

gion be erased from whatever government touches. This view misreads the First Amendment and distorts history.

Senator Phil Gramm *The Takings Clause*

When considering the most “underappreciated” element of the Constitution, anyone who sees what is going on everyday across this country as I do will respond immediately, “the Fifth Amendment.” Well known for its protection against self-incrimination, the Fifth Amendment also contains a clause that protects private property, a building block of the American foundation. The Takings Clause is a quintessential constitutional shield, artfully and specifically rejecting the idea that government officials can seize property without compensation, regardless of what public good they intend to accomplish.

Unfortunately, we are facing a threat to the right to own property that our Founding Fathers could never have imagined. In America in 1995, two consenting adults can engage in any kind of consensual behavior with total constitutional protection—except owning private property and engaging in commerce and business. Over and over again—every day all across America—people are having their private property taken without compensation by way of the Endangered Species Act, wetlands regulation, and a host of other “regulatory takings.” Property values are being reduced and land is effectively being taken to promote objectives that society considers good, but for which society refuses to pay. In fact, we have a president today whose interior secretary has suggested that private property may even be outdated in the modern world!

If government takes your property or restricts its use, you should be compensated. On this issue there can be no compromise. Private property is the foundation of our freedom, and I will

The most pressing constitutional issue facing our nation, however, involves a matter not actually enshrined in that great document. I am referring to the need for a Balanced Budget Amendment. I introduced a Balanced Budget Amendment to the Constitution on my first day in Congress and have worked hard to pass it ever since. But, as surprising as it may be to some of my colleagues, this debate did not begin with my tenure in Congress.

Through the course of American history, we have amended our Constitution 27 times, but haven’t yet had the political will to fix the only thing Thomas Jefferson found wrong with the document. Jefferson was this country’s Minister to France during the writing of the Constitution, and when he was first shown the document, he had a proposal for one change. In a subsequent letter to John Taylor, Jefferson recorded that proposal:

“I wish it were possible to obtain a single amendment to our Constitution. I would be willing to depend on that alone for the reduction of the administration of our government to the genuine principles of its Constitution. I mean an additional article taking from the government the power of borrowing.”

So the present controversy is not just a debate over a balanced budget amendment, but a debate on the Jefferson amendment. It is also a debate about the future of America and a potential seed of its destruction. We need a contract between the government and the people that binds Congress with a chain that cannot be broken. The genius of the Constitution is that it rules out of bounds actions that the people have determined that they do not want Congress to take. Read the first words from the Bill of Rights in our Constitution: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for redress of grievances.”

The American people were clear about the grievances they wanted redressed in November 1994. In the most decisive election since 1932, the people said to their government, “Stop the taxing. Stop the spending. Stop the regulating.” To do that, they supported the Contract With America, a key element of which is a balanced budget amendment. But we haven’t given the people what they want yet. We have not fulfilled a promise we made.

The Constitution was written because people did not trust the government. With Congress’s failure to honor its promises, act responsibly, and be accountable for its actions, there is much

P rivate property is the foundation of our freedom,
and I will defend it vigorously as president.
—Phil Gramm

defend it as vigorously as the freedom of speech and freedom of religion. As president, I will work hard to protect private-property rights and to bring the Fifth Amendment back into the family of the Bill of Rights on behalf of the people who own property, till the soil, and produce the goods and services in our country.

for the people not to trust.

Senator Dick Lugar *Enumerated Powers*

Virtually every clause in the Constitution has been used—even tortured—to justify a variety of causes. What deserves more emphasis in political discourse, however, is the spirit of what the Constitution set out to do generally: to assign to the federal government specific tasks and the powers to carry them out, and to reserve all else to the states or the people. This intent is most clearly articulated in the Ninth and Tenth Amendments of the Constitution.

The aim of the Constitution's Framers was clear enough: to create a strong, but limited, national government. Having first decided to omit a list of specific limits (or "negatives," as the Framers called them) on the national government's authority, the Framers then agreed in principle to accept them as the first amendments to the new Constitution. The first eight amendments impose specific limits on the power of government, both at the national and state levels. All serve the same end: restricting the scope and power of government. Lest there be any ambiguity, the Ninth Amendment makes clear the presumption that rights belong to the people: "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." And the Tenth Amendment makes clear the boundaries that this places on the national government: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

In a way, it might be said that these provisions were not so much "amendments" to the

government should do, the Framers believed, it should do well.

But that which the federal government should not do and cannot do well, it should not do at all. The modern departure from this philosophy is largely responsible for the lack of confidence that Americans now express about their government. As the national government has expanded its reach into virtually every sphere of Americans' lives, it should not be surprising that the volatility of voter preferences and discontent with government have increased. The passions of individuals and groups are inflamed on all sides of issues that are not properly within the sphere of the federal government.

Take the recent debate over funding formulas and federal "strings" on welfare block grants. It is well and good that states and localities should administer their own social welfare programs. They are closer to the people and, on the whole, they will do a better job than the federal government. This is surely consistent with the intent of the Framers.

But why should the federal government be the tax collector for the states' programs? Why, for example, should citizens of Iowa or New Hampshire or any other state send their money to Washington, only to have it returned—after bitter fights over allocation formulas and conditions—to run their own programs? Wouldn't it make more sense for states to raise the funds to pay for the programs they establish?

In this regard, I have proposed to eliminate the federal income tax (and the 16th Amendment, which makes it possible) and replace it with a national sales tax collected by the states. National and state sales taxes can coexist perfectly well and, after a brief time, are likely to come into conformity with one another. Once this occurs, the federal government could reduce its sales tax, and allow the states to raise the funds for their own programs. Gone would be monetary transfers to Washington; gone would be formula fights; and gone would be federal strings. And limited federal government would be here to stay.

The Ninth and Tenth Amendments to the Constitution offer much needed guidance. If we were to ask whether each new proposed program, as well as many existing programs, represent legitimate tasks of the federal government, our answer would often be "no," and we could start to fashion a more efficient federal government. We would also discover that properly limiting federal government would raise its public standing commensurately.

In speaking of the amendment process, James Madison says in *The Federalist* No.49, "As every appeal to the people would carry an impli-

Limiting the scope of the federal government would
raise its standing with the public immeasurably.

—Dick Lugar

Constitution—in the sense of replacing existing provisions or adding new features—as clarifications of the Constitution's underlying intent. The Framers were no libertarians; they set out to create a strong national government with powers sufficiently robust to accomplish its functions. This is especially true in the realm of national security, where powers are largely reserved to the national government. That which the federal