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GOP TORT REFORM ABANDONS PRINCIPLE OF STATES' RIGHTS

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Supposedly, the difference between Republicans and Democrats is that Republicans believe things, and Democrats say anything to get elected.

At least that was the theme of the past election. President Bush frequently said, "At all times, whether you agree with me or not, you know what I believe." He contrasted himself with Sen. John Kerry, calling him a flip-flopper who took positions based on political expediency rather than principle. Kerry became the poster boy for the Democrats' fecklessness. Post-election analysis indicated that the public thought Democrats didn't stand for anything and voted Republican because of it.

So what do Republicans believe?

They claim to adhere to a number of core principles, primarily a belief in limited government and trust in free markets. There are a number of doctrines that Republicans assert in support of limited government. One of the most popular is the principle of federalism, also known as states' rights.

To modern ears, federalism suggests a strong role for the federal government, but it is actually the opposite. This nation was ostensibly founded as a federation of states that were supposed to dominate the weaker federal government. The 10th Amendment purportedly enshrines this principle, stating that "powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States."

Not long after Bush took office, he said that respect for federalism begins with an understanding of its philosophy: The framers of the Constitution did not believe in an all-knowing, all-powerful federal government. They believed that our freedom is best preserved when power is dispersed. That is why they limited and enumerated the federal government's powers and reserved the remaining functions of government to the states.

Federalism is the idea that government operates best on the state or local level and not the national level. Accordingly, those things that states have traditionally done and those policies and programs that require local variations based on the needs and desires of the states should be left to the states.

Congressional Republicans, led by Senate Majority Whip Mitch McConnell of Kentucky, are pushing a number of bills to reform the tort system. Torts are civil wrongs that include everything from car wrecks to defamation to medical malpractice. Proposed reforms range from limiting punitive damage awards to restricting jurisdiction in certain cases.

Bush recently signed one such bill, the Class Action Fairness Act, which sends certain class actions (cases involving numerous plaintiffs) to federal court.

Most legal matters and torts in particular have always been the sole province of the states. Each state has its own tort system, created over the years to best meet that state's needs. For example, the ability to recoup for pain and suffering varies from state to state, and except in rare cases, class actions are based on state law and heard in state courts.

The Class Action Fairness Act and the tort reform bills impose national solutions on a state problem, directly violating the principle of federalism. Republicans say there are valid arguments to national class actions and medical malpractice, but the fact that they say there are reasons to create national solutions disproves the idea of federalism. If there are reasons to nationalize, there is no reason for federalism.

If you believe that federalism is the way to structure our nation, with strong states and a weak national government, you would assume that a law that takes power away from the states and gives it to the national government is wrong. But if you blithely vote for bill after bill that strips the states of power and gives it to the federal government, you can't believe in federalism, can you?

So much for core principles.

So what do Republicans believe?

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