governments in conjunction with private companies to facilitate urban renewal, destruction of slums, erection of low-cost housing in place of deteriorated housing, and the promotion of aesthetic values as well as economic ones. In *Berman v. Parker*,[611] a unanimous Court observed: "The concept of the public welfare is broad and inclusive. The values it represents are spiritual as well as physical, aesthetic as well as monetary. It is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled." For "public use," then, it may well be that "public interest" or "public welfare" is the more correct phrase.[612] *Berman* was applied in *Hawaii Housing Auth. v. Midkiff*,[613] upholding the Hawaii Land Reform Act as a "rational" effort to "correct deficiencies in the market determined by the state legislature to be attributable to land oligopoly." Direct transfer of land from lessors to lessees was permissible, the Court held, there being no requirement "that government possess and use property at some point during a taking."[614] "The 'public use' requirement is . . . coterminous with the scope of a sovereign's police powers," the Court concluded.[615]

The expansive interpretation of public use in eminent domain cases may have reached its outer limit in *Kelo v. City of New London*.[616] There, a five-justice majority upheld as a public use the private-to-private transfer of land for purposes of economic development, at least in the context of a well-considered, areawide redevelopment plan adopted by a municipality to invigorate a depressed economy. The Court saw no principled way to distinguish economic

(1968), 16 U.S.C. § 79(c) (taking land for creation of Redwood National Park); Pub. L. 93–444, 88 Stat. 1304 (1974) (taking lands for addition to Piscataway Park, Maryland); Pub. L. 100–647, § 10002 (1988) (taking lands for addition to Manassas National Battlefield Park).

[611] 348 U.S. 26, 32–33 (1954) (citations omitted). Rejecting the argument that the project was illegal because it involved the turning over of condemned property to private associations for redevelopment, the Court said: "Once the object is within the authority of Congress, the means by which it will be attained is also for Congress to determine. Here one of the means chosen is the use of private enterprise for redevelopment of the area. Appellants argue that this makes the project a taking from one businessman for the benefit of another businessman. But the means of executing the project are for Congress and Congress alone to determine, once the public purpose has been established. The public end may be as well or better served through an agency of private enterprise than through a department of government—or so the Congress might conclude." Id. at 33–34 (citations omitted).

[612] Most recently, the Court equated public use with "public purpose." Kelo v. City of New London, 545 U.S. 469, 480 (2005).

[613] 467 U.S. 229, 243 (1984).

[614] 467 U.S. at 243.

[615] 467 U.S. at 240. *See also* Ruckelshaus v. Monsanto Co., 467 U.S. 986, 1014 (1984) (required data disclosure by pesticide registrants, primarily for benefit of later registrants, has a "conceivable public character").

[616] 545 U.S. 469 (2005).