the United States in a way that looks to this alternative of civilian nuclear energy but at the same time makes sure that the dangers of proliferation are reduced to a minimum.

THE KELO DECISION

Mr. CORNYN. Mr. President, the main reason I wanted to come to the floor today was to talk about the important issue of private property rights. Today marks the 1-year anniversary of one of the most controversial decisions ever handed down by the U.S. Supreme Court, and that is the case of Kelo v. the City of New London. In that decision, the Court held by a 5-to-4 vote that the government may seize private property, whether it be a home or small business or other private property, for the purpose—not of public good but, rather, to transfer that same property to another private owner simply because the transfer would create an increased economic benefit to that community.

What made this such a profoundly alarming decision was that it represented a radical departure both from what the Constitution says—that the power of government to condemn private property should be used only for public use—and it represented a radical departure from the decisions handed down interpreting that constitutional provision over the last 200 years.

After all, protection of homes and small businesses and other private property against government seizure or unreasonable government interference is a fundamental principle of American life and really a distinctive aspect of our form of government. Indeed, private property rights rank among the most important rights outlined by the Founding Fathers when this country was created. Thomas Jefferson wrote that the protection of such rights is:

> . . . the first principle of association, ''the guarantee to every one of a free exercise of his industry, and the fruits acquired by it.''

These protections were enshrined in the fifth amendment to the U.S. Constitution which specifically provides that private property shall not ''be taken for public use without just compensation.'' The fifth amendment thus provides an essential guarantee of liberty against the abuse of power by eminent domain by permitting the government to seize private property only for ''public use'' and only upon paying just compensation.

The Court's decision in Kelo was sharply criticized by Justice Sandra Day O'Connor in her dissent, in which she wrote:

> [The Court] effectively [has] . . . deleted the words ''for public use'' from the Takings Clause of the fifth amendment and thereby ''refuse[d] to enforce properly the Federal Constitution.''

Under the Court's decision in Kelo, Justice O'Connor warns:

> . . . the specter of condemnation hangs over all property. Nothing is to prevent the State from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall, or any farm with a factory.

She further warns that, under Kelo, under the Supreme Court's decision just 1 year ago ''any property may now be taken for the benefit of another private party,'' and she said, ''the fallout from this decision will not be random.''

Indeed, as noted in a friend-of-the-court brief filed by the National Association for the Advancement of Colored People and the AARP and other organizations:

> [a]bsent a true public use requirement, the takings power will be employed more frequently. The takings that result will disproportionately affect and harm the economically disadvantaged and, in particular, racial and ethnic minorities and the elderly.

Again, that is the brief of the National Association for the Advancement of Colored People and AARP and others.

Suffice it to say that the Kelo decision was a disappointment. What I find particularly troubling is that the Kelo case is just one of many examples of the abuse of the power of eminent domain throughout our Nation. Its use for private development is now widespread. The Institute for Justice has documented more than 10,000 properties either seized or threatened with condemnation for private development during the 5-year period between 1998 and 2002. Despite the fact that so many abuses of that power were already occurring, the Kelo decision is particularly alarming, and local governments, the condemning authorities most often, have become further emboldened to take property for private development.

As this pattern has continued elsewhere, courts very quickly used this decision to reject challenges by owners to the taking of their property for other private parties. In 2005, for example, a court in Missouri relied upon Kelo in reluctantly upholding the taking of a home so that a shopping mall can be built. As the judge commented:

> The United States Supreme Court has denied the Alamo reinforcements. Perhaps the people will clip the wings of eminent domain in Missouri, but today in Missouri it soars and devours.

I firmly believe legislative action is appropriate and necessary, and I am not alone in that belief. Several State legislatures have taken immediate action. Indeed, my home State of Texas passed legislation that was signed into law by the Governor last summer that protects private property from seizure for purposes of economic development. But it is also necessary and appropriate that Congress take action consistent with our authority under the Constitution to restore the vital protections of the fifth amendment. That is why the week after the Court handed down its decision I introduced S. 1313 entitled ''the Protection of Homes, Small Businesses, and Private Property Act of 2005.'' I am delighted that other Senators have joined in that in broad and bipartisan support, including the immediate support shortly after it was filed of the Senator from Florida, Mr. BILL NELSON.

Today I am happy to report that a total of 31 of our colleagues have joined me as cosponsors of this important bill. This bill would ensure that the power of eminent domain is exercised only for public uses, consistent with and guaranteed by the fifth amendment of the Constitution. Most important, though, it would make sure the power of eminent domain would not simply be used to further private economic development interests.

The act would apply the standard to two areas of government action which are clearly within Congress's authority to regulate: No. 1, all exercises of the power of eminent domain by the Federal Government itself; and No. 2, all exercises of the power of eminent domain by State and local governments using Federal funds.

While we work to protect private property rights, we are mindful that the language we craft could have far-reaching implications. There is no question that where appropriate, eminent domain can play an important role in ensuring that true public uses are preserved. But now, just 1 year after the Supreme Court shut the door on Suzette Kelo and her fellow homeowners in New London, CT, it is imperative that Congress act soon to ensure that private property remains free from the long arm of government so that no American will have to worry about the Federal Government being involved in taking their private property for private development.

Chairman SPECTER of the Senate Judiciary Committee, on which I am proud to serve, is working with me on legislation that I hope he will choose to move soon through the committee. I look forward to working with him and my other colleagues to develop a solution that reaffirms our commitment to the protection of private property rights, one that will help stem the tide of egregious abuses of private property rights that we have seen throughout the Nation by the illegitimate use of the power of eminent domain.

I yield the floor.

The PRESIDENT pro tempore. The Democratic leader is recognized.

STEM CELL RESEARCH

Mr. REID. Mr. President, just a few days ago U.S. researchers at the National Institutes of Health announced they were able to help paralyzed rats move again by using embryonic stem cells from mice. This study is evidence that these stem cells will likely treat and cure people with spinal cord injuries or nerve-destroying illnesses such as Lou Gehrig's disease, MS—multiple sclerosis—muscular dystrophy, and other things.

On this breakthrough, Dr. Elias Zerhouni, Director of the National Institutes of Health, issued the follow statement: