

# OPINION

## “Who knows what they were thinking when they engaged U.S. soldiers?”

MAJ. RANDY MARTIN, SPOKESMAN FOR THE ARMY'S V CORPS  
On the attackers who targeted Americans Tuesday in Fallujah, Iraq

HOW THEY SEE IT

## Court's Retreat Underscores Unpredictability

The Supreme Court stemmed its deeply troubling line of states' rights cases Tuesday by handing down a decision that reaffirms Congress' broad power to prevent discrimination by states. The 6-3 ruling, written by Chief Justice William H. Rehnquist, upheld the legislature's power to authorize suits against state governments under the federal Family and Medical Leave Act, which guarantees unpaid leave to workers who have babies or need to care for relatives.

The decision tacks against the court's recent jurisprudence, which has reined in Congress' ability to authorize suits for money against states that violate federal strictures.

The change is welcome—yet it underlines the absence of recognizable principles in the court's decisions governing the balance of power between states and the federal government. The result is a muddle.

Over the past decade, a five-member conservative majority has strengthened the sovereign immunity of states under the Constitution's 11th Amendment, holding that Congress can abrogate this immunity only when it legislates under the 14th Amendment to protect people against state abuses of constitutional rights.

Yet the court also has shown a lack of respect for congressional efforts to legislate under the 14th Amendment, nitpicking Congress' evidence of state constitutional violations and second-guessing whether the laws represent a proportional response to the abuses. The result has been protection for states from suits under the Americans With Disabilities Act, under a federal age discrimination law and on the basis of patent infringements.

Now the court finally has seen a congressional enactment that it considers a reasonable violation of state sovereign immunity.

Gender discrimination in how family leave was administered by states, writes Justice Rehnquist, was pervasive enough to justify Congress' action. For gender discrimination, unlike age or disability discrimination, gets heightened scrutiny by the courts—meaning that it is presumptively unconstitutional absent an important interest justifying it.

By re-emphasizing that Congress will continue to get deference when dealing with such matters as gender and race discrimination, the new case represents a welcome indication that the court's erosion of federal power has limits.

But the line the court has drawn here is hardly a model of judicial reasoning. Few observers would have predicted before the court began its re-exploration of American federalism that family leave suits against states, but not age or disability discrimination suits, would have been permitted.

Law is supposed to be predictable, providing a set of rules under which people—and in this case states—can organize their behavior. When it comes to suing states, nobody knows what the court will and won't permit. The decision Tuesday is a step in the right direction, but the court has a long way to go to re-create a stable and useful doctrine governing the rights of citizens, the immunity of states and congressional power.

— WASHINGTON POST

## Another Earth May Be In The Stars

Until recently, planets have proved maddeningly elusive. Pluto, the ninth and final planet in our solar system, was not discovered until 1930. And although space probes have found no evidence of its existence, some skywatchers cling to the belief that a 10th planet, Planet X, is in our solar system somewhere.

But the real mystery was whether planets existed outside of our solar system; they had to if there was to be any hope of finding another inhabitable—even inhabited—planet.

While extra-solar planets seemed statistically likely, for a long time no one was able to prove it. In 1989, astronomers were able to infer the existence of extra-solar planets, but it wasn't until 1999 that there was a confirmed sighting. Now, according to California & Carnegie Planet Search, 102 extra-solar planets have been confirmed.

Now, according to a report at the American Astronomical Society, there is evidence that there are a whole bunch of planetary systems in the making out there and that the production of Earth-like planets may take a relatively brisk 3 million years to form rather than the 10 million years previously thought.

So, in a few short years, we have gone from being unable to locate any extra-solar planets at all to learning that the universe is manufacturing planets faster than we'll ever be able to discover them.

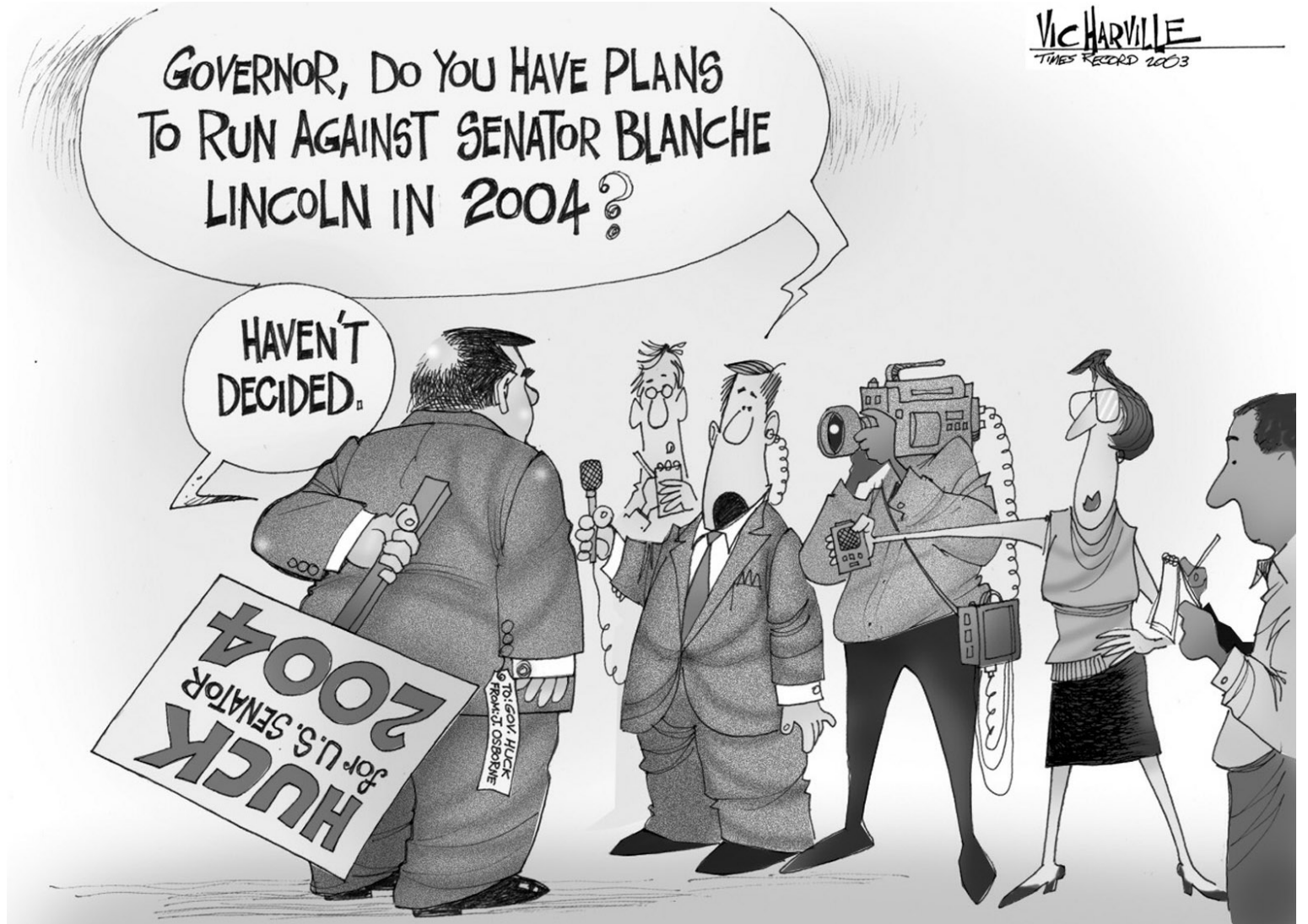
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## Fire Fans Flames Of Consolidation

Kingsland, a town of 400 square in the middle of the woods of southern Arkansas, boasts rich history and vivid local color.

Bear Bryant came from nearby. So did Johnny Cash. And we could never forget Monroe Schwarzlose, the turkey farmer who ran for governor from time to time and once proposed disposing of hazardous waste by filling potholes with it.

The town made statewide news over the holiday weekend. The main building of the high school, with classrooms for grades seven through 12, was destroyed by fire. Volunteer firefighters, two of whom required hospitalization, tried valiantly to save the school and managed to keep flames from spreading to the cafeteria.

Townpeople grieved. Several told Little Rock television stations of their powerful memories and lamented that their children wouldn't roam the same halls.

Wasting no time, the school board held a special meeting Monday and ordered the superintendent to seek architectural plans for a new building using insurance money. Classes will be held in portable buildings in the fall.



John Brummett  
ARKANSAS NEWS BUREAU

The fire actually had powerful overtones for statewide education reform. Actually, the school board should not rebuild, but consolidate.

Kingsland should renovate and expand the existing facility for grades one through six to pick up grades seven and eight, then consolidate grades nine through 12, either with Fordyce eight miles away or Rison 12 miles away.

This fall, consultants will advise the state Legislature of the cost of providing an adequate and equitable education to all the state's school children under the directive of the Arkansas Supreme Court. The staggering cost will be compounded by the prospect of having to duplicate an equal and adequate system 309 times, meaning the current number of school districts.

Consolidation of districts and their high schools, but not

elementary and middle schools—as proposed by Gov. Mike Huckabee in the recent session—will become the painfully obvious solution. To argue otherwise will be to deny or defy the court, which, as history has taught us, is woefully futile and tragically counter-productive.

The state would need to apply common sense and accept that it can't afford to make a separate public school investment every 10 miles or so in lowly populated rural areas.

Kingsland provides a classic example. With enrollment of about 300, with about 140 in high school, it would be ideal for consolidation administratively, and its high school would be ideal for merging with another a few miles away.

And that's despite the fact that the most recent benchmark test scores in mathematics show that Kingsland High is better in arithmetic than either Fordyce High or Rison High.

So, as hammering begins on Kingsland's new high school building, locals will scoff at the notion that they ought to be made to join with inferior larger schools.

But that's not the point.

The point is that all scores in reading and math in the schools

of Cleveland and Dallas Counties are tragically low, as they are almost throughout the state. Kingsland's lead on Rison and Fordyce in high school math is still only in the 41st percentile nationally.

The point is that the state's responsibility is not only to kids with a satisfactory status quo, such as those in Kingsland, but to those of Fordyce and Rison and everywhere else. The point is that logic commands that whatever Kingsland is doing right in math instruction at the moment needs to be shared at once with more kids than the few in Kingsland.

It must be communicated more effectively by the governor, and understood more widely throughout the state, that consolidation is not about punishing anyone. It's about taking the state map and starting from scratch to design an educational delivery system that will make sense and be cost-effective.

On that basis, Kingsland High should not be rebuilt.

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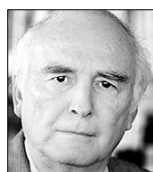
## Tax Package Is High-Stakes Politics

Whatever it does or doesn't accomplish, the newly passed \$350 billion tax cut is fraught with political dangers for both parties. If it succeeds in stimulating lagging national growth, the Republicans win, and if it doesn't, the Democrats will.

Seldom in recent history have both parties wagered so much on a legislative package that looks as though it were designed by the late Rube Goldberg. In fact, the authors probably should be given the 2003 Reuben Award, presented annually to the outstanding national cartoonist. Before it is over, they may need the stipend that goes along with it.

The anti-deficit forces, the Democrats, are betting that the infusion of new money into the sluggish economy will have little or no immediate impact, although it is set up to get the extra taxpayer spending power out there quickly. They argue, with some credibility, that most of the savings will go to those who won't spend it, and that the huge deficits it causes will have a debilitating impact. The Republicans, of course, are convinced otherwise.

What this is all about is next year's presidential elections. George W. Bush's preoccupation



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with the war on terrorism and with the one in Iraq has led him to neglect an economy that is resisting improvement. The specter of his father's 1992 defeat—largely because of the economy—is never far from his mind, or the minds of his political advisers.

For those whose understanding of economics is based largely on one or two college courses taken several decades ago and refined by years of trying to balance a checkbook, it would be foolish to speculate how this will turn out. The personal goal after a certain age is trying to make one's money and one's life come out even. It is better to leave the predictions to those with certificates in heavy thinking, although after years of watching them operate, it is easy to believe the old bromide about all the economists being lined up end-to-end and never reaching a conclusion. The term

“unexacting science” derives from their specialty. But who's knocking it? After all, they give Nobel Prizes for economic genius—which is more than they do for those who dabble in political commentary.

But when it comes to an advanced degree in analyzing the political scene, guess who is ahead. War or no war, the issue closest to the hearts of American voters is the pocketbook. In times of prosperity, presidents can get by with nearly anything; just ask Bill Clinton. When things aren't going well economically, the person in the Oval Office is highly vulnerable, no matter what; check with Bush senior, who watched a 90 percent approval rating washed away by a slogan, “It's the economy, stupid.”

This much seems perfectly clear. This economy now belongs to George W. Bush. Whatever happens, he will rise and fall with that. There can be no excuses even if the cut is, on the surface at least, \$400 billion short of what he initially sought. Amidst the gimmickry of this bill are sunset provisions that nearly everyone agrees will never be allowed to take place, pushing its impact beyond what even Bush asked.

The president is most vulnerable in this area and

Democrats are betting heavily that the tax reductions will not do what Bush expects them to: trickle down to create jobs through new investment and result in at least a point or two of increase in the growth rate. At the same time, Democrats must remember that deficits don't normally make great political issues. Job losses and slow growth and reduced purchasing power register most heavily at the poles.

There is another factor. Democrats who decried the tax cuts as unfair and potentially disastrous really didn't offer an alternative. It is the same omission that cost them last year's mid-term congressional elections. Meanwhile, Republicans have made gains, charging their opponents with promoting class warfare. The president hailed the reduction as a major victory. He is right at the moment, despite the skepticism of some even in his own party. Whether he will be as enthusiastic a year from now remains to be seen.

Unlike his father, however, he won't be accused of doing nothing and that itself is a plus for his political future.

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