

Government and the Economy Notes

To what extent do you agree with the following statements? (Strongly agree, somewhat agree, somewhat disagree, or strongly disagree). **Justify** your position.

1. The government should increase taxes to expand programs for the elderly.
2. The government should ease up on regulations protecting the environment.
3. The government should break up existing monopolies.
4. The government should tax the wealthy more than the lower or middle classes.

Video questions:

5. What does the owner want to do with the mobile home park?
6. Why is the owner suing the city?
7. If you were a Supreme Court justice, would you back up the owner or the city? Why?

Property rights:

8. What are property rights?
9. Why are they important?
10. Should the government ever be allowed to take private property? Why or why not?

How Does the Government Protect Property Rights?

Government clearly plays a big role in our economic lives. Is this role too big? Many Americans would say it is. But Charles Wheelan disagrees:

Good government makes a market economy possible. Period. And bad government, or no government, dashes capitalism against the rocks, which is one reason that billions of people live in dire poverty around the globe.

—Charles Wheelan, *Naked Economics: Undressing the Dismal Science*, 2002

Without a doubt, capitalism is alive and well in the United States. But is that because of government involvement or in spite of it?

The Constitutional Basis for Government Involvement in the Economy

The power of the federal government to intervene in the economy comes straight out of Article I of the U.S. Constitution. Among the economic powers that this article grants to Congress are:

- to lay and collect taxes.
- to provide for the general welfare.
- to borrow money.
- to regulate interstate and foreign commerce.
- to establish uniform bankruptcy laws.
- to coin money and regulate its value.
- to fix the standard of weights and measures.
- to protect the writings and discoveries of authors and inventors.

Exercising its constitutional powers, the federal government establishes laws and rules designed to influence economic behavior in desirable ways. This process is called [regulation](#). All modern government regulation is ultimately based on the powers granted in the Constitution.

Government's Role in Protecting Property Rights

The Constitution lays the foundation for a legal system that protects property rights. We often think of property as land, personal possessions, and other physical assets. However, property can also refer to inventions and various forms of expression, also known as intellectual property. No matter what form property takes, property rights entitle the owner to determine how it is used.

Economists argue that protecting property rights is essential for our free enterprise system to flourish. Why? Because incentives matter. Ownership of property creates a number of incentives that promote economic progress, including the three listed here.

Private ownership encourages people to take care of their property. If private owners fail to maintain their property, they are the people who suffer. For example, if you own a house, you have a strong incentive to fix the roof if it leaks. Otherwise the value of your house will decrease.

Private ownership encourages people to make the most productive use of their property. It is in the best interest of owners to use their property in the most productive ways possible. The owner of a farm, for example, has every incentive to plant crops that make the best use of local soil and climate conditions.

Private ownership encourages people to develop their property in ways that benefit others. Under the law, owners can do whatever they want with their property, but they have the potential to gain by making what they own useful to others. Consider the owners of a health club. Personally, they may have no interest in anything but weight training. Nonetheless, they might decide to offer childcare, nutrition counseling, and spa services to attract more members. By enhancing their health club in ways that benefit others, the owners stand to benefit by increasing the property's value.

Property rights are so basic to our free enterprise system that the government is empowered by the Constitution to protect them. One institution that protects property rights is the court system, sometimes assisted by police forces. Another is the U.S. Patent and Trademark Office (USPTO). This federal government agency protects intellectual property, or property in the form of ideas that have commercial value. It does so by issuing patents, copyrights, and trademarks.

An Exception to Property Rights: Eminent Domain

Our nation's founders took property rights seriously. During the Constitutional Convention in 1787, Gouverneur Morris of New York echoed the sentiments of most delegates when he described property as "the main object of Society." Still, the delegates recognized that at times, the government must take private property for a public use, such as the building of a road or courthouse. The government does this through the power of eminent domain.

Eminent domain is the power to force the transfer of property from a private owner to the government for a public purpose. This power existed long before the United States was founded. But the Fifth Amendment to the Constitution added a new element—paying the private owner for property taken under eminent domain. The **Takings Clause** of the Fifth Amendment states,

No person shall be . . . deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

In 2005, the meaning of *public use* was called into question by a controversial Supreme Court decision. The case before the Court was *Kelo v. City of New London*, which pitted residents of a run-down section of New London, Connecticut, against the city government. The city wanted to use its power of eminent domain to take the residents' property, including land, homes, and businesses, for economic redevelopment.

New London's taking of private property for redevelopment was not unprecedented. In earlier decisions, the Supreme Court had decided that the redevelopment of depressed areas had public benefits that justified a government's use of eminent domain. However, New London

did not plan to use the land it had acquired for public projects, such as schools or a civic center. Instead, it intended to turn the land over to private developers who planned to build a hotel, offices, and condominiums on the site for profit.

The city argued that the economic growth that this private development would bring to New London was a public benefit. Some residents who faced the loss of their property disagreed. They argued that the government's taking of their homes and businesses for the benefit of a private developer was not a public use.

In its decision on *Kelo*, the Supreme Court sided with the city. A 5-to-4 majority held that the benefits of economic redevelopment do qualify as public use within the meaning of the Fifth Amendment. Justice Sandra Day O'Connor was one of the four justices who did not agree with the majority. In her dissenting opinion, she wrote that the effect of this decision was "to wash out any distinction between private and public use of property—and thereby effectively to delete the words 'for public use' from the Takings Clause of the Fifth Amendment."

The Supreme Court's decision in *Kelo* provoked a nationwide storm of protest. In response, many states passed laws designed to protect property rights by limiting the use of eminent domain for economic development.