bending over a package when she heard the store manager and another employee snickering be-

hind her. Kimzey stood up and asked what they were doing. “Well,” the manager smirked, “I just found someplace to put my screwdriver.” When Kimzey asked him to stop crude remarks, he replied, “You don’t know, you might like it.”<sup>17</sup>

In another case, Lois Robinson sued her bosses at a shipyard because they displayed a picture calendar featuring female models who were fully or partly nude. In nine of the pictures the models’ breasts were bare and in two the pubic areas were visible. Robinson was told by a fellow employee, “You rate about an 8 or 9 on a scale of 10.”<sup>18</sup> Should the state stop such behavior and require compensation to women who were subjected to it? Most female employees at the shipyard said they didn’t mind, but they may have been trying to keep their jobs or avoid worse harassment. Most men didn’t find the pictures or comments offensive; just free speech of the jocular variety.

In a third case, a graduate student at the University of Nebraska kept on his office desk a small photo of his wife at the beach in a bikini. Two psychology graduate students who shared the office claimed the photo display constituted sexual harassment by creating a hostile work environment for them. The department head agreed.<sup>19</sup>

### Political Pluralism and Ideological Coalitions

How do Americans address such issues as these? One way is through political campaigns and elections, which determine who will legislate on such matters and, often indirectly, who will judge cases brought to court. The United States has what is basically a two-party political system, because most people think that casting a ballot for a third-party candidate, who seldom has a real chance of winning, wastes their vote.

The predominance of two parties leads many people to believe that Americans are divided ideologically into just two camps—Republican and Democratic, right and left, conservative and liberal, red and blue. There’s a culture war between the two camps. Republicans are from Mars; Democrats are from Canada. When Republicans and Democrats or conservatives and liberals join together, it is said that politics makes strange bedfellows. Political interests have overcome ideological opposition. These are misperceptions that this book aims to correct.

In the United States today, I claim, arguments about hot-button political issues appeal to at least twelve different political philosophies, not just two. (There may be more than twelve, but I have distilled only

twelve from analyses of current debates.) By “political philosophies,” I mean organized views about why states are needed and what their goals and functions should be. Regarding hot-button political issues, the most important differences among political philosophies concern divergent views about the state’s proper goals and functions. These are matters of values.

Most individuals use at least a half-dozen philosophies in their own political thinking, because they believe the state should promote several goals and perform various functions, whereas each philosophy emphasizes only one or a few major values.

The use of twelve different philosophies in our political discourse clears the way for principled coalitions that reflect convergences of ideologies, not of interests. People with different philosophical commitments come together on an issue when all have reasons within their own, but often different, schemes of values to support the same law or public policy. Political success often follows developing and marketing a position that takes advantage of such ideological convergence.

Ideological diversity is apparent in the major political parties, making each an ideological coalition. Consider the Republicans in 2008. They were divided on several issues, reflecting a diversity of political philosophies in their ranks. Concerning amnesty (or its equivalent) for illegal immigrants, for example, free-market conservatives favored expanding the workforce (and so the economy) with industrious immigrants, while some social conservatives balked at rewarding people for illegal behavior. Regarding evolution, some theocrats among Republicans wanted to require teaching Intelligent Design along with evolutionary theory in biology classes, whereas other Republicans—such as free-market conservatives who want the most educated workforce possible—favored science without religion. On civil liberties, some libertarian Republicans, who champion low taxes and a small government, were concerned that the Patriot Act deprived Americans of too much freedom, while other Republicans supported a get-tough attitude toward potential, suspected, and potentially suspected terrorists and were willing to sacrifice some traditional civil liberties in that cause.

Democrats were internally divided as well. On immigration, for example, cosmopolitan and multicultural Democrats favored policies that fostered increased immigration, with cosmopolitans questioning the ulti-



mate importance of national borders and multiculturalists savoring the cultural diversity that immigrants bring. But contractarians (whose views are explained in chapter 1 and later) worried that immigrants depress the wages of poor Americans. They were wary of policies that encouraged immigration. They were joined by some environmentalists who noted that the American lifestyle is more environmentally damaging than lifestyles in the immigrants' countries of origin. The Earth would be healthier with fewer people achieving the American dream. There was disagreement in the Sierra Club over this issue in the 1990s.

Such ideological diversity within each party allows for ideology-based coalitions both within and between the parties. Suppose, for example, that you favor school vouchers—government vouchers given to parents who can use them either to support public schools or to send their children to private (including religion-based parochial) schools. Such vouchers make private education more affordable to a larger range of families. To build a political movement or candidacy on this issue, it's helpful to know that current support for school vouchers comes primarily from three different political philosophies. Theocrats, who want laws and public policies to reflect the views of their particular religion, favor vouchers because vouchers help families within their religious communities send their children to schools that teach their religion. Free-market conservatives, by contrast, favor vouchers because they believe that efficiency requires competition and vouchers will enable private education to be more competitive with public education. Public schools, private schools, and taxpayers will all benefit from such competition, they think. Social conservatives favor vouchers because they allow religion to be taught in government-funded schools, and they think religion is the firmest foundation for the moral development that students need to become productive, law-abiding citizens. Social conservatives differ from theocrats, however, because theocrats want schools that promote their particular religion (or ones they consider very similar), whereas social conservatives are happy with any world religion that teaches sound morals. Some theocrats in the United States would oppose vouchers being used for Hindu or Islamic schools, whereas social conservatives would not, so long as standard morality is being taught in that religious context.

Voucher supporters are largely Republican. Many Democrats are wary of vouchers, because contractarians among them—who think that the

government should help the poorest citizens—worry that current voucher proposals will harm the poor. Such systems give parents a voucher worth less than half the cost of education and therefore benefit most the children in families that can afford to supplement the voucher with additional money. As children from these middle- and lower-middle-class families leave public schools for private ones, the quality of public schools is likely to decline because a smaller percentage of the politically active population will have a personal stake in public education, leading to underfunding. Children of the poorest families will be stuck in these inferior schools.

With this background, a candidate or citizen group that favors vouchers will know that it can garner support across party lines by neutralizing contractarian objections. One way to do this is to support vouchers worth the full cost of education and limiting (e.g., to 10 percent over that amount) what parents or other organizations can add from non-government funds. Schools accepting vouchers would also be required to enroll students on the same basis as public schools, including students with a history of disruptive behavior. All students would be subject to the same rules of expulsion as in public school. Such vouchers might promote efficiency, owing to competition, while actually helping the poorest of the poor because they, too, would benefit from that efficiency.

On another matter, consider the sale of meat and dairy products from cloned animals. Free-market conservatives (mostly Republicans) may see in such products a business opportunity, claiming that so long as the products are as healthful as their more natural counterparts, the government should not restrict their production and sale. Some theocrats, by contrast, although they are also mostly Republicans, oppose cloning of all kinds as unwarranted tampering with what they perceive to be God's plan for nature. Cloning strikes them as people trying to play God.

Such theocrats would do well to recognize that many environmentalists (mostly Democrats) embrace a natural law philosophy, which holds that nature is sacred, or nearly sacred. They think of nature as a beautiful system, too complex for people fully to understand, that should be respected as a mother because it produced human beings through evolution. Many theocrats disagree with important aspects of this environmentalist view. They oppose anything that smacks of nature worship; they think it's essential to acknowledge that God created nature; and they disbelieve that evolution explains the emergence of human beings. In the light of these

differences, it might be hard for them to see that environmentalists are their potential allies on agricultural cloning and many other issues. Theocrats have in common with environmentalists the view that people should be wary of using their technological prowess to alter nature in radical ways. Banding together, theocrats and environmentalists should try to change the conversation from one about health and safety (assuming that cloned products are safe) to one about human limitations, the inexhaustible wonders of the natural world, and due respect for religious and quasi-religious qualms about manipulating nature.

These are just two examples of how awareness of the twelve political philosophies currently used by Americans and explained in this book can help politicians and political activists refine proposals, find allies, and market their views. In addition, this book can help journalists, concerned citizens, students, scholars, and policymakers better understand politics and elections. The twelve-part division of political thought explained in this book can illuminate the bases of coalitions and the underlying strategies of candidates and parties.

### Your Own Political Identity

Finally, these twelve political philosophies can help most people identify and critically assess their own political leanings and priorities. You can get an inkling of your own political identity by looking at the main values featured in each philosophy:

- *Theocracy*—the state should promote the values of a particular religion.
- *Natural law*—state laws should reflect what is natural for human beings and consistent with the proper role of humanity on Earth.
- *Libertarianism*—the state should limit itself to fostering maximum individual liberty while protecting human life and property rights.
- *Utilitarianism*—the state should promote the greatest happiness or preference satisfaction in society.
- *Free-market conservatism*—the state should foster maximum economic growth.
- *Contractarianism*—the state should protect individual liberty and promote economic growth while maximizing benefits to the poorest and most vulnerable members of society.

- *Social conservatism*—the state should preserve and protect social, political, and religious traditions that have served well in the past.
- *Feminism*—the state should ensure that no person is disadvantaged for being female.
- *Multiculturalism*—the state should recognize that no one culture holds all the keys to human flourishing and should therefore tolerate or promote cultural diversity.
- *Environmentalism*—the state should protect people and other species from unnecessary environmental degradation.
- *Communitarianism*—the state should foster bonds of community over tendencies to excessive individualism.
- *Cosmopolitanism*—the state should support certain universal values and norms.

Few people, if any, are moved by the values central to all twelve philosophies. Some people don't care at all if our country contains the cultural diversity that multiculturalists favor. Many individualists have no sympathy with communitarian critiques of individualism and individual rights. Some thinkers, convinced that we can improve on conditions of ages gone by, have no interest in the traditions that social conservatives want to preserve. Those who believe that the international world is so dangerous that good nations must combat evil terrorists "no holds barred" reject cosmopolitanism's universal norms of humane treatment (for terrorists). One way of locating yourself on the political landscape is to identify the values you reject.

Another way is to identify the trade-offs that you find reasonable. Almost all of us experience political ambivalence from time to time, because we respect and want to promote a plurality of values in circumstances where trade-offs are required. For example, just about everyone wants the country to be secure from attack. But most people also respect the principles, championed most forcefully by libertarians, of individual privacy and freedom from government control. Security and liberty are in tension in this context, because the greater the scope for privacy and freedom, the greater the chance for a terrorist to evade detection and attack our country. Where security and liberty are concerned, we must often trade some of one to get more of the other. People differ on how much liberty to sacrifice for more security. Our political identities are revealed to ourselves and others largely by the trade-offs that we find acceptable.

Finding out which values you reject completely and which trade-offs you find reasonable requires delving into specific areas of political controversy. This book features debates on fourteen important contemporary issues: (1) land condemnation for economic growth; (2) letting (or causing) people such as Terri Schiavo to die by removing nutrition and hydration; (3) physician-assisted suicide; (4) the War on Drugs; (5) the War on Terrorism; (6) affirmative action; (7) pornography, child pornography, and the Internet; (8) abortion; (9) homosexuality, same-sex marriage, and polygamy; (10) genetic engineering and designer children; (11) wages and taxes; (12) health care in America; (13) immigration; and (14) globalization.

Some of these matters are related to one another, posing the challenge of creating a unified political philosophy for oneself that includes responses to each issue consistent with responses to related issues. For example, one problem with health care in America is insufficient access to health care among at least forty million Americans. This problem is related to wages and taxes, because other industrial countries achieve universal health care coverage by having higher taxes than we do and using tax money to fund health care. Alternatively, greater health care coverage might be achieved with higher wages, enabling more people to afford private health insurance. So, health care issues are related to both taxes and wages. Wage issues, in turn, are related to immigration and globalization, because both immigration and globalization may reduce the pay of low-wage workers.

Several issues concern limits on individual freedom or self-determination. The government's forced purchase of one's property for economic development pits individual freedom against public welfare. People who favor individual freedom in this context may or may not think that people should be free to have nutrition and hydration removed when they are severely disabled or to have a (willing) physician assist them when they want to commit suicide. Developing a political philosophy involves decisions about when and why individual freedom is overriding in some contexts but not in others. Such decisions affect views about what kinds of drugs, literature, and film should be legally available for purchase, and what limitations should be placed on legal marriage.

Each of the book's fourteen chapters centers on one area of debate, leaving to readers the task of integrating their responses across related

areas. Although these fourteen debates are representative of current political disagreements, they are certainly not exhaustive. The same is true of the arguments given on various sides of each debate. But the debates and arguments do reveal enough about the twelve underlying political philosophies and the choices that we make as individuals and communities to enable people interested or active in politics to gain additional insights into their own political values. It can also help improve understanding of the American political drama and point the way toward increased political effectiveness.

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## No Strange Bedfellows

### There Are Twelve Beds

What would you think and how would you feel if people told you that they were buying your house, even though you had no intention of selling? Suppose their justification was that their economic use of the property would be better than yours? This is the situation faced by Susette Kelo and her neighbors in New London, Connecticut, leading to a conflict that illustrates the complexity of American political thought. No division between right and left or red and blue, can explain the coalitions that formed around the issue of land condemnation for economic development. It was not that politics made strange bedfellows. All members of both coalitions had reasons grounded in their own political philosophies for the positions they took.

In 2001, Ms. Kelo, a straight-talking woman of medium height and build with red hair and blue eyes, the mother of five sons, explained her distress:

I grew up in southeastern Connecticut and bought my house at 8 East St. in New London in 1997 because it was just what I was looking for; great view of the water, affordable price, nice neighbors. I enjoyed fixing it up and making it a home for my family. I invested a lot of time and energy in this house and in my neighborhood. I worked to clean up the neighborhood.

Neighbors have told me that the place never looked so good.

In 1998, a real estate agent came by and made me an offer on the house. I explained to her that I was not interested in selling, but she said that my home would be taken by eminent domain if I refused to sell. She told me stories of her relatives who had lost their homes to eminent domain. Her advice? Give up. The government always wins.<sup>1</sup>

In 2005, forty-seven-year-old Susette Kelo was still resisting the sale of her home, a pink nineteenth-century cottage in the Fort Trumbull section

of New London. By then, she had been made an offer she couldn't refuse: not by gangsters, but by the New London Development Corporation (NLDP), a nonprofit authorized by the city of New London to develop the Fort Trumbull area. The home was not run down, a health hazard, or an eyesore (if you like pink). Avi Salzman wrote in the *New York Times*: "'Blighted' is not a word anyone would use for her house, with its happy family photographs hung on the walls, its stained-glass chandelier in the dining room and cozy moccasins in a basket at the foot of the staircase. Ms. Kelo is a nurse, the kind of professional that many cities hope to attract."<sup>2</sup> She shared the house with her husband Tim.

Kelo fought the city all the way to the Supreme Court, supported by the right-wing Cato Institute and the libertarian Institute for Justice as well as the left-leaning National Association for the Advancement of Colored People (NAACP), the American Civil Liberties Union (ACLU), and the American Association of Retired People (AARP). On the other side were the City of New London and thirty-one state municipal leagues, which were joined by many (usually) right-leaning real estate developers and left-leaning environmentalists.

Is this a case of politics making strange bedfellows? It all depends on how many beds you think there are. People often assume—incorrectly, in my opinion—that there are just two beds, two basic political philosophies, two views about the proper role of government: one for Republicans and the other for Democrats. Republicans are red, conservative, and right-wing. Democrats are blue, liberal, and left-wing.

According to these stereotypes, right-wing conservative Republicans favor strong property rights, low taxes, free enterprise, small government, self-reliance, and traditional religious and family values. This philosophy appeals most to non-minority, business-oriented, religious people in traditional families. Left-wing liberal Democrats, by contrast, are supposed to favor government regulation of business, high taxes, and state-supported programs for the poor, while they question or reject traditional religious and family values. This view attracts mostly poor people, minority members, secularists, environmentalists, elitist professionals, and feminists, many in non-traditional relationships. Between these two poles are moderate Republicans and Democrats who favor compromise with the other side, but who are still guided primarily by the belief system of hard-liners.

These stereotypes are wrong. Although we have only two major political parties, twelve political philosophies shape American debates on such



topics as pornography, religious freedom, same-sex marriage, drug control, sexual harassment, property rights and more. Coalitions on these matters include strange bedfellows only if there are just two beds, rather than twelve. Susette Kelo's fight to keep her home illustrates the multiple-bed approach that this book investigates in depth.

### Offers They Couldn't Refuse

The story began, Supreme Court Justice John Paul Stevens wrote in his majority opinion in *Kelo v. New London* (2005), with New London falling on hard economic times and the city government trying to stage a comeback. In 1990, the state designated the city a "distressed municipality." "In 1996," Justice Stevens explained, "the Federal Government closed the Naval Undersea Warfare Center, which had been located in the Fort Trumbull area of the City and had employed over 1,500 people. In 1998, the City's unemployment rate was nearly double that of the State, and its population of just under 24,000 residents was at its lowest since 1920."<sup>3</sup>

That is when redevelopment plans took shape. The state authorized bond issues for planning activities in the Fort Trumbull area and for establishment of Fort Trumbull State Park. In February 1998, "the pharmaceutical company Pfizer Inc. announced that it would build a \$300 million research facility on a site immediately adjacent to Fort Trumbull; local planners hoped that Pfizer would draw new business to the area, thereby serving as a catalyst to the area's rejuvenation."<sup>4</sup>

Because the area is a peninsula jutting out into the Thames River, it affords beautiful views of the water and of ferry boats passing by. So the New London Development Corporation (NLDC) planned for "a waterfront conference hotel at the center of a 'small urban village' that will include restaurants and shopping," a marina, a river walk, and about "80 new residences organized into an urban neighborhood and linked by public walkway to the remainder of the development, including the state park." It all sounds very up-market: designer shops, expensive coffee, and beautiful views for beautiful people. The rest of the land was to be used for "office and retail space, parking, and water-dependent commercial uses."<sup>5</sup>

If you are a free-market conservative, this makes perfect sense. In addition to personal and national security, which all mainstream philosophies

expect of the state, *free-market conservatism* emphasizes the importance of fostering economic growth. That is why we have the Council of Economic Advisors, the Federal Reserve, the Securities and Exchange Commission, the Anti-trust Division of the Justice Department, laws that limit liabilities in corporate investments, education policies and expenditures to train our workforce to be internationally competitive, and much more. All of these institutions and measures are designed to boost the economy. We value material prosperity and expect the government to help secure it. Without a growing economy, people lose their jobs. As Justice Stevens put it in his *Kelo* opinion, “Promoting economic development is a traditional and long accepted function of government.” Free-market conservatives place this function (after security) at the center of what they expect of government. The bottom line of their political philosophy is state promotion of economic growth. So, they applauded efforts in New London to improve the local economy.

But there is another side to the story. What about the property rights of people forced to sell their homes to make way for this economic development? Wilhelmina Dery, for example, one of Susette Kelo’s neighbors and another plaintiff in the case, lived in a Fort Trumbull–area house that her relatives bought in 1901. She was born in that house and lived there all her eighty-seven years. Her husband, Charles, moved in when they began their marriage of more than sixty years. Their son Matt and his family lived next door. Iver Peterson reported in the *New York Times*, “On a good day, Matt Dery can see Fisher Island, off the tip of Long Island, from his kitchen window here at the mouth of the Thames River. The view is one of the things he loves about his home, and one reason he wants to stay.”<sup>6</sup> His parents wanted to stay because it was their home. Matt Dery said, “We get this all the time. ‘How much did they offer? What will it take?’ My parents don’t want to wake up rich tomorrow, they just want to wake up in their own house.”<sup>7</sup>

Others wanted to stay because they felt entitled to reap the rewards of time, work, and money invested in their property. News Radio WINS reported the situation of Bill Von Winkle, “a former deli owner who lives in the neighborhood and owns two other rental homes.” Von Winkle is quick to point out: “They were not inherited. They were not a gift. I sold sandwiches to buy these properties. It took 21 years.” Eventually he owned them mortgage-free. But the city, having allocated only \$1.6 mil-

lion to pay for all fifteen properties of holdout landowners, planned to pay Von Winkle \$638,000 for three properties that served as home and additionally yielded \$120,000 per year in rent. It wasn't close to fair, Von Winkle claimed.<sup>8</sup>

*Libertarianism* is a political philosophy that supports these hold-out homeowners. The bottom line for libertarians (besides security) is individual liberty. People should be able to do whatever they want in their personal lives and with their property, so long as they don't harm others. The government exists primarily to protect such freedom for everyone. It should therefore be small. That government is best which governs least. So, if someone wants to sell her property, fine. If she doesn't, that's fine too. The government should seldom force people to sell their property.

Here we have two different political philosophies—free-market conservatism and libertarianism. One promotes economic development for general prosperity and the creation of jobs; the other promotes a small government that protects individual liberty. Different as they are, they often support similar policies, such as low taxes and little government regulation of business. Free-market conservatives believe these policies generally further economic growth, and libertarians think an appropriately small government needs little tax money and should mind its own business.

But the two views clash when the individual rights prized by libertarians stand in the way of the economic progress favored by free-market conservatives. Most of us are pulled in both directions. Who among us can't sympathize with the plight of Susette Kelo and the other plaintiffs? Yet we want the state to foster economic growth to help the unemployed and underemployed earn a living.

### **The Takings Clause**

One path of compromise in this conflict is to allow the government to buy property at market prices from unwilling sellers, but only for certain purposes. For example, national defense may require waterfront property for shipyards to build naval vessels. National defense and modern life require roads so that the military and the public can get where they need to go in a timely fashion. Large cities need parks for public recreation and to

combat overcrowding that can endanger public health. Some libertarians may object to forced sales for some of these purposes, but most accept a provision in the Fifth Amendment to the Constitution that no “private property shall be taken for public use without just compensation.” This is known as the Takings Clause. It has two elements: public use and just compensation. Both elements were at issue in *Kelo v. New London*, but the public use requirement received most attention.

National defense, public roads, and public parks are public goods. Everyone has access to them. They are owned by the public and exist for the public, so they clearly meet the “public use” requirement of the Takings Clause. But New London had no intention of allowing the public to enjoy the land that it was taking from those unwilling to sell their Fort Trumbull homes. That land was destined for private apartments and condos, according to NLDC lawyer Ed O’Connell. Pfizer was moving in with new jobs.

We need to get housing at the upper end, for people like the Pfizer employees. They are the professionals, they are the ones with the expertise and the leadership qualities to remake the city—the young urban professionals who will invest in New London, put their kids in school, and think of this as a place to stay for 20 or 30 years.<sup>9</sup>

In other words, the government was forcing some people to sell their property so that other private individuals could eventually buy it, after developers had worked their profit-making magic. What happened to the public use requirement of the Takings Clause?

It was hit by trains in the nineteenth century. When railroads superseded horse and buggy as the main method of intercity transport, national defense and modern life required railroads as much as they previously required roads, but railroads are owned by private corporations. Yet they required land taken in eminent domain as much as earlier roads to get around the problem of property owners along a projected route refusing to sell. The Supreme Court obligingly altered the meaning of “public use” to allow land taken in eminent domain to become private property. However, there was still a public use requirement. The privately owned railroads provided a service to the public; they were common carriers. They could not refuse passengers willing to pay for tickets. So, in theory, the public still had use of the land taken in eminent domain.

This is still a far cry from the situation in New London. The fancy restaurants and shops the city wanted would be open to the overpaying

public, but the condos of the “young urban professionals” the city hoped would have “the expertise and the leadership qualities to remake the city” would not use their homes to serve the public for a fee. They might be prosecuted if they tried. In the court’s more dignified phrasing: “This is not a case in which the City is planning to open the condemned land—at least not in its entirety—to use by the general public. Nor will the private lessees of the land in any sense be required to operate like common carriers, making their services available to all comers.”<sup>10</sup> So how is the public use requirement of the Takings Clause being met?

The notion of public use was broadened in a 1954 Supreme Court decision upholding a slum clearance plan in Washington, D.C. Congress had determined in 1945 that “owing to technological and sociological changes, obsolete lay-out, and other factors, conditions existing in the District of Columbia with respect to substandard housing and blighted areas, including the use of buildings in alleys as dwellings for human habitations, are injurious to the public health, safety, morals, and welfare.”<sup>11</sup> Most people want and expect the government to promote health and safety, so the law seemed uncontroversial at first. However, the resulting comprehensive plan for redevelopment required tearing down a department store owned by the plaintiff, Mr. Berman, who complained that his store wasn’t housing, so it couldn’t be substandard housing, wasn’t blighted, and was in no way “injurious to the public health, safety, morals, and welfare” of the District. He objected also to the lack of public use of his property in the comprehensive plan. After requiring him to sell his store to the District, private developers would tear it down and replace it with privately owned houses and shops.

Supreme Court Justice William O. Douglas was not persuaded by Berman’s arguments. He wrote for the court:

Miserable and disreputable housing conditions may do more than spread disease and crime and immorality. They may also suffocate the spirit by reducing people who live there to the status of cattle. They may indeed make living an almost insufferable burden. . . . The misery of housing may despoil a community as an open sewer may ruin a river.

The concept of public welfare is broad and inclusive. . . . It is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled.<sup>12</sup>

Mr. Berman’s property was in good shape, but had to be sold anyway, according to Justice Douglas, because “The entire area needed redesigning

so that a balanced, integrated plan could be developed for the region, including not only new homes but also schools, churches, parks, streets, and shopping centers.”<sup>13</sup>

In sum, the Supreme Court expanded the meaning of “public use” over the years. At the start it meant (1) the public owns it, as with a park or road. Then it expanded to include (2) the public has use of it, as with a railroad. Then it expanded again to include (3) the public benefits through removal of something harmful and its replacement with something beneficial. Notice in this three-step process the gradual erosion of property rights and the increase of government power. If you like this, it’s progress; if you don’t, it’s a slide down a dangerous slippery slope. Political conflicts often include fear of slippery slopes, sometimes on both sides of the issue.

### Decision and Dissent in *Kelo v. New London*

For better or worse, on June 23, 2005, the 5–4 majority in *Kelo v. New London* advanced the progress or slide of earlier courts. Justice Stevens wrote for the majority:

Two polar propositions are perfectly clear. On the one hand, it has long been accepted that the sovereign may not take the property of *A* for the sole purpose of transferring it to another private party *B*, even though *A* is paid just compensation. On the other hand, it is equally clear that a State may transfer property from one private party to another if future “use by the public” is the purpose of the taking; the condemnation of land for a railroad with common carrier duties is a familiar example.<sup>14</sup>

The issue is whether economic development constitutes “use by the public.” As noted earlier, Stevens responds with political philosophy: “Promoting economic development is a traditional and long accepted function of government.”<sup>15</sup> Economic development was a major reason for the government to take land for roads, railroads, and urban renewal, so it justifies New London taking land from unwilling sellers. Susette Kelo and the other plaintiffs must sell because, “As with other exercises in urban planning and development, the City is endeavoring to coordinate a variety of commercial, residential, and recreational uses of the land, with the hope that they will form a whole that is greater than the sum of its parts.”<sup>16</sup> Plaintiffs’ continued residence would mess up the overall plan.

Justice O'Connor wrote for the minority of four who objected to this further erosion of property rights. She pointed out that when Mr. Berman's store was taken in eminent domain in Washington, D.C., in the 1950s, "the neighborhood had so deteriorated that, for example, 64.3% of its dwellings were beyond repair. . . . Congress had determined that the neighborhood had become 'injurious to the public health, safety, morals, and welfare.'"<sup>17</sup> Berman's store was not blighted, but the neighborhood could not be cleaned up without its removal. In sum, "the relevant legislative body had found that eliminating the existing property use was necessary to remedy the harm."<sup>18</sup>

New London is not blighted, O'Connor noted. The plaintiffs' land is being taken in eminent domain not to eliminate harm, but to secure some benefits to the public, "such as increased tax revenue, more jobs, maybe even aesthetic pleasure."<sup>19</sup> O'Connor would allow takings needed to combat harm, but not those needed to confer benefits.

However, the distinction between combating harm and promoting good is sometimes elusive. Although there are clear cases—*theft harms people and free education benefits them*—many cases are harder to classify. Forcing Susette Kelo and her neighbors to sell their property to spur economic development and create jobs may seem calculated to confer a benefit on the community through increased tax revenue and improved job prospects. But people out of work could look at the situation differently. They could see plaintiffs' unwillingness to sell, resulting in stunted economic growth and their own continued unemployment, as harming them. In such cases, judging whether the state is averting harm or conferring benefits is like deciding whether the glass is half empty or half full. No answer seems uniquely correct.

Justice Kennedy suggested at oral argument in February 2005 that the distinction between averting harm in Washington, D.C., and conferring benefits in New London will be erased by time. He noted that as things were going, New London would be blighted instead of just depressed in five years. He seemed reluctant to delay action until the city was in worse shape.<sup>20</sup> Having thus expanded the doctrine of pre-emption from foreign policy to slum clearance, he ultimately joined Stevens in the majority.

But O'Connor had another argument in principle against taking land for economic development. Such a policy makes everyone's property rights insecure, she claimed. There is no end of economic development. In our

society, we favor continued, rapid economic growth. The alternative is usually unemployment for many people. So, she reasoned, if we allow takings for economic development, “any single-family home . . . might be razed to make way for an apartment building, or any church . . . might be replaced with a retail store, or any small business . . . might be more lucrative if it were instead part of a national franchise.”<sup>21</sup> In all of these cases, general economic prosperity and local property taxes would increase. No one’s property is safe when others could put it to more lucrative use.

In addition, O’Connor noted:

The fallout from this decision will not be random. The beneficiaries are likely to be those 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 this perverse result.<sup>22</sup>

Justice Thomas backed O’Connor up with facts and figures, which he quoted from scholarly studies of urban renewal.

“Of all the families displaced by urban renewal from 1949 through 1963, 63 percent of those whose race was known were nonwhite, and of these families, 56 percent of nonwhites and 38 percent of whites had incomes low enough to qualify for public housing, which, however, was seldom available to them.” In 1981, urban planners in Detroit, Michigan, uprooted the largely “lower-income and elderly” Poletown neighborhood for the benefit of the General Motors Corporation. . . . Urban renewal projects have long been associated with the displacement of blacks; “in cities across the country, urban renewal came to be known as ‘Negro removal.’”<sup>23</sup>

In short, allowing land to be taken in eminent domain for economic development harms minority members, the poor, and the elderly, while it favors real estate developers and rich corporations.

Economic discrimination is clear in New London. Susette Kelo asks, “How come someone else can live here, and we can’t?”<sup>24</sup> The issue is simply money. Ms. Kelo and the other plaintiffs don’t object to having rich neighbors and fancy shops nearby. But Ed O’Connell, the NLDC’s lawyer, said that “developers want open space, not a checkerboard of old and new work around, and particularly not the few old houses that remain in Fort Trumbull. . . . You’re not going to get a developer to put a \$10 million development next to some of these houses.”<sup>25</sup> Kelo understood only too well. She told a reporter, “I think they don’t want to have to look at us.”<sup>26</sup>



Such economic prejudice, however, is a fact of life. That's why the real estate motto is "location, location, location." People want attractive surroundings; they seldom want to live near people much poorer than themselves. So, if the housing of the relatively poor cannot be taken in eminent domain, City Attorney for New London Thomas Londregan pointed out, the city will never be able to compete with the suburbs.<sup>27</sup>

### Ideological Coalitions

The negative impacts on minority groups, the elderly, and the poor explain the support that plaintiffs received from the NAACP, AARP, and some left-leaning organizations and individuals, such as the ACLU and Ralph Nader.<sup>28</sup> Their concern for the poor is justified by a political philosophy called *contractarianism*, taken from the word "contract." In ordinary contracts, people agree to rules governing their behavior. One person agrees to vacate her house by a certain date and another agrees to pay her a certain amount of money for it. One person agrees to work for a company and the company agrees to pay a certain wage for that work. It is crucial that *all* parties to the contract *agree* to it. A coerced contract, one signed with a gun to your head, is invalid.

Contractarians believe that laws and public policies should similarly be what all affected parties would agree to without coercion; rules that everyone considers fair. So, the bottom line for contractarians is fairness and their basic reason for objecting to some laws and public policies is this: no one would agree to that if she put herself in the other person's shoes. This isn't a novel idea. It's very similar to the Golden Rule, which most people consider a sound moral guide.

Contractarians are often at odds with libertarians, whose main concern is individual freedom and whose bottom line is: people should be free to do what they want if they are not harming others. Because property is very unevenly divided in the United States (and elsewhere), contractarians often object when the state allows rich people to do as they please with their property while others in society suffer from poverty. Would rich people agree to laws that allow increasing concentrations of wealth if they were in the other person's Payless shoes? Contractarians don't think so. They therefore generally favor government programs that redistribute wealth from rich to poor, including progressive income taxes

that fund programs for the poor, such as Medicaid and food stamps. Libertarians object that this amounts to stealing their money to help others. Rich people should be free to help the poor if they want to, but they shouldn't be forced. Libertarians want a very small government, contractarians a much larger one.

Still, they agreed that taking property in eminent domain for economic development is wrong, so they both supported the plaintiffs in *Kelo v. New London*. But their reasons were entirely different. Libertarians wanted to protect the individual property rights of hold-out homeowners, whereas contractarians wanted to end a practice that tends to harm the poor. A rule that states can take property for economic growth, they believe, would not be freely accepted and considered fair by all parties to the social contract. The NAACP and AARP emphasized the tendency of urban renewal projects to harm poor African Americans and older Americans.

The city's supporters contained another unusual coalition of the willing. As we have already seen, free-market conservatives supported the city, because the bottom line of their political philosophy is: government laws and public policies should maximize economic growth and opportunity. That was the city's objective. They were joined by some environmentalists. The bottom-line political philosophy of *environmentalism* is: laws and public policies need to protect nature. For some environmentalists, this promotes long-term human welfare. If we mess up nature, people will suffer in the long run, because we all depend on nature. Other environmentalists—some for religious reasons—believe that we should protect nature also because it is good in itself. They think, for example, that we should protect endangered species—even those of no conceivable benefit to human beings.

Environmentalists often clash with developers who, following the free-market philosophy, want to alter nature to make a profit, which helps the economy grow. Developers want ski slopes on mountains where environmentalists want wilderness. They want logging in old growth forests where environmentalists want habitat for spotted owls. Environmentalists, for their part, want increased government regulation of business, such as tough emission standards for factories to keep the air and water

clean. Free-market conservatives worry that such standards will harm U.S. global competitiveness by making our products more expensive than those produced elsewhere. This could impair economic growth.

These ideological foes jointly supported the government in *Kelo v. New London*, but for different reasons. While free-market conservatives hoped for economic growth, environmentalists sought “smart growth.” According to *New York Times* reporter Terry Pristin, “Environmental groups say that eminent domain powers must sometimes be used to promote ‘smart growth’—that is, denser development in older neighborhoods—as a means of reducing suburban sprawl.”<sup>29</sup> Suburban sprawl generally harms the environment because suburbanites take over land that could be used by wildlife. Suburban development often requires filling in wetlands that cleanse fresh water and serve as habitat for migrating birds. Suburban living requires automobile transportation that uses limited natural resources, such as petroleum, and adds to the build-up of carbon dioxide, which contributes to global climate change. In general, therefore, it’s better from the environmental perspective for people to live in compact communities where they take up less land and can walk or use public transportation to get around. So, environmentalists supported New London’s efforts to create a compact “urban village.”

The lesson from this is not that politics makes strange bedfellows but that to understand politics, we need to go beyond the simple divisions between right and left, red and blue, conservative and liberal, Republican and Democrat. In this case, there were two big slumber parties, but everyone brought and slept in her own bed.

All four philosophies—libertarian, free-market conservative, contractarian, and environmental—attract most of us. We want to enjoy our property free of government interference; we want the government to spur economic growth; we believe in the golden rule; and we want to preserve the environment for our own good and for future generations. The Supreme Court’s 5–4 decision in *Kelo* reflects not just a close division of opinion in society, but ambivalence within most of us about the issue. We see good arguments on both sides. But those arguments are not based on conservative versus liberal views. Our thinking is much more complex. Political philosophy examines that complexity, making our thinking clearer to ourselves and others.

## Twelve Political Philosophies: A Quick Preview

This book examines twelve political philosophies: the four already introduced, plus an additional eight. The eight are feminism, social conservatism, theocracy, communitarianism, utilitarianism, multiculturalism, cosmopolitanism, and natural law. I discuss them to illuminate hot-button political issues. Each philosophy is attractive to many of us, if not to everyone. In some situations, the bottom line of that philosophy is the one we think should decide the case. But other cases give us pause. The bottom line of that first philosophy, although relevant, does not seem as important as the bottom line of a competing political philosophy.

Switching in this way among political philosophies is not necessarily illogical. Relevant differences among issues may justify altering priorities. My brother Robert, for example, is mostly a free-market conservative who wants the government to keep its nose out of the free market so market activity can make the country wealthier. However, he has asked me to join petitions for laws that would require all insurance policies to cover a hospital stay of more than twenty-four hours after a woman gives birth. On free market principles, people should be able to buy whatever coverage they want and can afford. Depending on consumer demand, some policies would guarantee a post-delivery stay of twenty-four hours or more, and others—perhaps the less expensive policies—would not. Why does my brother want to limit the market by outlawing what may be cheaper health insurance policies?

In this case, my brother finds some other basic principle more important than prosperity through the free market. I really don't know what it is, because people who love their families usually avoid talking politics at Thanksgiving. When reminiscence runs out, they watch football. But I can find support for my brother's position in some other political philosophies.

Robert's competing view may be *feminism*. Because early exit from the hospital mostly jeopardizes women, my brother may be influenced by the feminist bottom line: no person should be disadvantaged simply for being female.

Feminists note the disproportionate impact on women of many seemingly neutral policies. Because women do most parental childcare (owing

to biological inclination, social expectation, or both), flexible working hours and work-site daycare are feminist issues. They enable women to pursue careers while fulfilling parental responsibilities. Family leave policies that allow people to take time off work without losing position or seniority so that they can care for newborns or sick relatives are also feminist issues, because women do most of this unpaid family work.

Feminists are quick to point out possible prejudice against women and their interests. For example, some people who oppose abortion on grounds that the unborn is a person with a right to life support government funding of stem-cell research that involves killing human embryos. When only women's interests are at issue (abortion), embryos can't be sacrificed, but when men seek cures for diseases that can affect them (stem-cell research), embryos are expendable.<sup>30</sup> Another example: the IRS can collect taxes from citizens, but the male-dominated Congress does not mandate IRS collection of payments from dead-beat dads who owe child support.

Social conservatives oppose feminists on many of these issues. *Social conservatism* places great value on traditions, including religious traditions, because they believe that traditions embody wisdom accumulated over generations. They fear innovations that jeopardize long-term human interests. Innovations they oppose on these grounds include some feminist favorites: women with children working outside the home; men participating equally with women in parenting; and government supplying childcare for working mothers. According to social conservatives, women putting career above maternal duty jeopardizes the traditional family—the bedrock of social life. Most social conservatives also oppose same-sex marriage and abortion. However, they may support special protections for women who have just given birth, as this supports family life.

Theocrats agree with social conservatives that the nuclear family is the foundation of civilization; that same-sex marriage is bad; and that abortion is (almost) always wrong. But *theocracy* rests on different grounds than social conservatism. Social conservatives support religion in general because they think religious training and tradition help curb wayward human inclinations. They are happy to have nativity scenes and the Ten Commandments displayed on public property, but don't object to

inclusion of symbols from other great religious traditions. Theocrats, by contrast, want state policy to reflect the tenets of a particular religion—theirs. Many theocrats see the United States as a Christian nation and therefore oppose equal public support of other religions. They oppose abortion and same-sex marriage because they believe God opposes abortion and same-sex marriage. As former Arkansas Governor Mike Huckabee said during his bid for the Republican presidential nomination in 2008, it's easier to amend the U.S. Constitution on such matters than to alter the eternal word of God. Theocrats who think God has mandated a subordinate place for women may oppose equal employment opportunity for women.

A theocrat's position on hospital stays for new mothers depends on her interpretation of her religion. Theocrats may differ among themselves.

Communitarians are like social conservatives and theocrats in their opposition to what all three consider the excessive individualism of libertarianism, free-market conservatism, and feminism. According to *communitarianism*, people are naturally part of a larger social whole and should not demand so many individual rights. However, communitarians are less attached to tradition than social conservatives and theocrats. Communitarians think, for example, that gender roles can change without jeopardizing the family. They don't object to same-sex marriage because they think family can take many different forms and still perform its core functions.

Like feminists and at least some social conservatives, communitarians may want society to protect new mothers from medical complications by requiring insurance companies to cover extended hospital stays. The community should protect its mothers.

*Utilitarians* could go either way. *Utilitarianism* is the view that the state should do whatever promotes the greatest good of the greatest number. The consequences of public policies are all that matter. So, if a free market in hospital insurance results in more good for more people more of the time, utilitarians favor the free-market approach. But if grave harm to poor women results from the free-market approach and if state mandates of insurance coverage can reduce this harm without creating greater

harm in the process (which is a big “if”), utilitarians support government mandates.

Utilitarians resemble communitarians in their flexibility regarding traditions. But utilitarians are more individualist and less discriminating. For utilitarians, the good of society equals the mathematical total of its individual members’ well-being as judged by those individuals themselves. For communitarians, the good of the whole is greater than the good of the parts and the standard of goodness transcends current perceptions. Like social conservatives and theocrats, communitarians believe that individuals and society at any given time may be mistaken about what is good for humanity. So, communitarians often support social conservative positions on issues regarding the good life (such as the War on Drugs) against utilitarian objections that individual happiness would be greater with less government control.

A major reason we all use more than one political philosophy is that none gives answers we find acceptable to all the issues we face. Thus, although our three remaining political philosophies don’t address the issue of government mandates to insurance companies, they are useful in exploring other matters.

*Multiculturalism* is the view that no one nation or culture has a monopoly on the path to human flourishing. We should not assume, for example, that Americans are better than people in Hispanic cultures because they enjoy bullfighting and we don’t. We should be tolerant of varying cultural traditions in our midst, allowing as much freedom to different religions and ethnic practices as possible.

Feminists clash with multiculturalists when cultural traditions harm women. In some cultures, for example, a man gets a bride by kidnapping a girl as young as twelve and forcing sex upon her. Feminists object to what our culture considers to be rape of a minor. Another example is female circumcision, which can be quite gruesome. Communitarians object that multiculturalism within our society threatens to divide society along ethnic lines, because people from one culture act one way and people from other cultural traditions act differently. Communitarians think society flourishes most when it bonds as a single community.

Theocrats object to traditions in other cultures that violate their understanding of God's law. Social conservatives, by contrast, tend to favor tolerance of other cultural traditions (they tend to favor maintaining traditions) so long as the tradition is maintained in the nation of its origin and not imported to our country, where they might threaten or replace our traditions.

*Cosmopolitanism* is the view that certain values are universally important, regardless of race, religion, nationality, or ethnicity. Cosmopolitans often join feminists in objecting to ethnic practices that harm women, wherever they occur. Many cosmopolitans object also to aspects of our own culture that seem to degrade humanity, such as the death penalty or the torture of prisoners to extract vital defense information. Although the content of their dos and don'ts differ from those of theocrats, cosmopolitans are like theocrats in believing that on many matters, there's a universal right and wrong that all humanity should respect and follow.

Nature favors certain ways of living over others and people should adapt themselves to nature rather than attempt vainly to get nature to adapt to them. *Natural law* theorists are grossed out by the thought of chickens genetically engineered to have no feathers and children born of only one parent because they are the product of cloning. This view has historical connection with theocracy because many theocrats see nature as a reflection of its creator, God, and therefore oppose meddling too much with nature. For example, theocrats often join natural law thinkers and environmentalists in opposing genetic engineering, because genetic engineering disturbs God's plan (theocratic), interferes too strongly with nature (natural law), and upsets ecological balances (environmental). Some natural law thinkers join theocrats in condemnation of homosexuality, but others think homosexuality, although not the statistical norm, is natural to our species, like being left-handed.

My brother may not know himself why he forsakes free-market conservatism, or even that he forsakes it, by supporting laws limiting health insurance options for women giving birth. If that's the situation, he needs this book to clarify his thought for himself and make sure that he still favors limiting health insurance options after seeing how this idea con-



flicts with the free market. Self-clarification can also help him argue more persuasively for his view on the matter, whatever it turns out to be, which could improve his political effectiveness. Luckily for him, he'll get a copy of this book free.

The major difficulty in political philosophy, as I see it, is not people applying one philosophy in one situation and another in a different situation, but just the opposite—people thinking they have a political philosophy that solves all problems. I hope to show that all the philosophies we use are good and helpful in some situations, but that none is helpful in all situations to which it might be applied. In some situations where it might be applied, it gives what most people consider poor guidance. The defect is not in the political philosophy so much as in its application beyond the range of cases where it yields results that we consider reasonable. Of course, people will differ from one another about which results are reasonable, but I think you'll find that we agree enough about what's reasonable to reject applying any one political philosophy across the board.

## The Aftermath

In spite of the ambivalence many people feel about the competing claims of economic growth (free-market conservatism) and property rights (libertarianism), most seem to side with Susette Kelo in her fight to keep her home. John Broder wrote in the *New York Times* in February 2006, the year after the *Kelo* decision: “In a rare display of unanimity that cuts across partisan and geographic lines, lawmakers in virtually every state-house across the country are advancing bills and constitutional amendments to limit the use of the government’s power of eminent domain to seize private property for economic development purposes.”<sup>31</sup> This legislative activity reflects condemnation of the *Kelo* ruling that came from “black lawmakers representing distressed urban districts, from suburbanites and from Western property-rights absolutists who rarely see eye to eye on anything.” Even Justice Stevens, who wrote the Supreme Court’s opinion, didn’t like it. He told a bar association meeting two months after the decision that “he would have opposed it had he been a legislator and not a federal judge bound by precedent.”

Some ambivalence remains, however. After the *Kelo* decision, the state of Texas was one of the first to ban taking property in eminent domain

for private development. But they made some exceptions. “Among those exceptions is the condemnation of homes to make way for a new stadium for the Dallas Cowboys.” Some things may be more sacred in Texas than private property.

The nature and strengths of competing claims may be different for Scott Bullock of the libertarian Institute for Justice who argued for the plaintiffs in *Kelo*. But even Bullock is not an absolutist. He told the *Times*: “Our opposition to eminent domain is not across the board. It has an important but limited role in government planning and the building of roads, parks and public buildings. What we oppose is eminent domain abuse for private development.”<sup>32</sup>

The general sentiment against taking the houses in New London helped Susette Kelo and her neighbors. By July 2006, the city had settled with holdout homeowners for much more than the original offer. Bill Von Winkle, who sold sandwiches for years to afford the three properties he owned in the neighborhood, said, “They finally saw it my way.” Susette Kelo was allowed to stay in her house for one more year and then the city moved her house for her.<sup>33</sup>

Commercial development of the area remains uncertain. I hope Justice Kennedy, who predicted the city would be a depressed slum in five years without the takings, and therefore favored preemption in slum removal, will look back in five years to check for development or, in its absence, for predicted depression, slums, and WMD (workers massively displaced).

Free-market conservatism and environmentalism do not always support the same side, as they did in *Kelo v. New London*; neither are libertarians and contractarians always united on the other side. Each of twelve political philosophies has distinctive opinions about the role of government in people’s lives. Viewing political conflicts through the prism of these twelve philosophies helps illuminate political debates on vital issues, such as whether Terri Schiavo should have been denied artificial nutrition and hydration, which led to her death.