



The Daily Dish

The Emerging Battle over Eminent Domain

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On Friday President Trump signed a pair of executive orders aimed at ramping up trade enforcement. President Trump said his executive orders will pave the way for a “great revival of American manufacturing.” Earlier in the day on Friday Commerce Secretary Wilbur Ross stated that trade enforcement is a “primary objective” for the Trump Administration.

Yesterday President Trump promised that the fight to repeal and replace Obamacare is not dead. The president went on to say that repeal and replacement talks continue and will do so until a deal is reached. This weekend President Trump also praised the New York Times for an article it published on Friday highlighting some of Obamacare’s struggles. The article discusses how some parts of the U.S. could go from having only one insurer option on insurance exchanges to zero.

Eakinomics: The Emerging Battle over Eminent Domain

The sanctity of private property is a touchstone of conservative economic policy; protected in the private sector by legal enforcement of contracts and against the public sector by the “takings clause” of the 5th Amendment that requires just compensation for property seized under eminent domain. In recent years, there has been little attention paid to the use of eminent domain. The last controversial case was the Supreme Court’s 5-4 ruling that it was in the public interest for the city of New London, CT to seize the property of Susette Kelo and transfer it a private developer. (Ironically, the developer never pursued the project and the Kelo property is now an abandoned lot.)

The lull may be over. President Trump signed an executive order (technically Executive Order 13767, entitled Border Security and Immigration Enforcement Improvements) which directs the agencies to “secure the southern border of the United States through the immediate construction of a physical wall on the southern border, monitored and supported by adequate personnel so as to prevent illegal immigration, drug and human trafficking, and acts of terrorism”. Put aside for the moment the fact that many security experts believe that this is an inefficient, \$20-\$25 billion way to secure the border. The more important point is that there is an enormous amount of private land on the border, and it would have to be seized to permit construction of the wall.

This sets up an enormous eminent domain battle with potentially thousands of lawsuits over the just compensation for such a large taking. Stay tuned.