south of Philadelphia, spilling 265,000 gallons of heavy crude oil.

In January of this year, our Subcommittee on Coast Guard and Maritime Transportation held a field hearing on this marine casualty in Philadelphia. The Coast Guard estimated that the costs of cleanup and natural resources damages resulting from the grounding of the *Athos* I could be in the range of $200 million. Under current law, the owners of the vessel would be liable for costs of only up to $45 million.

At that hearing, the Chairman, the gentleman from New Jersey (Mr. LOBIONDO), and our newly elected Member, the gentlewoman from Pennsylvania (Ms. SCHWARTZ), raised the concern that the limits of the vessel owner's liability for response, cleanup, and restoration to the damages caused by this spill were relatively modest, set when the Oil Pollution Act of 1990 was enacted over 15 years ago. The Chairman and I both remember, when we served on the Merchant Marine and Fisheries Committee, we were part of setting that oil pollution liability limit. We have not increased those limits since that time even though inflation has actually overtaken.

With the leadership of the chairman of the subcommittee and the gentlewoman from Philadelphia and to ensure that the limits do not again become out of date, Section 603 directs the President to adjust limits of liability. First, Section 603 adjusts the liability limits to account for the inflation of the past 15 years, since the Oil Pollution Act was enacted. Secondly, the provision requires that the President adjust these liability limits not less than every 3 years to reflect changes in the Consumer Price Index since the last adjustment.

I thank the chairman of the Subcommittee on Coast Guard and Maritime Transportation, the gentlewoman from Philadelphia (Ms. SCHWARTZ), and especially our chairman who has concurred, and we worked together in crafting this language to ensure that the Coast Guard reauthorization bill includes this provision and the other provisions of H.R. 1412, the Delaware River Protection Act of 2005. I think it is an important step forward for the environment, for the taxpayers, and for safety of the future.

Mr. OBERSTAR. Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Speaker, I rise in strong support of the gentleman's motion to instruct.

H.R. 889, which was passed unanimously by this House, includes a provision that would increase liability limits by approximately 50 percent for double-hull tank vessels and would, for the first time, establish higher liability limits for single-hull tank vessels.

This legislation was developed through the regular committee process on a completely bipartisan basis.

Further, this bill is supported by the oil and shipping industries as a commonsense measure that both increases the industries' responsibilities and maintains the protections of the Oil Spill Liability Trust Fund to deal with any other major oil spills in the future.

Mr. Speaker, this motion to instruct is one I agree with and, therefore, I urge that we accept it.

Mr. Speaker, I yield back the balance of my time.

Mr. OBERSTAR. Mr. Speaker, there is no comparable provision that I am aware of, and that is why I think it is important for the House to insist on this language, a position that I know the Chairman will stoutly defend, and we will have unanimous support on our side. We will have a bipartisan position.

Mr. LOBIONDO. Mr. Speaker, I rise in strong support of the gentleman from Minnesota's motion to instruct.

As the gentleman knows, this provision was originally included in H.R. 1412, the Delaware River Protection Act, which I introduced and which passed with unanimous support in the House. I thank Chairman YOUNG, and Ranking Member OBERSTAR for including the provisions of that bill as part of H.R. 889, the Coast Guard and Maritime Transportation Act of 2005.

I thank the co-sponsors of the original legislation for their assistance in crafting this provision: Mr. SAXTON, Mr. CASTLE, Mr. ANDREWS and Ms. SCHWARTZ, and I urge my colleagues to support the motion to instruct and the underlying bill as we move to conference with the Senate.

Mr. OBERSTAR. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Minnesota (Mr. OBERSTAR).

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Chair will appoint conferees at a later time.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 12 o'clock and 14 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1400

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DOOLITTLE) at 2 p.m.

## PERMISSION FOR COMMITTEE ON THE JUDICIARY TO FILE SUPPLEMENTAL REPORT ON H.R. 4128, PRIVATE PROPERTY RIGHTS PROTECTION ACT OF 2005

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be allowed to file a supplemental report to accompany H.R. 4128, the Private Property Rights Protection Act of 2005, prior to its passage today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

## MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2744) ''An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.''.

## GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4128.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

## PRIVATE PROPERTY RIGHTS PROTECTION ACT OF 2005

The SPEAKER pro tempore. Pursuant to House Resolution 527 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4128.

□ 1402

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4128) to protect private property rights, with Mr. KLINE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered read the first time.

General debate shall not exceed 90 minutes, with 60 minutes equally divided and controlled by the chairman and the ranking minority member of the Committee on the Judiciary, and 30 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture.

The gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman

from Michigan (Mr. CONYERS) each will control 30 minutes and the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Minnesota (Mr. PETERSON) each will control 15 minutes.

The Chair recognizes the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 4128, the Private Property Rights Restoration Act, overwhelmingly bipartisan legislation I introduced along with Agriculture Committee Chairman GOODLATTE and Judiciary Ranking Member CONYERS.

On June 23, the Supreme Court in a 5 to 4 decision in the case of Kelo v. City of New London transformed established constitutional principles when it held that the fifth amendment's public use clause permitted government to seize the private property of one small homeowner and to give it to a large corporation for a private business use.

As the dissent in that case made clear, under the majority's opinion: ''Any property may now be taken for the benefit of another private party. The government now has the license to transfer property from those with fewer resources to those with more. The Founders cannot have intended this perverse result.''

Reaction to the Kelo decision has united strong opposition from across the political, ideological, and socioeconomic spectrum. The NAACP and the AARP faulted Kelo's failing reasoning by stating: ''The takings that result from the Court's decision will disproportionately affect and harm the economically disadvantaged and, in particular, racial and ethnic minorities and the elderly.''

Representatives of religious organizations have also condemned the failed logic of the Kelo Court, stating: ''Houses of worship and other religious institutions are, by their very nature, nonprofit and almost universally tax exempt. These fundamental characteristics of religious institutions render their property singularly vulnerable to being taken under the rationale approved by the Supreme Court.''

Public reaction to the Kelo decision has also been swift and strong. The protection of private property rights is the number one issue that concerns Americans today, according to a Wall Street Journal/NBC News poll; and by an 11-to-1 margin, Americans say they oppose the taking of private property for private uses, even if it is for the public economic good.

According to an American Survey poll: ''Public support for limiting the power of eminent domain is robust and cuts across demographic and partisan groups.'' Even Justice John Paul Stevens, who authored the Court's 5 to 4 decision, recently acknowledged that if he were a legislator, he would oppose the results of his own ruling by working to change current law. That is what we are doing here today, working to change current law.

A week after the Supreme Court's now notorious Kelo decision, I introduced H.R. 3135, the Private Property Rights Protection Act, to help restore Americans' property rights the Supreme Court took away. On October 25, I introduced an even stronger version of the bill which we are considering today, which has benefited greatly from the contributions of Ranking Member CONYERS, Ms. WATERS, Mr. GOODLATTE, and others, including Mr. CANNON and Mr. FLAKE.

H.R. 4128 helps restore the property rights of all Americans by establishing a penalty for States and localities that abuse their eminent domain power by denying those States and localities that commit such abuse all Federal economic development funds for a period of 2 years. Under this legislation, there is a clear connection between the Federal funds that would be denied and the abuse Congress is intending to prevent. If States and localities abuse their eminent domain power by using economic development as a rationale for a taking, they shall not receive Federal economic development funds that could contribute to similarly abusive land grabs.

I am very mindful of the long history of eminent domain abuses, particularly in low-income and often predominantly minority neighborhoods, and the need to stop it. I am also very mindful of the reasons we should allow the government to take land when the way in which the land is being used constitutes an immediate threat to public health and safety. I believe this bill accomplishes both goals.

The legislation contains an express private right of action to make certain that those suffering injuries from a violation of the bill will be allowed to access the State or Federal court to enforce its provisions and includes a fee-shifting provision, identical to those in other civil rights laws, that permits the recovery of attorney and other litigation fees to prevailing property owners. The legislation gives the States and localities the clear opportunity to cure any violation before they lose any Federal economic development funds by either returning or replacing the improperly taken property to the property owner.

H.R. 4128 also includes carefully crafted refinements of the definition of ''economic development'' that specifically allow the types of takings that, prior to the Kelo decision, had achieved a consensus as to their appropriateness. These include takings in which the public itself owns the property, where the property is used by a common carrier or public utility, and for related infrastructure like pipelines, and where the property is abandoned.

Finally, in order to facilitate State compliance with its terms, the bill will not become effective until the start of the first fiscal year following enactment of the legislation, nor would it apply to any project for which condemnation proceedings have begun prior to its enactment.

Mr. Chairman, I urge all of my colleagues to join me in supporting this vital bipartisan legislation that will protect the property rights of the most vulnerable in our society and limit the effect of the now notorious Kelo decision.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise in support of the measure before us today, the Private Property Rights Act of 2005. I am pleased to join with my chairman, Mr. SENSENBRENNER; the gentlewoman from California (Ms. WATERS); and the gentleman from Virginia (Mr. SCOTT) in support of this measure.

This legislation was introduced in response to the Supreme Court's decision in Kelo in June of this year, which shocked most Americans because if State and local governments can transfer property from one private owner to another based on a judgment which will produce the most taxes and jobs, then, in essence, no one's property is safe. Increasingly, governments across the country are taking private property for public use in the name of ''economic development.'' Under the guise of economic development, private property is being taken and transferred to another private owner, so long as the new owner will use the property in a way that the government deems more beneficial to the public.

In fact, in Detroit, Michigan, we have faced the same kinds of issues that arose in the Kelo case. The infamous Poletown decision in the Michigan Supreme Court in 1981 allowed the City of Detroit to bulldoze an entire neighborhood, complete with 1,000 or more residences, 600 or more businesses, and numerous churches in order to give the property to General Motors for an automobile plant. This case set a precedent, both in Michigan and across the country, for widespread abuse of the power of eminent domain. In Detroit, eminent domain was subsequently used to make way for casinos.

Fortunately, the Michigan Supreme Court reversed its decision. Citizens in most other States, though, have not been afforded the same protection and have witnessed an increase in takings for economic development that has been rationalized in Kelo. As a result, a Federal legislative response to Kelo is warranted; and today I am pleased to say that we take up a response with friends on both sides of the aisle.

This act before us now will afford our citizens greater protections against governments' forced takings for private development. First, the State and local government will not be able to any longer exploit eminent domain for private development without consequence. Second, a more traditional view of public use is advanced so that we protect property interests as well as meet contemporary challenges. Third, we set an example for States and cities as to how our citizens' property rights must be protected.

Our measure before us is clear and states in no uncertain terms that State and local governments will lose economic development funding if they take someone's home or business for private commercial development.

□ 1415

Homeowners can also bring suit against those States and cities that want to continue violating their property rights. We are making the financial gains that come with replacing residential areas with commercial districts less attractive.

This legislation advances a more traditional view of public use. By restricting the use of eminent domain powers for economic development, we reserve those powers for projects that have traditionally been considered public use.

We can justify a State or city's takings when the taking is for a road, a school, a public utility, but we cannot agree with a State or city's takings when it is done for private uses like condominiums and shopping malls.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding me time.

Mr. Chairman, I support the Private Property Rights Protection Act.

Two hundred years ago, our Founders wrote into the Bill of Rights a guarantee of the right to private property. Such a right lies at the foundation of a democracy where citizens have the freedom to buy, sell, exchange or make a profit on all forms of property.

In recent years, it has become more and more common for the government to seize private property under the guise of eminent domain for public use.

Last year, the Supreme Court gave landowners more reason to worry. They decided that State and local governments can take property from a private landowner in order to give or sell it to another private owner. This 5 to 4 decision in Kelo v. City of New London threatens the legitimate rights of landowners. We must act to protect those rights.

In the months following the Kelo decision, several different bills aimed at preventing eminent domain abuses were introduced. The Private Property Rights Protection Act is a fair and sensible combination of all of those bills.

It prevents States or localities that seize private property in order to transfer it to other private owners from receiving economic development funding from the Federal Government for 2 years. But the bill is not automatically applied. It gives a State or locality the opportunity to correct any abuse of power by returning all property to the landowner or replacing any property that has been damaged. If the State or locality does so, they will still be allowed to obtain Federal funding.

Mr. Chairman, the right to private property ownership is one of the cornerstones on which this country was founded. H.R. 4128 will make sure that right continues to be protected.

Mr. CONYERS. Mr. Chairman, I yield 4 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise to oppose the legislation, which is the congressional response to the Supreme Court decision Kelo v. City of New London. By enacting this legislation, we are undermining the States' rights and assuming the role of a city council. We should not change Federal law every time Members of Congress disagree with the judgment of a locality when it uses eminent domain for the purpose of economic development. We were elected to the United States Congress, not to local city councils.

Mr. Chairman, it is impossible for Congress to draw a bright line principle separating those cases in which economic development is appropriate for a particular area and when it is not. The Constitution does require that the taking be for public use. It is the role of a city council to weigh the needs of a particular community and consider when the government should use eminent domain.

Sometimes that might mean taking property for the purpose of economic development. Sometimes it may not. Sometimes we will agree with the judgment of the locality. Sometimes we will disagree.

I cannot think of a more fitting example of the quagmire this bill presents than the situation we have right here in Washington, D.C., where they are trying to build a baseball stadium. I find it ironic that, at the same time we are marking up the bill, Washington, D.C. is using eminent domain to build a baseball stadium.

The debate on this bill has already exposed the shortcomings of the legislation. For example, we found that if a stadium were built and owned by the city at taxpayer expense, it would clearly be allowed under the bill. On the other hand, if the owner offered to build a stadium at his own expense, that might not be allowed.

The bill requires public access to the stadium as ''a matter of right.'' Does that mean that the skyboxes must be put to public auction, or can the owner pick and choose which businesses can acquire rights to skyboxes?

Anybody who surveys baseball or football stadiums around the country will find all kinds of public and private and joint public-private ownership combinations. Could some use eminent domain, while others be prohibited from using eminent domain based on the fact that they want to limit access to skyboxes or how the title of the stadium is held?

Mr. Chairman, the World Trade Center and Lincoln Center in New York, the Baltimore Inner Harbor, even President Bush's baseball stadium in Houston, Texas, were all made possible by eminent domain takings for the purpose of economic development. And although we might agree or disagree with the wisdom of these projects, most would agree that they should not have been illegal. These are political decisions that ought to be left to the localities within the confines of their State legislature's parameters.

If Congress cannot leave eminent domain to the States, then we should focus on the real issues involved in eminent domain. We should require, for example, that just compensation should include replacement cost, not just technical appraisal value. We should require that relocation expenses be paid to owners and tenants.

As written, the bill does nothing to ensure that displaced individuals receive reasonable compensation for the replacement value and relocation expenses. The bill does nothing to ensure compensation for loss of goodwill of a business, nothing to ensure that due consideration is given for the length of time a family or business has been at a particular location. Nothing in the bill deals with the fact that the poor and minorities are usually the victims of eminent domain abuses. Let us put some protections in the bill so that those who are relatively weak politically can be protected from unfair use of eminent domain.

Mr. Chairman, I would like to place in the RECORD at this point letters from the National League of Cities, the National Conference of State Legislatures and the National Association of Housing and Redevelopment Officials.

Mr. Chairman, I believe that the decision-making power of eminent domain should remain at the State and local level and that congressional attempts to define when eminent domain is reasonable and when it is not will cause more problems than they solve. Therefore, I urge my colleagues to oppose the bill.

NATIONAL LEAGUE OF CITIES,
*Washington, DC, October 27, 2005.*

Hon. JAMES SENSENBRENNER,
*Chair, House Judiciary Committee, Rayburn House Office Building, Washington, DC.*

Hon. JOHN CONYERS, Jr.,
*Ranking Member, House Judiciary Committee, Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN SENSENBRENNER AND RANKING MEMBER CONYERS: The National League of Cities (NLC) strongly opposes H.R. 4128, the Private Property Rights Protection Act of 2005. NLC is the country's largest and oldest organization serving municipal government, with nearly 1,600 direct member cities and 49 state municipal leagues, which collectively represent more than 18,000 United States communities.

NLC acknowledges the spirit underlying this bill and does not condone abuse of eminent domain power that violates state law. However, NLC believes this bill, or any anti-eminent domain bill pending in Congress, is unnecessary at this time because of the ongoing actions of state legislatures and the absence of direct evidence confirming that alleged abuses of eminent domain authority

are of a national scope and scale that demand immediate federal action.

Despite fearful rhetoric in the press, the Supreme Court's decision in Kelo v. City of New London did not expand the use or powers of eminent domain. The Kelo decision confirmed that eminent domain, a power derived from state law, is not a one-size-fits-all power. The Court declared that this power is one best left to the states and their political subdivisions. The Kelo Court, affirming federalism, did not preclude ''any state from placing further restrictions on its exercise of the Takings power.'' Approximately 30 states are already reviewing or planning to review their eminent domain laws during upcoming legislative sessions, with the majority focused on just compensation and comprehensive planning process modifications. Since June 2005, Alabama, Texas, and Delaware enacted laws that tighten the application of eminent domain power in each state.

NLC urges Congress to let state governments act on their own eminent domain laws and not move forward with federal legislation.

Many aspects of H.R. 4128, led by the proposed definition at Section 8 of ''economic development,'' trouble NLC. Economic development is a process, not the concrete act of taking private property from A and giving it to B for a ''commercial enterprise carried on for profit.'' If enacted, the bill could have the unintended consequence of preventing hurricane-damaged communities from rebuilding. In those communities, eminent domain may be necessary to assemble land and help with negotiations associated with comprehensive redevelopment plans. Implementing those comprehensive redevelopment plans would ''increase tax revenue, tax base, employment, or general economic health,'' violating the bill's further definition of economic development.

Moreover, the bill at Section 2(b) grants final authority to the appointed—not elected—judiciary to determine what constitutes ''economic development.'' Curiously, this was an important argument against the Kelo decision raised by property rights activists.

The practical effects from this bill, including its loose definition at Section 8 of ''Federal economic development funds'' and its creation of a private right of action at Section 4 that invites forum shopping, would not chill, but rather freeze the process of economic development across the country.

Eminent domain is a powerful tool for local governments—its prudent use, when exercised in the sunshine of public scrutiny, helps achieve a greater public good that benefits the entire community.

Again, NLC opposes H.R. 4128 for the reasons stated in this letter. Please weigh carefully the unintended consequences from a rush to pass federal legislation in response to unsubstantiated fears over the Supreme Court's decision in Kelo v. City of New London.

Sincerely,

DONALD J. BORUT
*Executive Director.*

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NATIONAL CONFERENCE
OF STATE LEGISLATURES,
*Washington, DC, October 25, 2005.*

Subject: H.R. 3135.

Hon. JAMES SENSENBRENNER,
*Chair, Judiciary Committee, House of Representatives, Washington, DC.*
Hon. JOHN CONYERS,
*Ranking Member, Judiciary, House of Representatives, Washington, DC.*

DEAR CHAIRMAN SENSENBRENNER AND RANKING MEMBER CONYERS: On behalf of the National Conference of State Legislatures (NCSL), I write in strong opposition to H.R. 3135 the ''Private Property Rights Protection Act of 2005'' which is scheduled to be marked up on October 26. This ill-advised bill would severely chill state and local revitalization efforts, preempt state and local land use laws, and curtail many valid and constitutional state and local projects that require the use of the eminent domain power by prohibiting any federal funding that goes to the states from being used for ''any activity, including increasing tax revenue, other than making private property available in substantial part for use by the general public or by an entity that makes the property available for use by the general public, or as a public facility, or to remove harmful effects.'' This means that if a state or locality were to use the power of eminent domain for economic development purposes, even if such action was completely in accordance with its own statutes and land use development ordinances and regulations, the state could lose all applicable federal funding. This piece of legislation amounts to federal blackmail of states for using a completely constitutional and valid state power.

The power of eminent domain has always been, and should remain, a state power. The Kelo v. New London Supreme Court decision did not expand state authority to condemn private property for economic development. It merely reaffirmed existing law on the subject. There is substantial Supreme Court case law dating as early as 1954 which upholds the power of state and local governments to take and retransfer property, upon payment of just compensation, in order to promote economic development.

It is also important to be aware that in the aftermath of the Kelo decision, twelve states—Alabama, California, Delaware, Illinois, Michigan, Minnesota, New Jersey, New York, Ohio, Oregon, Pennsylvania, and Texas—have already introduced bills, and three of these states—Alabama, Delaware, and Texas—have already enacted legislation in special session to address the power of eminent domain in their state. We expect to see many more states address the issue of eminent domain in their next legislative session. All of our state materials on eminent domain can be found on NCSL's Web site: *www.ncsl.org/programs/natres/EMINDOMAIN.htm*

Again, I urge you to oppose H.R. 3135. If you have any questions, please contact Susan Pamas Frederick, Senior Committee Director at 202–624–3566, *susan.frederick@.ncs1.org*. Thank you.

Respectfully,

Representative JANICE L. PAULS,
*Kansas House of Representatives, Chair, NCSL Committee on Law & Criminal Justice.*

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NATIONAL ASSOCIATION OF HOUSING
AND REDEVELOPMENT OFFICIALS,
*Washington, DC, November 3, 2005.*

DEAR MEMBER OF CONGRESS: I am writing to convey the National Association of Housing and Redevelopment Officials' (NAHRO's) strong opposition to HR 4128, the ''Private Property Rights Protection Act of 2005.'' NAHRO is the nation's oldest and largest association of housing and community development professionals and the leading advocate for adequate and affordable housing and strong, viable communities for all Americans—particularly those with low- and moderate-incomes.

The bill in its current form is unacceptable to our members. NAHRO acknowledges three amendments we understand will be considered. First, within the context of this bill, Congressman Michael Turner's proposed amendment to HR 4128 creates a broader and more reasonable scope of activities for which eminent domain takings would be appropriate. Second, Congressman Jerrold Nadler's amendment removes the bill's unreasonable and disproportionate penalty provisions, which would lead to unprecedented fiscal uncertainty for State and localities by forcing them to pursue community revitalization under the constant threat of losing all Federal economic development funding. Finally, Congressman Melvin Watt's amendment would remove most of the bill's objectionable content while still providing the Congress with an opportunity to express its sense that abuses of eminent domain are unacceptable and that eminent domain as a strategy for pursuing economic development deserves careful, ongoing scrutiny.

Although NAHRO believes that these amendments improve the legislation to varying degrees, I want to make clear that HR 4128, even if amended, would still undermine important community and economic development activities across the nation and should not be adopted.

NAHRO believes that eminent domain should properly remain an instrument of last resort. In those rare instances when eminent domain is needed, it must be used prudently. Nevertheless, eminent domain remains an important community and economic development tool that allows State and local governments to respond to community needs, and it must remain available to our nation's housing and community and economic development professionals as they work to revitalize American communities. It is therefore essential that the Congress not place new and overly burdensome restrictions on traditionally permissible, Constitutional uses of eminent domain employed by State and local agencies for the purpose of community and economic redevelopment.

The recent decision of the U.S. Supreme Court in Kelo v. City of New London broke less legal ground than many reports in the popular media would have led the reader to believe. The decision did uphold the ability of local governments to exercise the power of eminent domain to achieve economic development. However, the opinion of the Court did not provide carte blanche authorization for go vernments to take private property merely to hand it over to other private owners. To the contrary, the Court emphasized that the property at issue was taken pursuant to a carefully considered plan that would act as a catalyst for much needed job creation and further development. The Court also made it clear that its decision would establish only the constitutional permissibility of such takings under the Fifth Amendment.

Importantly, the Court in Kelo held that States and local governments are free to narrow the circumstances under which the power of eminent domain may be exercised. At least 31 States have recently taken steps to avail themselves of that right. NAHRO therefore believes this bill is unnecessary at this time. Indeed, instead of allowing States to exercise their rights in this area, HR 4128 in its current form would instead severely undermine state and local community revitalization efforts by placing every state and locality in permanent fiscal peril and bringing community and economic development to a grinding halt.

Again, while NAHRO acknowledges the efforts of some to improve the legislation, we believe the most responsible course of action would be to vote against HR 4128. Eminent domain policy remains a complex issue area and deserves careful ongoing scrutiny, not overly broad legislation that would leave a cloud of financial uncertainty hanging over nearly every local government in the nation. Congress should not, in an effort to preemptively redress speculative future consequences of the Kelo decision, trample the

concept of federalism embodied in the Constitution and the traditional prerogatives of local governments that exist under that system.

Sincerely,

SAUL N. RAMIREZ, Jr.,
*Executive Director.*

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentlemen from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I first want to thank the chairman of the Judiciary Committee, the gentleman from Wisconsin, and also the ranking member, the gentleman from Michigan, for their leadership in this area.

This is a very important issue before Congress, and I am very pleased that Congress is acting. The idea that a person's home or business can be taken by the government and transferred to another private entity simply to allow the government to collect additional tax revenue seems anathema to the values that Americans cherish. But the Supreme Court has now thrown its weight behind this distinctly un-American ideal by ruling that economic development can be a public use under the fifth amendment's takings clause.

Few would question the Constitution provides a legitimate role for eminent domain when the purpose is a true public use and the property owner receives just compensation. That happens all of the time, and that is appropriate. Properly used, eminent domain should give communities an option of last resort to complete the development of roads and schools and utilities and other essential public infrastructure projects.

As a former Cincinnati city councilman and Hamilton County commissioner myself, I would be remiss if I did not mention my concern for some unintended consequences that congressional action could have on communities if we do not act carefully, and I think we have acted carefully in this bill, and I thank, again, the chairman and the ranking member for doing that.

We had testimony by the mayor of Indianapolis. I also want to commend the former mayor of Dayton, Congressman MIKE TURNER, who is the head of the Saving America's Cities Working Group, who has worked diligently to try to make this a better bill as well. Many people have worked on this.

I am very pleased that Congress is going to take this action to make sure that eminent domain is not used in an inappropriate purpose. If Kelo was left as it was ruled by the Supreme Court, it could be used in a way that could be dangerous, that could be to the detriment of communities all around this country.

So I am very pleased that we are acting on this today, and again want to commend the chairman and Congress for acting.

Ms. WATERS. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentlewoman yielding me the time and permitting me to speak on this legislation.

Mr. Chairman, I understand the frustration that we have heard on the floor, the reaction to the Kelo decision which I personally looked at those circumstances. I was troubled in terms of what was proposed in that city.

But I am concerned that we have the big picture in mind, because we have been dealing with eminent domain for decades. We do not have a national crisis here. What we had was a State and local government that did not do their job appropriately.

The Supreme Court, appropriately, indicated that this was not a constitutional issue. There are tools. There are remedies.

I am a former local official. I dealt for years, as public works commissioner for the City of Portland, with things that dealt with redevelopment. We rarely if ever used eminent domain. The fact that it was there made a difference to be able to do things the public wanted.

I hope that Members reflect on the dangers of having the Federal Government rush into something that is appropriately the province of State and local affairs. Think about what the approach you are advocating here would have had on cleaning up Times Square. This was an area that for years was a center of violence and vice. Eminent domain was used to transform Times Square with the crime rate plummeting and change the face of that area.

There are communities around the country where this has been done. Look at the Roxbury neighborhood in Boston or look out the door here of the Capitol at Pennsylvania Avenue, where eminent domain was used in the 1960s and 1970s to reformulate the face of it.

I understand the sensitivity. We do not want it abused. But, for heavens sake, we should be careful before we rush in with a Federal solution which may have unintended consequences.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. Mr. Chairman, I so much appreciate the chairman and the proponents of this bill bringing it to the floor. What brings this about is one more reason why it is critical that we do not have Supreme Court justices who read the Constitution while they are having visual hallucinations.

That is what has been happening. There is no way to read this, ''Nor shall private property be taken for public use without just compensation,'' that is in the fifth amendment without realizing that means public use. It does not mean taking property from someone who has lived there for generations or some farmer that has been farming the land, to give it over to some developer just because he is going to give a bigger kickback to the local government.

That goes back to the days of King George when he says, gee, you have been a good friend, you have paid taxes, but this guy over here has promised me a bigger kickback, so I am kicking you off your property. We had a revolution to try to stop that kind of thing.

Anyway, I just want to put this question to my friends across the aisle. I know I have heard them express their concerns about constituents and the poor and those who cannot help themselves, and we ought to be helping them. Do you really want to go back to your constituents, do you really want to tell voters that you support this ridiculous Supreme Court notion that a government can take their property, not property that is a threat to the community, not that it is blighted, but take their property against their will to give it over to someone richer who is going to pay more taxes, and that is the only reason?

That is not the American way. That is not what the supporters and proponents of this bill want to see happen. We are sending a loud message, that is not what the Constitution says, it is not what is intended, it is not what we fought a revolution to end; and we will not stand by and allow a ridiculous Supreme Court decision to overrule that.

□ 1430

Ms. WATERS. Mr. Chairman, I yield 2½ minutes to the gentleman from Tennessee (Mr. DAVIS).

(Mr. DAVIS of Tennessee asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Tennessee. Mr. Chairman, I rise today in strong support of H.R. 4128.

Mr. Chairman, the people of my home State of Tennessee know the stories of eminent domain all too well. They know the stories of when the Corps of Engineers and TVA condemned property of hard-working farmers to impound lakes. The folks I represent were willing to give up their land for the benefit of the valley.

They knew the public works projects would bring about much needed economic opportunity. They knew that the readily available cheap power would spawn new industries and provide good jobs for hard-working individuals. Although the promised benefits did become a reality, many of my ancestors, like my grandfather, felt the government takeover of land was wrong. Often I would hear stories of dissatisfaction about the loss of lands that have been in families since their families moved to the Appalachians.

I firmly believe that if the taken property had been given to another property owner, my ancestors would have felt like declaring war on the government. Fortunately, my grandfather and others were able to accept that the taking of their land was good for the public.

Mr. Chairman, there is no doubt in my mind that the Court's decision in Kelo is wrongheaded and wrong-hearted. One of the basic founding principles of this country is the right to own private property. Since our founding, governments have had the leverage needed

to encourage capital and economic development for our communities, while still recognizing the intrinsic value of a family's private property.

Mr. Chairman, I know that without a constitutional amendment our actions today are about as far as this Congress can go to dehorn the impact of the Kelo decision. Although this bill addresses and puts in place compelling penalties to cities, counties, and States that violate private property rights, I really think it needs to go further.

It is my hope that some day we can bring about stricter penalties to local governments who choose to run roughshod over the property rights of private landowners. I know that is what my grandfather would have expected of me, and I hope that is what we can expect of this Congress as we work to solidify the intrinsic value of people who own private property.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1½ minutes to the gentleman from Georgia (Mr. PRICE).

Mr. PRICE of Georgia. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, the fifth amendment to the Constitution states that ''no person shall be deprived of life, liberty or property without due process of law, nor shall private property be taken for public use without just compensation.''

Thomas Jefferson said: ''The true foundation of republican government is the equal right of every citizen in his person and property and in their management.''

However, that was then. We have heard a lot of talk about the Founding Fathers; and they are not turning in their graves, Mr. Chairman, they are spinning.

Jefferson warned: ''A government big enough to give you everything you want is a government big enough to take away everything you have.''

It looks like we are at that stage.

A school does not generate tax revenue. A church does not generate any tax revenue, but that does not mean that a school ought to become a Starbucks and that a church ought to become the next Costco.

Thanks to the recent Supreme Court decision on eminent domain, the fifth amendment has been vastly expanded. In the past, public use meant projects for the common good, not for the bottom line. With this decision, no citizen's property is safe and the American dream of owning your own home is now at risk. Private ownership of property is a pillar of our freedom and our prosperity.

The Private Property Rights Act, H.R. 4128, will begin to right the wrong that was wrought on our Nation this past June. I urge all Members of this House to support this important legislation.

Ms. WATERS. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise in very strong support of H.R. 4128.

I was one of those individuals who was shocked at the Supreme Court decision. On June 23, 2005, Kelo v. The City of New London, the Supreme Court held in a 5 to 4 decision that the city's use of eminent domain to implement its area's redevelopment plan aimed at invigorating a depressed economy was a public use satisfying the U.S. Constitution, even though the property would be turned over from private homeowners and businesses to private developers.

Never in my wildest imagination did I think there would be a Supreme Court ruling that would take private property and give it to private individuals for private use.

This decision was born out of what took place with the giant pharmaceutical company Pfizer. Pfizer built a plant next to an area called Fort Trumbull, and the city determined that someone else could make better use of the land than the people who actually lived there: the Fort Trumbull residents. The city handed over its power of eminent domain, that is, the ability to take private property for public use, to the New London Development Corporation, a private body; and that private body then exercised eminent domain to take the entire neighborhood for private development.

The Supreme Court decision is wrong, and I cannot see how any Member of the House of Representatives could support the taking of private property for private use. Someone spoke of this as being a pillar of democracy. It is a strong American value that we hold dear, and I do not think that we should not do something, exercise our power in this House to deny the Supreme Court decision to be used by all of these cities and redevelopment agencies and other entities. I believe that we have to protect the American people.

As a matter of fact, one Member came and said, well, you know, this is an isolated case. It is not. I have over 125 cases throughout the United States where cities and other entities, community redevelopment agencies, in those cities where they can give the eminent domain rights to private developers, such as they did in this Kelo decision, are taking people's private property.

What is more, many of these entities are trying to take private property, take homes and businesses to give over to the big-box developers who need a lot of land to put down these big-box shops.

I do not believe we can stand by and not do something. There are those who would argue that the Federal Government should not be involved. If not us, who will protect people? We know that you are getting lobbied, Members are getting lobbied by Members of city councils, even by mayors; but many of them are lying with these developers. They have relationships; money is changing hands. They are in bed with the very developers who want to take the private property for private development.

Again, we cannot afford to let this happen. What we do here today will help to slow down this taking of private property for private use. As far as I am concerned, the bill could have even been stronger because we have got a few exceptions in the bill that I question.

I wanted a pure bill with no exceptions. My chairman who worked so hard on this bill made a case for some takings for certain kinds of very, very important public use of private lands. And even though I am supporting the bill, I could support an even stronger bill because I think there should be no exceptions, none, zilch, zero, no exceptions. I do not believe in taking private property to give to someone else for private use to make money off of.

You will hear this described in any number of ways, the taking of private property to get rid of blight. Whose blight? By whose definition? The taking of private property by economic development. What kind of economic development? Who is going to make the money? Who is going to suffer?

Your home is your castle. And for those people who save their money and invest in their homes, raise their children, that home should be their castle in toto. That home should never be in jeopardy because some city government, some redevelopment agency decides that they want to take it. I do not care what for. The gentleman from Virginia (Mr. SCOTT) came and talked about the taking for ballparks. I disagree with that.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, while I do not have any problems with the bill at this time, there is some concern that the bill may adversely affect the transportation projects, including those constructed under public and private partnerships.

There is also a concern that the bill may have unintentional effects on the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970.

I would like to thank the gentleman for including the language changes that we have suggested in the manager's amendment to help fix these problems. These changes are meant to clarify that this bill does not have any adverse impacts on issues under the jurisdiction of the Transportation and Infrastructure Committee.

Mr. Chairman, I ask that if we discover any additional problems with this legislation for transportation projects, you will agree to work with me in conference on a mutually agreeable solution.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. If unintended transportation consequences

are discovered, I would be happy to work with the gentleman from Alaska (Mr. YOUNG) to fix them in conference.

Mr. YOUNG of Alaska. I agree with the gentleman's goals and look forward to working with the entire delegation to meet the goals of this conference. I thank the gentleman for doing this.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas (Mr. POE).

Mr. POE. As a former judge, I want to thank the chairman for leading the fight to protect private property rights.

One reason we started this country was because back in the days of England, the king and the nobles owned all the land, and regular folks like us had to work the land, but we could never own the land. That is one reason this country got started, because of the desire to own private property.

John Locke, the great philosopher who was influential in much of the law that came into our Constitution, said that we are all born with the right of life, liberty, and property. And Thomas Jefferson incorporated that concept in the Declaration of Independence when he said that we are given by our creator life, liberty, and the pursuit of happiness. And then we put in our Constitution in the fifth amendment that basic right, that we all have life, liberty, and property and it will not be taken without due process of law.

That simple phrase that is in that fifth amendment, that private property shall not be taken for public use without due compensation, it is the American dream to own a part of America, own a part of the land. More Americans own land and houses than ever before in our history. Then the Supreme Court came around and misinterpreted this very simple rule in our Constitution, allowing private property to be taken by local governments so they can give it to somebody else all in the name of money. It is all about the money. It ought to be all about what is right.

This law will prevent government land-grabbing authorized by the Supreme Court. Their ruling was an error in judgment of constitutional proportions and hopefully the Supreme Court will find its way and reverse this absurd ruling.

Ms. WATERS. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I thank my good friend, the gentlewoman from California (Ms. WATERS).

I must rise to object to this bill. I think it is too broad. The period of time within which you can take legal action is too long, and in some specific cases it is too restrictive. It will be subject to the law of unintended consequences.

My views, I have to acknowledge, are formed by having been mayor of Alexandria, Virginia. We did at times use the power of eminent domain primarily to help lower-income people to restore blighted areas of the city. In those situations, the improvement of those rundown areas could not have happened without government intervention because the private sector simply was not willing to make the investment.

We were able to establish scattered site public housing throughout the city. We were able to achieve substantial economic improvements along the Alexandria waterfront which had been relegated to a place of neglect where only people of the lowest income lived. And now people of all incomes are able to take advantage of public use in these areas, and we have expanded the availability of affordable housing.

We could not have done it without this power. And, in fact, if our constituents did not like what we were doing, they had the ability to take us out of office through the normal democratic process. I understand that this is a power that can be abused, but that possibility does not warrant its elimination.

□ 1445

In fact, if you want it restricted, the proper place to do so is not at the Federal level. It is at the State and local level.

I have an amendment that will correct this bill so that it will not be subject to the law of unintended consequences. I intend to introduce that amendment shortly.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1½ minutes to the gentleman from Nevada (Mr. GIBBONS).

Mr. GIBBONS. Mr. Chairman, I rise today in support of H.R. 4128, a bill that seeks to undo the damage wrought by one of the worst Supreme Court decisions in my memory.

The court in Kelo decided that the fifth amendment of the Constitution can be hijacked by a rogue, private developer to take homes or private property from hardworking Americans to build new shopping malls and luxury resorts in their place to increase tax revenues.

Our Constitution, which every Member of this body has sworn to uphold and protect, has, in essence, been changed by five people who are charged only with interpreting the Constitution, not rewriting it.

I am not sure how many ways there are to interpret the clause: ''nor shall private property be taken for public use without just compensation.''

Mr. Chairman, it seems pretty clear to me that an office building owned by a private party that restricts its use to only those who pay rent is not a public use facility; or that a public use is a highway, not a high-rise; or that a public use is a park, not a private parking lot; or that a public use is a courthouse, not a condo.

A society that allows its big developers to take the private property of ordinary citizens in the name of economic development is not a free society.

The potential for greater profits and higher tax revenue is not what our Founding Fathers envisioned as public use.

Importantly, Mr. Chairman, one of those constitutional provisions is the protection of private property. The Founders of this great Nation knew that a government that can take a citizen's property on a whim is a government that can take away everything else as well.

H.R. 4128 offers a reasonable solution, and I urge my colleagues to support this bill.

Ms. WATERS. Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, private property has been among the most sacred rights of the American people since our founding as a Nation. Likewise, the government's duty to protect private property has remained among its most sacred responsibilities.

John Adams once wrote, ''The moment the idea is admitted into society that property is not as sacred as the laws of God, and that there is not a force of law and public justice to protect it, anarchy and tyranny commence.''

Well, Mr. Chairman, the recent Supreme Court decision in Kelo v. New London has commenced the tyranny. It is laying siege to the idea that a man's home is his castle.

While it is true that the principle of eminent domain is established in our Constitution, it exists for an extremely limited purpose.

The dissenters in the Kelo case correctly note that the Court has abandoned a ''long-held basic limitation on government power. Under the banner of economic development, all private property is now vulnerable to being taken and transferred to another private owner.''

The Court essentially now gives local governments the power to seize property to simply generate tax revenue. Under their ruling, your local city council can now take your home and give it to Starbucks so they can sell vente mocha lattes. Mr. Chairman, are we still in America?

By passing the Private Property Rights Protection Act, Congress can help secure this most sacred right. H.R. 4128 will rightfully increase the penalties for States. We should stand for freedom and private property and support this act.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Virginia (Mrs. DRAKE).

Mrs. DRAKE. Mr. Chairman, I am proud to be a cosponsor of H.R. 4128, and I strongly urge my colleagues to support this bill on behalf of property owners across our Nation.

This legislation clearly prohibits economic development as a public use, period, with no room for misunderstanding. Eminent domain, for the purpose of economic development, is absolutely opposite our belief as Americans of our right to own private property.

Our role as Members of Congress is to protect the public. We have a responsibility to use legislative powers to clearly define private property rights.

I would like to thank the sponsors of the bill, the chairman and committees that have worked on it, and I urge my colleagues to vote in favor of H.R. 4128.

Ms. WATERS. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, I thank the gentlewoman for yielding me time.

Mr. Chairman, the power of eminent domain should never be abused to take private property for the private benefit of another, and I agree with the concept of the bill, but it is very poorly drafted. It goes too far and not far enough.

It will permit many of the abuses and injustices of the past, while bankrupting State and local governments.

It would allow highways to cut through communities and all the other public projects that have historically fallen most heavily on the poor and powerless.

It does nothing to protect displaced renters. They get no compensation, no day in court, but absentee slumlords, they get their day in court.

It allows a taking to give property to a private party ''such as a common carrier, that makes the property available for use by the general public as of right.''

Does that mean a stadium? It seems to me that is privately owned. It is ''available for use by the general public as of right'' at least as much as a railroad; you can buy a seat. Does that mean a shopping center? You do not even need a ticket. So this would not even prevent the use of public domain, apparently, for sport stadiums and shopping centers.

The World Trade Center, on the other hand, could not have been built under this law. It was publicly owned, but leased as office and retail space.

Affordable housing, like the Hope VI program would be prohibited.

Local governments under this bill would risk all their economic development funding for 2 years, even for unrelated projects. The financial cloud this would place over all cities would ensure that they could never issue a bond, for any purpose, and companies doing business with the city would face the threat of bankruptcy.

If we really want to help property owners, we should give them the right to stop the taking before it happens. This bill makes them wait until after the condemnation and offers them no damages. People do not want to bankrupt their communities. They want to keep their homes. This bill does not do that. I will offer an amendment that will at least change this part of the bill and solve that problem.

A bill to prevent takings for improper purposes makes sense. It does not make sense to say that if the government makes a mistake, instead of giving private injunctive relief in advance to prevent that mistake to help the property owner, you put a cloud on the future finance of the State or city as they can never issue bonds for any purpose.

Let us protect property owners but not destroy our communities. We should do this right.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Chairman, I want to thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for bringing this bill to the floor as chairman of the Judiciary Committee which I have the privilege of serving on.

I rise today in support of the Private Property Rights Protection Act.

This spring, the Supreme Court put a ''For Sale by Government'' sign in front of every American home, farm and business. It does not matter how many coats of paint you put on your house or how much landscaping you do, no amount of your investment and upkeep can match the tax base provided by corporate America. If the government thinks that it can get more tax revenue from your property when put to a different use, a bigger house, a new factory, you are out of luck and out of your home.

We were taught as children and read in the Constitution that eminent domain meant that government could take property only for public use, like roads and railroads, but the 15 Connecticut citizens who had their homes and businesses taken away from them in the Kelo case found out that public use now means whatever the powerful want to do with your home, as long as it might bring in more tax dollars.

Whatever happened to our rights to life, liberty and property, which were the very rights so important to the people who founded this country?

Mr. Chairman, the Supreme Court took that right away. The Framers had no intention of allowing Federal judges to impart their wisdom on this issue. That is why they put the eminent domain clause directly into the Constitution by the Bill of Rights.

The Constitution here in my pocket says, ''nor shall private property be taken for public use without just compensation.''

If we do not act today, the consequences of that Supreme Court decision will not be hard to foretell. The winners are those with great influence, wealth and power. What happens when the potential buyer of a property is a foreign-owned entity? Or if a Nevada church is bulldozed to make room for a brothel?

Americans will not stand for usurpation of their constitutional rights by the Court. Today, we have the opportunity to restore those rights that we fought so hard for. I urge my colleagues to support H.R. 4128.

Ms. WATERS. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Chairman, I want to thank my colleague from California because not only is she supportive of this legislation but she has been speaking out consistently since the Kelo decision against that decision and the consequences.

Mr. Chairman, I have grown concerned with the increasing rate of eminent domain abuse cases across the country, so I appreciate that we will be able to vote on this bill today.

Many of us in Congress were shocked by the Supreme Court's 5–4 decision in Kelo, allowing the town of New London, Connecticut, to seize 15 homes so a developer could build offices, a hotel and convention center. This set a disturbing precedent and raised serious concerns about whether there are any limits to the government's power under the takings clause of the Constitution.

I believe the Private Property Rights Protection Act, this legislation, is a strong first step in the fight against eminent domain abuse. However, I think we can do better. I think we need to pass stronger legislation to ensure that we curb all abuses of eminent domain, not just those in areas where Federal funds are being used for a project.

That is why I have introduced my own legislation to curb the inappropriate use of eminent domain. The Protect Our Homes Act simply states that there should be no taking of homes for economic development unless there are rare and exceptional circumstances involving a public health or safety crisis. This legislation would render any State or local government that does otherwise ineligible for Federal financial assistance under any HUD program. It would also put in place appropriate safeguards to ensure that any eminent domain process is fair and transparent.

We have an obligation to protect our citizens as we revitalize our aging neighborhoods. We should not sit idly by and tolerate abuses of eminent domain in the name of economic revitalization. It is time to strengthen the Federal law to guarantee that homeowners throughout this great country are protected.

I am pleased to support the legislation before us which will send a strong message that taking private homes for generating revenue will not be tolerated. There is still much more for Congress to do to prevent eminent domain abuse, however, and I look forward to this bill passing and to working with my colleagues on both sides of the aisle.

It is very refreshing to see that this legislation has bipartisan support and that we are moving on this legislation today.

Ms. WATERS. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, the question before us today is not really whether we agree or disagree with the Supreme Court's interpretation of the term ''public use,'' but, rather, who we stand with and what we stand for. Do we stand with large private developers or with ordinary private citizens? Do we stand for government assistance for the powerful economic interests, at the expense of ownership of small interests?

Let it be clear, this debate is about condemnation of property. Will we condemn our constituents by allowing their land to be taken without just cause? Will we condemn small business owners by allowing their stores to be removed simply because a big developer has a different idea for what the economy should look like? Or will we stand with our constituents and condemn the idea that their property can be sacrificed for the sake of a big corporate company's development plans?

The Declaration of Independence holds that all people are endowed with the right to life, liberty and the pursuit of happiness. The Supreme Court's Kelo decision would limit the right to the pursuit of happiness to large corporate developers at the expense of small businesses and private citizens.

We must take a stand today and reaffirm the unalienable rights of citizens and stand for our constituents and declare that everyone has the right to pursue happiness, and we cannot and will not take that right away.

I urge my colleagues to join me in standing with our constituents to support this bill.

Ms. WATERS. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentlewoman for the time.

I am very pleased to join my colleagues who are aware of the need to fix an issue that is broken. I join the chairman of this committee and thank the gentlewoman for her leadership, and I am glad to be an original cosponsor.

□ 1500

Mr. Chairman, the reason we are on the floor today is that the Supreme Court, some would say rightly so, relied upon State law in Connecticut that allowed for the taking of private property for economic development. In essence, a public entity sanctioned private developers in taking private property for an economic enhancement. I am here to say that the fifth amendment's due process and the protection of property rights, to the extent that we protect those who cannot speak for themselves, should allow this Congress to fix the problem.

I am also concerned that this very tool will be utilized to go into communities, poor communities, and have them succumb, if you will, to untoward and unwelcomed investment or development without their input and without the opportunity to build communities that would embrace all economic levels.

The Kelo decision needs to be fixed by this Congress, and I welcome this legislation so that we can fix it and provide due process to all.

Mr. Chairman, I rise in support of the base bill before the Committee of the Whole today, H.R. 4128, the Private Property Rights Protection Act of 2005. It pleases me to join the Gentlemen, Chairman SENSENBRENNER and Ranking Member CONYERS in supporting this legislation, H.R. 4128, just as I was enthusiastic about co-sponsoring the resolution introduced by the Gentleman on the Floor of the House on June 30, 2005 that denounces the holding of the Supreme Court of the United States in Kelo v. City of New London.

The Supreme Court, with its five-member majority, made a wrong decision and ratified the unconstitutional acts of a local government, the City of New London, Connecticut.

The bill before this body rejects the act of the Supreme Court majority in giving these elected officials carte blanche to abuse the rights of the property owners in that case. Our highest court should stop the violation of constitutional rights. Our job is to address whether or not government can decide that there is a public purpose for a taking of private property and thereby make it so. There should exist better protection for the individual with less economic power—the individual that has only his or her land as an asset. The Framers of the Constitution were careful in addressing that issue, careful in the sense they wanted to make sure that the ruling powers that be could not come in and say, ''I am going to take your property.'' That was not what the Framers envisioned free America.

A recently published law journal note stated our dilemma quite well: ''But still more unsettling to many than the notion that property might be taken for an obvious general public benefit is the suggestion that this power might be used to transfer private property for another private owner's profit, along with all the traditional rights that permit sale, use, rental, disposition, and other choices of fee simple ownership. Seemingly, if property can be forcibly passed from one private owner to another, 'public use' is a phrase with no meaning and no end.''

''If property can be forcibly passed from one private owner to another, 'public use' is a phrase with no meaning and no end.'' This legislation allows us as legislators to draw a thicker line of demarcation between private property and property that is truly intended for public use. The threshold must be higher for the ownership rights of individuals to be usurped—when the underlying objective is merely to engorge the pockets of developers.

I would hope that my colleagues will support me in the amendment that the Rules Committee made in order Mr. Chairman, as No. 12. Kelo held ''economic development'' to be a ''public use'' under the Fifth Amendment's Taking Clause. The Takings Clause states that ''nor shall private property be taken for public use without just compensation.''

In the 1990's, a state agency declared that New London, CT was a ''distressed municipality'' after its unemployment numbers hit double the rate in the rest of Connecticut. The holding by the Supreme Court purported to defer to the city's judgment and that the development would be a ''catalyst to the area's rejuvenation.''

The land use situation in the areas most affected by Hurricane Katrina presents the situation that is most ripe for eminent domain takings under the guise of ''economic development.'' My amendment seeks to add the legislative intent to H.R. 4128 that the law seeks to put the people first even in the face of post-disaster reconstruction.

I thank the Chairman of the Committee on the Judiciary for his support of this amendment. It is critical that we continue the spirit of bi-partisanship that was started with the resolution disapproving the Kelo decision, of which I was an original co-sponsor, the Private Property Rights Protection Act of 2005, H.R. 3135.

New Orleans will be the center of a reconstruction project that will have a price tag in excess of $200 billion. Eminent domain will play a major role in the local governments' ability to assemble properties to carry out their plans—whether the residents like it or not. NAACP representative Hillary Shelton stated that ''the eminent domain process mostly targets racial and ethnic minorities because cities often want to redevelop areas with low property values and because minorities have less political clout and are less able to fight back.'' My amendment seeks to clarify that, in redefining the boundaries of the federal government's Taking power, unfair practices will not be tolerated and that the rights of property owners will be given the highest regard.

Mr. Chairman, I ask that the Committee colleagues support this amendment.

Ms. WATERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Speaker, as you can see, this is not a Democrat-Republican issue. The people who care about property rights, the people who respect homeownership, the people who believe that this is an important value are standing up for the citizens of this country. Folks who believe that somehow the government has a right to take private property for private use are standing on the side of the developers.

While I respect Members on both sides of the aisle, I have had some Members on this side of the aisle talk about what they have done for poor people, and you will hear people talk about what they do for minorities, that they are doing this to get rid of blight, to create better communities. Well, on this one, I would like to say to all of my would-be friends who are helping poor communities and minority communities, we do not need you on this one.

We need you to respect the right of those minorities and those poor people to hold on to whatever it is they own, whether it is a little, small business or whether it is a two-room shack or a one-room shack or whatever it is. It is theirs. They have a right to it. And no one, no mayor, no city council member, no one has the right to think they know better; that they can take that property for a private use.

I think it is unconscionable for anybody that is elected by the people to

undermine the people by supporting the taking of private properties for private use. I would hope even those Members who have been past mayors, who have been past city council members who agreed with the developers, indeed listen to this debate here on the floor today and agree that if we want to do anything to support the right of citizens to own property, we will support this bill.

Mr. Chairman, I yield the balance of my time to the gentlewoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. Mr. Chairman, I thank the gentlewoman from California for being so gracious in yielding me this time.

Mr. Chairman, our Nation's eminent domain laws exist to help our communities, not to deprive Americans of their businesses and homes. For 11 years, Harry Pappas and his family battled to win back property taken from them in downtown Las Vegas, property which they rightfully owned and that was home to seven shops the family leased to other businesses for more than 40 years. This was a 40-year holding of one family in Las Vegas.

In 1994, the Las Vegas Redevelopment Agency notified Mrs. Pappas that they were condemning her property. At a hearing only 7 days later, it was decided that the agency would take immediate possession of the property, and the family business promptly demolished.

The Pappases' dreams were torn down with the building they lost that day, and their dignity was taken from them as they were forced to watch as a for-profit parking garage was built on their family property.

The Pappas family took their case all the way to the United States Supreme Court, hoping that the justices would recognize their fundamental rights under our Constitution. But they were turned away by the Supreme Court, and their case seeking justice was dismissed.

So now it is up to us, the United States Congress, to protect other families against the injustice that has been done to the Pappases as a result of the ever-growing expansion of eminent domain. Voting to limit the use of eminent domain for economic development will restore the rightful limits on this power that have been eroded by time. It is time to protect the Harry Pappases of the world.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Chairman, I rise to engage in a colloquy with the chairman.

As the chairman knows, I have offered an amendment in the Rules Committee to address the problem of legal fees for property owners faced with the exercise of eminent domain by State and local governments. Homeowners in particular do not have the money to pay lawyers. Their main asset is tied up in a legal fight, so they cannot afford a challenge to the taking itself.

In addition, most eminent domain lawyers operate on contingency for a percentage of the eventual price of the property condemned, so it is hard to get anybody to challenge the taking, and you certainly cannot get it without paying.

The idea of the amendment is that owners are supposed to be no worse off after the condemnation than they were before. But if they have to pay their lawyer, whether by the hour or as a percentage of the sale price, they will always be worse off.

Would the chairman be willing to work with me on this issue in conference in a way to address the needs of private property owners without encouraging frivolous lawsuits?

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. FLAKE. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. The answer is absolutely.

Mr. FLAKE. I thank the chairman.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, very briefly, this bill attempts to do what the Federal Government can to reverse the impact of the Kelo decision, and the heart of this bill is to deny Federal economic development funds for 2 years to any States or locality that attempts to use its condemnation powers to take private land for essentially a nonpublic use purpose and to turn around and resell it to another private developer who will bring in more tax revenue.

We have heard time and time and time again on this floor during the last hour that this is wrong. But the Supreme Court has said that it is not wrong if a developer can convince a majority of one on a city council or local governing board to authorize the local attorney to go and commence condemnation actions. That is true if somebody has lived in a house for all their life and the city council puts them in the cross hairs; it is true for a church that has got a prime piece of property on the corner of a busy intersection that a developer wants to build a strip mall on; and it is true for someone who has run a small business in a prime area of town and has made a lot of money but does not pay a lot of property taxes because they have a small shop, and they can be put out of business even for a competition that wants to have a larger and, thus, more tax-yielding facility on that piece of property.

Everything I have said is wrong, and everything I have said can be done with the use of Federal economic development funds under the Kelo decision. What we need to do now is pass this bill to right this wrong.

And I would just remind the membership, Mr. Chairman, that the author of the majority opinion in Kelo, Justice John Paul Stevens, recently spoke to a local bar association in Nevada and said that if he was a legislator rather than a justice of the United States Supreme Court, he would have ruled the other way. So if Justice Stevens were sitting here as a representative in Congress today, he would be supporting this bill, too, and I think that is the reason why this bill should receive overwhelming support. We all should vote for it.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. SIMPSON). All time for general debate by the Committee on the Judiciary has expired.

It is now in order for general debate by the Committee on Agriculture, 30 minutes equally divided.

Mr. GOODLATTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of this important piece of legislation. I want to thank Chairman SENSENBRENNER for his leadership on this issue. I also appreciate the hard work of Congressman HENRY BONILLA, who introduced the STOPP Act, legislation that passed out of the Agriculture Committee, and Ranking Member PETERSON on the Agriculture Committee, as well as Ranking Member CONYERS on the Judiciary Committee.

I especially want to thank my colleague from South Dakota (Ms. HERSETH) who was the first Democrat to take a leading role on this issue in introducing the STOPP Act, and it is in part due to her leadership that we will have a very strong bipartisan vote on this legislation today.

Private ownership of property is vital to our freedom and our prosperity, and it is one of the most fundamental principles embedded in our Constitution. The Founders realized the importance of property rights when they codified the takings clause of the fifth amendment to the Constitution, which requires that private property shall not be taken for public use without just compensation.

This clause created two conditions to the government taking private property: that the subsequent use of the property is for the public and that the government gives the property owners just compensation.

However, the Supreme Court's recent 5–4 decision in Kelo v. City of New London is a step in the opposite direction. This controversial ruling expands the ability of State and local governments to exercise eminent domain powers to seize properties under the guise of economic development when the public use is as incidental as generating tax revenues or creating jobs, even in situations where the government takes property from one private individual and gives it to another private entity.

By defining public use so expansively, the Court essentially erased any protection for private property as understood by the Founders of our Nation. In the wake of this decision, State and local governments can use eminent domain powers to take the

property of any individual for nearly any reason. Cities may now bulldoze private citizens' homes, farms, and small businesses to make way for shopping malls or other developments.

For these reasons, I joined with Chairman SENSENBRENNER to introduce H.R. 4128, the Private Property Rights Protection Act. This important piece of legislation represents a merger between two pieces of legislation, H.R. 3135, introduced by Chairman SENSENBRENNER, and H.R. 3405, the STOPP Act, which I introduced along with the gentleman from Texas (Mr. BONILLA) and the gentlewoman from South Dakota (Ms. HERSETH) and which passed the House Committee on Agriculture by a strong bipartisan vote of 40 to 1.

I am pleased that H.R. 4128 incorporates many provisions from the STOPP Act. Specifically, this new legislation would prohibit all Federal economic development funds for a period of 2 years for any State or local government that uses economic development as a justification for taking property from one person and giving it to another private entity. In addition, this new legislation would allow State and local governments to cure violations by giving the property back to the original owner. Furthermore, this bill specifically grants adversely affected landowners the right to use appropriate legal remedies to enforce the provisions of the bill.

H.R. 4128 also includes a carefully crafted definition of economic development that protects traditional uses of eminent domain, such as taking land for public uses like roads, while prohibiting abuses of eminent domain powers.

No one should have to live in fear of the government snatching up their home, farm, or business; and the Private Property Rights Protection Act will help to create the incentives to ensure that these abuses do not occur in the future.

I urge my colleagues to support this important piece of legislation.

Mr. Chairman, I reserve the balance of my time.

Ms. HERSETH. Mr. Chairman, I yield myself such time as I may consume.

I rise in strong support of the Private Property Rights Protection Act of 2005. I want to thank the Judiciary Chairman SENSENBRENNER and Ranking Member CONYERS, as well as Agriculture Committee Chairman GOODLATTE and Ranking Member PETERSON, for their hard work in moving this legislation to the floor today.

I would also like to acknowledge and thank the Agriculture Appropriations Subcommittee Chairman HENRY BONILLA for his strong leadership on this very important issue as well as the work of Chairman POMBO and Congresswoman WATERS who have been steadfast in their advocacy for private property rights in light of the threat posed by the Kelo decision.

This legislation is a priority for farmers and ranchers and landowners across my home State of South Dakota. I am extremely pleased that the Agriculture Committee acted swiftly on the legislation originally introduced by the gentleman from Texas (Mr. BONILLA) and myself, the Strengthening the Ownership of Private Property, or STOPP Act, and that Chairman GOODLATTE made reporting out the bill from the Agriculture Committee a priority.

I am equally pleased by the determined, thoughtful attention demonstrated by the Judiciary Committee and the collaborative approach taken as we put together the Private Property Rights Protection Act. It is important, commonsense legislation that deserves our attention.

As my colleagues know, the Supreme Court's decision in Kelo v. City of New London dealt a serious blow to the fundamental rights of property owners in the United States. The House overwhelmingly expressed its disapproval shortly after the decision by a vote of 365 to 33. This court ruling allows governments to take private property from one landowner and give it to another private individual so long as some economic development justification is given. In short, it means that governments can take your property and give it to someone else.

□ 1515

I have been impressed by the widespread support for the proposition that this decision requires prompt congressional action.

As I have said before, South Dakotans from all walks of life are outraged about the Supreme Court's Kelo decision. As I have repeatedly noted in previous discussions of the case and as noted by Chairman SENSENBRENNER earlier today, even Justice John Paul Stevens, the author of the Kelo decision, has expressed the feeling that the use of eminent domain by the City of New London was unwise as a matter of policy. And I agree.

I am pleased to have been part of the effort to craft a good bipartisan response that addresses these policy shortcomings by discouraging State and local governments from arbitrarily taking land from private landowners and giving that land to another private party. I felt compelled to take a lead in this process because of the people I represent and my roots on my family's farm in South Dakota. South Dakota is a rural State, and our population's livelihood is deeply tied to the land. This is true for virtually all of the State's citizens, whether they live in town or whether they live on the farm.

Because of this, the belief in private property rights runs strong and deep, and everyone I have talked to back home on this matter has delivered the same message: Landowners should not be vulnerable to the whims of a government that decides to take their land and often their livelihood just to give it to someone else who the government decides would deliver more in tax revenues. I am pleased to say that many of my colleagues agree with this, which is why in the short term since its introduction, this act and other initiatives have garnered broad bipartisan support, because the legislation makes sense.

As many of you know and as Chairman GOODLATTE was discussing, Chairman BONILLA and I, along with Chairman GOODLATTE, drafted H.R. 3405 to provide a strong response to the Kelo decision. At the time we introduced the STOPP Act, other legislation which took a similar approach by withholding some Federal funds when eminent domain is used to facilitate a private-to-private transfer of property for economic development purposes left open the possibility that a creative community or State could essentially shift funds within its budget to render the Federal response less effective.

In the words of Bob Stallman, president of the American Farm Bureau, in his testimony before the Agriculture Committee: ''All of the Federal bills introduced thus far take this approach. The differences among them are the degree to which such funding is withheld. While we support all the approaches taken in these bills, H.R. 3405 seems to offer the most effective deterrent to abuses of eminent domain.''

The Private Property Rights Protection Act of 2005 incorporates the core components of the STOPP Act, namely, the withholding of all Federal economic development assistance for 2 years if communities choose to use eminent domain to take private property from one landowner and give it to another private individual for the purposes of economic development.

I think this development is a testament to the hard work of individuals like Chairman BONILLA, Chairman GOODLATTE, Congresswoman WATERS, Chairman POMBO, and others to define, develop, refine, and promote a strong commonsense approach to the situation presented by the Kelo decision.

As I have said, I am happy to have been a part of these important efforts, and I encourage my colleagues to join with me today in passing this important bill.

Mr. Chairman, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. BONILLA), the chairman of the Agriculture Appropriations Subcommittee and the author of the STOPP Act, which was passed out of the Committee on Agriculture.

Mr. BONILLA. Mr. Chairman, I thank the chairman for yielding me this time.

Mr. Chairman, this is a rare moment in this town when we have a major issue that has widespread bipartisan support. I want to thank the gentlewoman from South Dakota, my original partner in this cause, who just spoke about this and gave a little history as to how we got this bill rolling several months ago; and also Chairman GOODLATTE under whose jurisdiction

this bill originally fell, the STOPP Act that we filed, because so many of the programs that we are talking about here today that are funded come through the Agriculture Committee.

We would not have been able to come this far without this partnership with Ms. HERSETH and Chairman GOODLATTE; and I want to thank both of them, not just personally, but I know there are a lot of people out there that are very grateful for the support they have given this and have brought us to this day where we have a bill that, again, was reported out of the Agriculture Committee by a vote of 40 to 1 and then out of the Judiciary Committee with only three people voting against it. That is a profound statement across partisan lines in this Congress.

It also has widespread support among groups like the NAACP, the AARP, religious organizations, and the American Farm Bureau. I think people understood the impact this bill could have because it is very simple, Mr. Chairman. It says to communities that if they do not care about property rights, they are not going to get their money. No property rights, no money for 2 years. And that is going to make any local government or any State think long and hard before they take that first step toward trying to take someone's property for private gain.

This bill, of course, does not do anything to infringe on the community's rights and the constitutional history in this country of communities taking private property for public use, i.e., airports, roads, bridges, et cetera. It does not touch that at all. So I believe that is why we were able to come to this state. We have gone through the process, worked through regular order. We had our hearings. Attorneys scrubbed the bill. People asked questions, what if this happened, what if that happened. And we tried to address every issue that has come to us thus far.

Again, it is a great day when we have two committees coming together, two parties coming together. People from all over the country, whether they live in a rural area or whether they live in an urban area, have the same concern about property rights after the Kelo decision.

I look forward to a resounding victory today for the people of this country.

Ms. HERSETH. Mr. Chairman, I yield for the purpose of making a unanimous consent request to the gentlewoman from California (Ms. ZOE LOFGREN).

(Ms. ZOE LOFGREN of California asked and was given permission to revise and extend her remarks.)

Ms. ZOE LOFGREN of California. Mr. Chairman, I rise in support of the bill.

Mr. Chairman, as a member of the House Judiciary Committee I had the opportunity to review quite carefully this bill. While I disagreed with the Supreme Court decision, I must confess that the bill before us today is not drafted as carefully and clearly as I would have hoped. There will, in all likelihood, be litigation if this bill becomes law because the exemptions are written in such a way that reasonable people may disagree as to their meaning.

I hope that I can help clarify the application of this bill in at least one area: The meaning of the bill as it relates to affordable housing.

What follows are the concurring views in the Committee Report accompanying this bill. It is my hope that by including them here today during our floor debate that in the future this clarification will be of value to public entities, litigants and the courts.

At markup, I intended to offer an amendment to this legislation creating an exception to the definition of ''economic development'' for the development of affordable housing for low-income residents. I ultimately decided not to offer this amendment, however, based on my recognition, and the apparent recognition of my colleagues, that this bill as introduced does not in any way limit the ability of States and local governments to exercise their eminent domain powers for the building of affordable housing for low-income residents. In fact, during markup, I pointed this out and received no objections from my colleagues.

The provision of low-income housing, whether by a for-profit or a non-profit entity, should not constitute ''economic development'' under the definition in this bill because such activity constitutes neither ''commercial enterprise'' nor an activity designed to ''increase tax revenue, tax base, employment or general economic health.'' Rather, the development of affordable housing for low-income residents constitutes a traditional public purpose for which eminent domain powers have long been recognized. Given that this bill will not in any way limit the exercise of eminent domain powers for the development of affordable housing, I concur in the Committee's report.

Ms. HERSETH. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado (Mr. SALAZAR).

Mr. SALAZAR. Mr. Chairman, I thank the gentlewoman from South Dakota for yielding me this time.

Mr. Chairman, in my district, the values of faith, family, and commitment to community are sacred. We also hold sacred the right to own property without fear of its being taken away by government.

Unfortunately, local governments are seizing property in the name of economic development and transferring ownership to other private individuals. American citizens are losing their homes in the interest of building strip malls or big-box stores. Even more disheartening is the fact that the U.S. Supreme Court has endorsed this behavior in what I feel is a misinterpretation of the takings clause of the fifth amendment to the Constitution.

I voted to prohibit this kind of action when I was a State representative in Colorado, and I have also voted my disapproval of the ruling in the case of Kelo v. New London.

I rise today in support of H.R. 4128, the Private Property Rights Protection Act. I am a cosponsor of this bill, and I supported passage of the STOPP Act, H.R. 3405, in the Agriculture Committee just last month.

This important legislation will help prevent local governments from abusing their power of eminent domain. While local governments may be well intentioned, the fact is that people are losing their homes because of misguided economic development principles.

I urge my colleagues to join me in supporting this measure; and I thank Chairman SENSENBRENNER, Ranking Member CONYERS, Chairman BONILLA, and Congresswoman HERSETH for their dedication to persevering and protecting property rights.

The right to own property is a fundamental right of this country, and I will do whatever I can to ensure that it is preserved.

Mr. GOODLATTE. Mr. Chairman, I yield 2½ minutes to the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Chairman, I rise in support of H.R. 4128, the Private Property Rights Protection Act. The Supreme Court decision of Kelo v. City of New London is one of the most unpopular decisions ever rendered. I believe more than 90 percent of United States citizens oppose this ruling, and it may be that the other 10 percent do not fully understand it. So it has been certainly roundly denounced.

The Court states that ''any property may now be taken for the benefit of another private property.'' So if one party has a project that will yield more tax revenue than is currently provided by a piece of property, that property may be taken. This gives local governments broad powers. This creates great concern in the Agriculture Committee, as has already been noticed. Farm and ranch land can be taken very easily because a golf course, a shopping mall, an amusement park can easily be classified as being more important as far as economic development than agricultural land. Nonprofits, such as churches, Salvation Army, Goodwill Industries, shelters, are very vulnerable. They generate little or no tax revenue. So almost any project can supersede them in this regard.

Small businesses are very vulnerable. I had a farmer athlete who played for me who had worked very hard to develop a small business in an old building, a restaurant, and a new hotel was coming into the area. The local city council was thinking about shutting him down, destroying the building, building a new hotel, which would be economic development. And this person was essentially very vulnerable. His whole life savings, his whole investment was going to be gone. So this bill would prevent that.

H.R. 4128 prevents States and local governments from receiving Federal economic development funds if they abuse their powers of eminent domain. These are important protections.

I would like to thank Chairman GOODLATTE, Chairman SENSENBRENNER, and others who have worked so hard on this bill; and certainly I urge adoption of it.

Ms. HERSETH. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. SCOTT).

Mr. SCOTT of Georgia. Mr. Chairman, I thank the gentlewoman from South Dakota for yielding me this time. It is a pleasure to work with her on this, and I appreciate the opportunity to speak on this important issue on the House floor today.

As we all know, on June 23, 2005, the Supreme Court handed down its decision in the case of Kelo v. The City of New London. In Kelo, the Court addressed the city's condemnation of private property to implement its redevelopment plan aimed at invigorating a depressed economy. By a 5–4 decision, the Court held that the condemnation satisfied the fifth amendment requirement that property condemnations be for a ''public use,'' notwithstanding that the property, as part of the plan, might be turned over to private developers.

The Supreme Court decision was indeed a wake-up call, Mr. Chairman, for many communities; and I have heard loud and clear from my own constituents in Georgia that they are worried that their property rights are in jeopardy. Today we are going to remedy this wrongful application of the law of eminent domain and restore important property rights to private citizens. This is very important, Mr. Chairman, what we are doing today. And as a cosponsor of H.R. 4128, the Private Property Rights Protection Act, I believe that passage of this legislation will ensure that no Federal dollars will be used to unjustly take any property at the local and State levels. In addition, I will continue to support efforts to curtail the power of eminent domain in an effort to protect private property rights.

H.R. 4128 is important, and I support it because it prohibits State and local governments that receive Federal economic development funds from using eminent domain to seize land for economic development purposes, except for the construction of public facilities such as hospitals or military bases, and for use by a public utility, aqueduct, or a pipeline.

In conclusion, Mr. Chairman, the States and local governments that take lands for private development could not receive Federal economic development funds for those years. I am therefore very pleased that the House is voting on this important bill today.

Mr. GOODLATTE. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE).

(Mr. PENCE asked and was given permission to revise and extend his remarks.)

Mr. PENCE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, this is a rare moment of bipartisanship in Congress, and it bears some reflection as I rise in strong support of the Private Property Rights Protection Act. I think that agreement springs from our oath of office, which we take at the beginning of every Congress. It provides: ''I do solemnly swear/affirm that I will support and defend the Constitution of the United States against all enemies foreign and domestic and that I will bear true faith and allegiance to same.''

And I believe that is what Republicans and Democrats are doing today is bearing true faith to the Constitution, which in its fifth amendment provides that no person shall be deprived of life, liberty, or property without due process of law nor shall private property be taken for public use without just compensation.

The Private Property Rights Protection Act by virtue of its outstanding authorship, Chairman SENSENBRENNER, Chairman GOODLATTE, Chairman BONILLA, fulfills this oath of office in a profound way. In the wake of the June 2005 Kelo decision by the U.S. Supreme Court, which held that economic development could be a ''public use'' under the fifth amendment's takings clause, Congress and every Member of Congress, in my judgment, has a duty under that oath to support and uphold and defend the Constitution. Indeed, John Adams remarked: ''The moment the idea is admitted into society that property is not as sacred as the law of God and that there is not a force of law and public justice to protect it, anarchy and tyranny commence.''

As a Member of the House Agriculture Committee, I can say that the fear of development and the unbridled appetite of urban areas against rural areas makes this an especially important initiative of the Agriculture Committee and its distinguished chairman.

□ 1530

In the discharge of our duty to support and defend the fifth amendment to the Constitution, I urge my colleagues very humbly, say no to Kelo, say yes to the Private Property Rights Protection Act.

Ms. HERSETH. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. GENE GREEN).

Mr. GENE GREEN of Texas. Mr. Chairman, I thank my colleague for yielding me time.

Mr. Chairman, I am proud to be a cosponsor of H.R. 4128 and glad to rise in support of it.

The Private Property Rights Protection Act prohibits States and localities from using eminent domain powers for economic development purposes if the State or local governing jurisdiction received Federal economic development funds during the same year.

In the past, governments were only able to acquire property from private owners if the property was going to be used for real public use, highways, roads, schools, parks, or to eliminate that property from endangering the public. These transactions have typically not occurred when the government buys a property by the power of eminent domain from a private owner and then sells the property to a different private owner under the premise that the property would benefit the community with increased economic development.

We all support economic development, but if a community wants to do that, they need to go to that individual landowner and say, this what we want, we want to buy your property, and this is what we are going to do with it. We should not take it under the cloud of eminent domain.

The fifth amendment to the Constitution states that ''private property shall not be taken for public use without just compensation.'' This did not seem to matter when the Kelo decision was made.

The Kelo ruling has essentially stripped the public of the constitutional right to own that property if someone thought they had a better use for it than they did. I think that is what bothers so many people on a bipartisan basis, rural, urban. The fact that a small business or home can be taken away from a private citizen simply to increase tax revenues is disturbing and shows a blatant disregard I think for the constitutional rights of our citizens.

In Texas, our State legislature has already taken steps to correct the decision, at least under State law, by passing legislation that would prohibit the local government or private entity from taking private property through eminent domain for private benefit or economic development purposes, and we should do the same, at least as much as we can do under our Federal laws.

So this bill does give us that opportunity to defend our fundamental constitutional rights of our constituents.

Mr. GOODLATTE. Mr. Chairman, it is my pleasure to yield 2 minutes to the gentlewoman from North Carolina (Ms. FOXX), another member of the House Agriculture Committee.

Ms. FOXX. Mr. Chairman, Chairman GOODLATTE and Chairman SENSENBRENNER are to be applauded for the excellent, prompt work they have done on this outstanding bill.

Fundamentally, this bill is truly one of the most important pieces of legislation that this Congress has or will consider. The Supreme Court's eminent domain decision contradicts the very ideals of liberty and property rights that have for 229 years defined the greatest government on earth.

Our forefathers put their lives on the line and took up arms to obtain the liberties and independence we enjoy. They left their wives and families to shed blood so their children would not be subject to British taxation, invasion of privacy and wrongful seizures of property.

The Framers of our Constitution clearly defined the rights to speak and worship freely, bear arms and hold personal property when they crafted the greatest form of government the world has ever known.

Property rights are a hallmark of what separates America from nations whose citizens live in fear of their own government. In fact, property rights and the opportunity for homeownership are principal reasons that citizens come from other nations desperately to America. However, as a result of the atrocious decision made by the Supreme Court, those exact rights became jeopardized.

As Members of Congress, we have a responsibility to uphold the Constitution and protect the rights of our constituents. We also have the responsibility to carefully monitor the actions of the judicial branch.

The bipartisan support this bill has both in Congress and in our districts loudly proclaims the widely held opposition to the Supreme Court's un-American eminent domain decision. I am proud to help ensure that such an appalling ruling will not be made again.

I hope and pray the newly appointed Supreme Court justices will never rule as irresponsibly as those five justices who supported the eminent domain decision did. We cannot let courts or local governments trample on property rights.

I urge all my colleagues to support this bill.

Ms. HERSETH. Mr. Chairman, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Chairman, I am pleased to yield 1 minute to the gentlewoman from Ohio (Mrs. SCHMIDT), the newest Member of Congress, who is standing up on this important issue.

(Mrs. SCHMIDT asked and was given permission to revise and extend her remarks.)

Mrs. SCHMIDT. Mr. Chairman, I rise today in strong support of H.R. 4128, of which I am a cosponsor, legislation to protect private property of all Americans. As my fellow Ohioan William Howard Taft, the only person to serve as President and Chief Justice of the Supreme Court, said, ''Next to the right of liberty, the right of property is the most important individual right guaranteed by the Constitution.''

When the Supreme Court decided in Kelo that the State and local governments can require homeowners to vacate their property to make way for commercial development, it failed property owners' rights and our Constitution.

This legislation is important to me because of residents in Norwood, Ohio. In Norwood, Ohio, these residents are suing right now saying that it misused the power of eminent domain by declaring a neighborhood was blighted and turning the property over to a private company for the development of a shopping center. The Ohio Supreme Court is taking this matter. We hope there is a better resolution than the one in Kelo.

I want to commend Chairman SENSENBRENNER and Chairman GOODLATTE for their good work and their courageous effort in this most needed legislation.

Ms. HERSETH. Mr. Chairman, let me just conclude by commenting in my remaining time on some of the testimony that we heard in Chairman POMBO's Committee on Resources, on which I also sit, about the compelling testimony of individuals, business owners, who have been victims of abuses of eminent domain for the purpose of a private-to-private transfer.

So not only have we heard these compelling stories from individuals, families who have been affected, both in cities and in the country, but we have also had good bipartisan work in drafting sessions, our legislative hearings, our markups, in the Agriculture Committee, in the Resources Committee, now the Judiciary Committee. The bill that is under consideration today, that has attempted to respond in the most effective way to a ruling, as I mentioned, that received strong disapproval from this body shortly after the Supreme Court's ruling and on which even the opinion's author and, as I understand, even another member of the court who recognized that this is something the legislatures should contend with. And that is precisely what we are doing today on the House floor.

Congress needs to take action. We need to take it immediately. Our hope is certainly that we can make this bill law in short order, because, as some of the testimony before the Resources Committee last week also indicated, certain municipalities and other local units of government moved quickly after the Supreme Court's decision in Kelo to exercise their eminent domain powers for purposes of economic development for a public purpose, public benefit, beyond the plain language of the United States Constitution that limits the eminent domain power to public use. This has been a broad trend for a number of years, culminating in the Supreme Court's decision in Kelo, that requires the action of this body.

I urge my colleagues to support final passage of this bill that is a well-crafted, careful, thoughtful attempt to address a serious problem for property owners across the country.

Mr. Chairman, I yield back the balance of my time.

Mr. GOODLATTE. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I would like to start by thanking some people who do not always get thanked, and that is the diligent, hard-working staff of the Agriculture Committee on both sides of the aisle, the Judiciary Committee on both sides of the aisle and my congressional office staff. They worked very, very hard on what I think is a comprehensive and carefully crafted piece of legislation.

We are going to begin to entertain some amendments, and some of those amendments could have a devastating impact, a gutting effect on this legislation, and I urge my colleagues to follow that debate closely and help us defeat amendments that would open this back up to the same kind of court misinterpretation that has been a problem here.

Finally, let me say that the United States Constitution protects private property rights as a fundamental right, and we need to make sure that we respond to a Supreme Court decision that has cast private property rights in America into question by passing this important legislation today.

Mr. TIAHRT. Mr. Chairman, I am pleased the House of Representatives is again taking action to curb further abuse of eminent domain for economic development purposes. Ever since the infamous Kelo v. City of New London Supreme Court decision in June, Kansans have voiced their strong opposition to this ruling.

I agree fully with my constituents that governments should not be given the authority to transfer private land from one owner to another for economic development purposes. Securing the right of individuals to own and manage their own property is provided for in the U.S. Constitution. The Fifth Amendment states, ''nor shall private property be taken for public use without just compensation.''

Every constituent who talks with me about this issue strongly believes the Supreme Court went too far when it said that a government can transfer private land from one owner to another if the second owner will supposedly generate more tax revenue. The court's decision does not pass the common sense test.

The court's flawed reasoning is precisely what the original Supreme Court, warned against at its inception in 1789 when it called eminent domain a ''despotic power.'' Unfortunately, we have been forced to respond to the 2005 Supreme Court's decision with legislation to deter future land grabs by greedy local governments.

The Private Property Rights Protection Act of 2005, H.R. 4128, would deny federal economic development assistance to any State or local government that chooses to use the power of eminent domain for economic development purposes.

I strongly support H.R. 4128 and congratulate Chairman SENSENBRENNER for his leadership on this important land-rights issue. I support the bill's passage and am hopeful the Senate will act quickly so we can get it to the President for his signature.

Americans have relied on constitutional protection against abusive land transfers from one person to another for more than two centuries. History reminds us that nations that disregard the rights associated with private property ownership disregard other fundamental rights of the citizenry.

We have recognized there are times when governments need to purchase private land to build a road or construct a school for use by the general public. Occasionally, this has to be done against a landowner's wishes. But our Founders believed only under extreme circumstances should property be taken from a land owner for the greater public good. The idea that a government would use its eminent domain power to take land from one private owner and transfer it to another land owner for economic development is an abuse of the public good definition.

H.R. 4128 will prohibit States and local governments from exercising eminent domain for

economic development, or for property that is subsequently used for economic development, if the State is a recipient of Federal economic development funds that fiscal year. If a State or local government is in violation of this provision, it would be ineligible for Federal economic development assistance for 2 fiscal years following a final judgment.

Many farmers in my district have expressed particularly how harmful this court ruling could be to them if a local government wants to take their land for development. Many farms have been in the same family for generations. Under the Supreme Court's ruling, a government could forcefully take all or a portion of the family farm so more tax revenue could be generated by a developer. This scenario is a real possibility that demands the Congress take action to prevent such an unjust land grab.

The same situation could arise for a house of worship or other non-profit organization. Entities that do not generate tax revenue are particularly vulnerable to land grabs by governments interested in generating more tax dollars.

Small businesses are also in support of this bill because it protects their property from being handed over to a larger company, or even a competitor. Small shop owners that may be struggling to survive would be an easy target for a local government. It is important we pass legislation that helps protect small businesses. H.R. 4128 does just that by alleviating the threat a local body could pose to small businesses when it comes to supposed economic development.

I look forward to seeing this bill passed and signed into law. Support for this bill is support for home owners, small businesses, farmers, ranchers, houses of worship and anyone who believes in private property rights.

Ms. WOOLSEY. Mr. Chairman, today the House passed H.R. 4128, a bill that makes states and local governments ineligible for Federal economic development funds for 2 years if they exercise eminent domain in the name of economic development.

Protecting the rights of individual property owners is of the utmost importance. However, there are certain circumstances when the best interest of a town is served by the responsible use of eminent domain. As a former City Council Member, I know how effective this tool can be when it is used judiciously. In my State of California there are restrictions on local governments' use of eminent domain to ensure that situations like that of Kelo v. City of New London do not happen.

We have to trust local authorities to use this power responsibly and respectfully and only when it truly benefits the community at large and when property owners are fairly compensated. By restricting the use of eminent domain, we take away our local governments' ability to serve and improve their jurisdictions. As the leaders of our neighborhoods and towns, we must trust they know best how to use the resources and assets that are available.

Mr. Chairman, by restricting the use of eminent domain we have in fact impeded our local governments' ability to make necessary progress.

Mr. BLUMENAUER. Mr. Chairman, the Supreme Court Ruling in Kelo v New London sparked many fears among citizens that their property was at risk of being taken away by the government. These fears, however, are unwarranted and stem from a fundamental misunderstanding of eminent domain.

Eminent domain is a power granted local governments by the Fifth Amendment. The Supreme Court decision in no way precluded the rights of States to place further restrictions on eminent domain and to more narrowly define public use. The court leaves these rights to local officials and citizens for public debate. In my experience as a local elected official, eminent domain was the absolute last resort, but it was an important tool to have if was absolutely necessary.

In the discussion on the House floor today, my colleagues failed to recognize the many benefits we experience thanks to eminent domain. Twenty years ago, Times Square was a notoriously dangerous neighborhood in New York City. Eminent domain was used to take 13 acres of land, condemning 56 lots and moving 404 tenants. The public-private redevelopment included a highly successful mixture of for-profit and non-profit theaters, retail facilities, hotels, and office buildings. What was once a blighted, unsafe neighborhood is now a safe and vibrant city center.

Connecting the U.S. Capitol and the White House, Pennsylvania Avenue is one of this country's most important thoroughfares. Fifty years ago, however, it was a street bordered by many problematic land uses and buildings that significantly detracted from its role in the life of Washington, D.C. and America. In 1972, Congress created the Pennsylvania A venue Development Corporation, which in turn exercised the power of eminent domain to revitalize this important avenue of American life.

This bill is a hasty political response to a narrow Supreme Court decision. I am concerned that it is overly broad and will have many unintended consequences for our States and communities and hamper their ability to build safer, healthier and economically secure neighborhoods. I urge my colleagues to defeat this bill and allow local governments to reform eminent domain laws in manners consistent with their communities' needs.

Miss MCMORRIS. Mr. Chairman, I rise today to offer my support of H.R. 4128 the Private Property Rights Protection Act of 2005.

I am pleased the House of Representatives recognizes the importance of protecting private property rights, and clarifying legitimate takings by the Federal Government and discouraging takings for private development.

Without a doubt, I am a strong defender of private property rights. Uncompensated regulatory takings of private property have become an immense problem across our Nation. As Federal, State, and local regulations have increased in number and scope, property owners have increasingly found themselves unable to use their property and unable to recover the losses that result.

In Kelo v. City of New London, decided June 23, 2005, the Supreme Court ruled 5–4 that the city's condemnation of private property, to implement its area redevelopment plan aimed at invigorating a depressed economy, was a ''public use'' satisfying the U.S. Constitution—even though the property might be turned over to private developers. The majority opinion was grounded on Supreme Court decisions holding that ''public use'' must be read broadly to mean ''for a public purpose.''

This decision does not take into sufficient account the distinction between projects where economic development is only an instrumental or secondary aspect of the project, and those where economic development is the primary interest. I am concerned by this decision.

Our founding fathers believed so much in the sanctity and importance of private property that they felt it needed to be protected in the Constitution. However, due to the recent ruling, government officials can confiscate private property if they simply argue the local community will receive an economic benefit to do so. In fact, the Institute for Justice estimates that over 10,000 homes nationwide are in danger of being destroyed by aggressive local governments. Now officials can seize the homes of private citizens to generate more tax income to fuel big government spending programs.

Justice O'Connor had it right when she stated, ''under the banner of economic development, all private property is now vulnerable to being taken and transferred to another private owner, so long as it might be upgraded—given to an owner who will use it in a way that the legislature deems more beneficial to the public—in the process.''

Property rights are civil rights. There can be no individual freedom without the power of an individual to control their own autonomy through the free use of their own property. The Supreme Court's decision poses an immediate threat to that essential freedom, and the most likely victims will be the most vulnerable in our society if Congress does not act.

Mr. RUPPERSBERGER. Mr. Chairman, I rise today in support of this bill, H.R. 4128.

What we witnessed as a result of the Supreme Court's ruling in Kelo vs. City of New London was unfortunate.

I know that all across the country local governments are looking for ways to revitalize their communities. I believe these efforts are important and necessary to help their neighborhoods and families thrive, however, I believe that the City of New London acted inappropriately.

The Supreme Court's ruling in the case went too far and made governments' eminent domain powers too broad.

I am extremely concerned with the apparent disregard by a majority of the Supreme Court regarding the purpose of the Takings Clause under the Fifth Amendment. The Kelo ruling would allow the taking of private property for the benefit of another private entity.

When I was County Executive I put forward a plan to use eminent domain for the purpose of public safety although there were private entities that would have benefited. My goal was to revitalize a deteriorating community and I felt that eminent domain was a tool I needed to address revitalization of an area with high levels of poverty and a high crime rate.

As a consequence of the public debate on that experience, I have come to better appreciate the severity of the government intervening to benefit one private entity to the detriment of another private entity. I believe that using eminent domain to take private property should only be used in situations where there is an overwhelming public benefit such as roads, schools, hospitals, and public safety needs. I understand this legislation as preventing the use of eminent domain for economic development and that any use of eminent domain for the purposes of public safety is still permitted.

By prohibiting the Federal Government from using strictly economic development as a justification for condemnation of private property;

and by prohibiting States and local governments that receive Federal economic development funds from taking private property for strictly economic development purposes, the supporters of this legislation hope to prevent another New London.

This legislation would not prevent the Federal, State or local governments from exercising eminent domain for public facilities or other uses defined as public use.

It is vital that we protect the property rights of all Americans from arbitrary application of eminent domain by passing this legislation.

I urge my colleagues to support the bill.

Mr. MURPHY. Mr. Chairman, the Private Property Rights Protection Act would hopefully, once and for all, prohibit Federal, State and local use of eminent domain to take private property for economic development.

The Fourteenth Amendment's due process clause gives eminent domain authority to States and localities if seizing property for a ''public use.'' However, in the Kelo decision, the Supreme Court ruled that New London, Connecticut's redevelopment plan was constitutional and, in fact, for a ''public use''—largely ignoring the reality that the property, as part of the plan, would be turned over to private developers.

The Fourteenth Amendment also contains what's known as the equal protection clause, which states: ''No State shall make or enforce any law which shall . . . deny to any person within its jurisdiction the equal protection of the laws.'' But the Kelo ruling deliberately declares that heretofor, certain persons and their property will in fact be protected UNequally. Or, in the case of Kelo, not at all.

In addition to prohibiting any level of government from using economic development as a reason for exercising its power of eminent domain, H.R. 4128 would also provide assurances that those who are victimized by eminent domain property seizures will get their day in court. Eminent domain victims suffering injuries from a violation of the protections in H.R. 4128 will be allowed access to State or Federal court to enforce its provisions.

Mr. Chairman, the home ownership rate is at the highest level in our Nation's history. Owning one's home and property is the cornerstone of the American Dream. The Kelo decision sets a precedent that can turn the American Dream into a nightmare for victims of eminent domain.

I salute Chairman SENSENBRENNER and Chairman SMITH of the Judiciary Committee and Chairman GOODLATTE of the Agriculture Committee for developing this strong, bipartisan legislative defense of private citizens. I am proud to cosponsor the legislation, and urge all Members to support this prudent bill.

Mr. STARK. Mr. Chairman, I rise in opposition to H.R. 4128, which bars local governments from using eminent domain for economic development.

The urban renewal of the last decade has benefited every part of the country and many cities in the 13th Congressional District. The very purpose of government is to make tough decisions that benefit the community, and I cannot support Congress taking away this essential government function.

This bill would also extend the Federal Government ever further into matters in which it doesn't belong—in this case—real estate planning and development. City councils are elected and empowered to make the difficult choice when private property should be utilized for the good of the community. Congress cannot and should not tie the hands of locally elected leaders to do what they believe is in the best interest of their communities. If those local officials make the wrong choices, voters will no doubt respond.

Mr. LEVIN. Mr. Chairman, the bill before the House today is a good example of a legislative cure that is worse than the underlying disease.

I want to say at the outset that there have been some very questionable uses of eminent domain. The fifth amendment to the Constitution clearly states that private property may not be taken except for public use, and then only after just compensation has been paid to the property owner. In many cases, the use of eminent domain is justified, but it is invariably controversial. I remember the controversy that attended the construction of the Walter Reuther Freeway in my home State during the 1960s and 1970s. Some communities were furious over the project, but there was no doubt in anyone's mind that the road served a clear public use.

Other uses of eminent domain are much more questionable. In Washington, as in so many other cities, a decision has been made to spend hundreds of millions of taxpayer dollars to build a new stadium for the benefit of Major League Baseball and the future owner of the Washington Nationals. Indeed, the District Government filed court papers the other day to seize $84 million worth of property from its current owners. Are stadium deals like this a legitimate public use? Evidently, they must be since the legislation before the House contains an exception that would seem to allow the use of eminent domain to build such facilities.

While lucrative stadium deals apparently enjoy protection under this bill, there is a blanket prohibition placed on the use of eminent domain for economic development purposes. States and localities that take land for private, for-profit projects or those designed to increase the tax base or employment stand to lose all their Federal economic development funding for 2 years. The penalty would extend to all economic development funds, even those going to meritorious projects that do not use eminent domain. The language of this legislation is so broadly written, and the penalties are so severe, that it will tie our cities and States in knots. Any use of eminent domain could conceivably trigger the overly broad penalties contained in this legislation. The potential liability facing cities and States that use eminent domain is open-ended and could extend for years or even decades into the future.

Land use planning is primarily a State and local function. Members of Congress frequently pay lip service to States' rights and local control, but this bill would overrule the limitations that many States have placed on eminent domain and land transfers to private entities for economic development purposes. In the case of my own State, in 2004, the Michigan Supreme Court limited the use of eminent domain by narrowly interpreting the State constitution's takings clause in County of Wayne v. Hathcock.

There is a lot of room for improvement in the use of eminent domain. Unfortunately, the legislation before the House is an unreasonable and unworkable solution.

Mr. ORTIZ. Mr. Chairman, I rise today is support of the Private Property Rights Protection Act of 2005. I was disturbed—as were so many Americans—both by the decision of a local Connecticut community to seize private property for area economic development and the Supreme Court's upholding their right to do so.

While I believe our Constitution allows for State and local governments to execute the power of eminent domain for those purposes that specifically serve the public good, condemning property solely to implement economic development plans is not serving the public good. Private property rights matter in this country, and violating those rights insults a very basic tenet of American fairness. For my constituents, owning a home is the culmination of many years of hard work and the realization of the American Dream. At no time should a local entity take those years of hard work solely to increase their tax revenue.

I am proud to support this bipartisan legislation.

Mr. MENENDEZ. Mr. Chairman, the Constitution and the fifth amendment allows the government to use ''eminent domain'' to condemn and take private property only if the owner receives ''just compensation'' and only if the property is taken for ''public use.'' Common sense and Supreme Court decisions tell us that public uses are schools, roads, parks, railways, hospitals, and military bases. That is something that we all know and realize.

Unfortunately, earlier this year, in Kelo v. City of New London, the Supreme Court empowered the government to seize private property, including someone's own home, and transfer it to another private owner as long as the transfer would provide an economic benefit to the community.

The hope of one day owning a home is the backbone of the American Dream. The house is the single most important purchase most Americans will ever make. The average family invests more in their homes than they invest in the stock market, the money market, or their retirement savings plans. There's a good reason for that. Housing has been a safe, leveraged investment, and one of the best investments one can make.

That is why government must not have a green light to seize our homes just because it believes it would be more profitable as something else. While eminent domain has been used successfully throughout our history to advance important public projects, it should never be manipulated to solely support the interests of private developers.

Increasingly, local governments are exploiting eminent domain powers to take property for retail, office or residential development. In my State of New Jersey, some localities have abused eminent domain so that beachfront homes can be replaced by luxury townhouses and condominiums.

That is why I support H.R. 4128, the Private Property Rights Protection Act. This legislation would deny States and localities from receiving any Federal economic development funds if they abuse their eminent domain power. H.R. 4128 also bars the Federal Government from exercising eminent domain for economic development.

Mr. Chairman, over 200 years ago, James Madison said that ''Government is instituted to protect property of every sort . . . This being the end of government, that alone is a just government which impartially secures to every man, whatever is his own.''

That is why this bill is so needed. I urge my colleagues to support H.R. 4128 to not only protect homeowners, but to also ensure that homeownership remains the hallmark of American life.

Mr. LARSON of Connecticut. Mr. Chairman, I rise today sharing the concerns of my colleagues about the dangerous expansion of the eminent domain power and the Supreme Court's decision in Kelo v. City of New London. I firmly believe there need to be safeguards against the excessive and unfair use of the government's eminent domain power. Governors and State legislators across the country, including those in my home State of Connecticut, are currently grappling with this important issue. As a former State legislator, I understand that these issues are best reviewed and addressed at the local level. The Federal approach is overly broad and although well intentioned, falls short of protecting the communities it purports to protect.

Let me make my position clear, private property is one of the most fundamental rights our founding fathers safeguarded in the Constitution. Property rights deserve the utmost protection from governmental intrusion. As a lifelong resident of Connecticut, I am saddened by the Supreme Court's decision in the Kelo case and like many in Connecticut and across the country, feel vulnerable to the potential abuse of eminent domain authority. However, I do not feel this bill brings justice to communities or comprehensively secures property rights from the misuse of the local and State government taking authority.

By attempting to narrow the scope of eminent domain through broad and vague terms, Congress is assuming to identify what does and does not constitute a local public need—a job historically left to our towns, cities and States. These local municipalities would risk losing much-needed economic development funds should they exercise eminent domain authority that goes outside the ambiguous Federal standard set in this bill. Unfortunately, the people most affected by this punitive measure are not the local and city governments making the decisions or the ones at the bargaining table, it is individuals and families living in communities throughout the city, in neighborhoods that depend on federally funded economic development projects for decent housing and livable communities. These are the ones who will truly be penalized by this bill.

Eminent domain is a careful balance of protecting private rights and local public needs. This bill is not yet there. Because of the work still ahead of us, I am voting against this legislation today in the hope that these issues will continue to be addressed during conference with the Senate and that it will work to clarify these remaining questions.

Mr. UDALL of Colorado. Mr. Chairman, I will vote for this legislation.

The bill responds to the decision of the U.S. Supreme Court in the case of Kelo et al. v. New London et al., a case that involved the question of the scope of a local government's authority to use the power of eminent domain, and in particular whether local governments may condemn private houses in order to use the land for uses that are primarily commercial.

Earlier this year, I voted for a resolution expressing disapproval of that decision. I did so because it is my strong view that, as the resolution stated, ''State and local governments should only execute the power of eminent domain for those purposes that serve the public good . . . [and that for them to do otherwise] constitutes an abuse of government power and an usurpation of the individual property rights as defined in the fifth amendment.''

In voting for that resolution, I also noted my endorsement of its statement that ''Congress maintains the prerogative and reserves the right to address through legislation any abuses of eminent domain by State and local government.''

That is the purpose of this legislation.

The bill prohibits Federal agencies from using the power of eminent domain for the kind of economic development project that was involved in the Kelo case. It also would deny Federal economic development assistance to any State or local entity that uses its eminent domain authority in that way.

Specifically, the bill would penalize any State or local government that takes private property and conveys or leases it to another private entity, either for a commercial purpose or to generate additional taxes, employment, or general economic health. A State or local government found to have violated this prohibition would be ineligible for certain Federal economic development funds for 2 years, but could become eligible by returning or replacing the property.

The bill also would give private property owners the right to bring legal actions seeking enforcement of these provisions and would waive States' immunity to such suits.

This is strong medicine, but I think the prescription is appropriate.

I found persuasive the views of Justice O'Conner who, dissenting in the Kelo case, warned that the decision could make more likely that eminent domain would be used in a reverse Robin Hood fashion—taking from the poor, giving to the rich—and that ''The beneficiaries are likely to be those citizens with disproportionate influence and power in the political process, including large corporations and development firms.''

The bill is intended to make this less likely.

It does not do so by attempting to replace State and local authority with Federal law. I do not think the Constitution gives us that power, and it would not be right to do it even if we could.

Instead, it would require the States and local governments to decide whether they are prepared to sacrifice certain Federal assistance for 2 years as the price for exercising their authority in ways covered by the bill.

It is important to note that the bill would apply only to cases involving the taking of private property, without the consent of the owner, in order to conveyor or lease it to another private person or entity for commercial enterprise carried on for profit, or to increase tax revenue, tax base, employment, or general economic health.

Thus, the bill would not apply to the types of takings that have traditionally been considered appropriate public uses, and it also includes exceptions for the transfer of property to public ownership, to common carriers and public utilities, and for related things like pipelines. It includes exceptions for the taking of land that is being used in a way that constitutes an immediate threat to public health and safety and makes exceptions for incidental use of a public property by a private entity—such as a retail establishment on the ground floor in a public property; for the acquisition of abandoned property; and for clearing defective chains of title.

During the debate on the resolution about the Kelo decision, I noted that the States, through their legislatures or in some cases by direct popular vote, can put limits on the use of eminent domain by their local governments and that I thought this would be the best way to address potential abuses.

That is still my view, and I think the view of many Coloradans. Already, members of our State's legislature are acting to curb potential abuses in the use of the eminent domain power—an effort I support—and some have suggested that as a result there is no need for this bill.

I think there is some merit to that argument, and I have given careful consideration to the points made by some of its most thoughtful and respected proponents, such as Sam Mamet of the Colorado Municipal League, who are concerned about the potential that Congress could put unnecessary constraints on the ability of local governments to address the needs of our communities.

However, after careful consideration, I have concluded that Congress should act to provide an effective deterrent to abuse of eminent domain, while still allowing its use in appropriate circumstances. And I think this bill, while certainly not perfect, does strike a fair balance and deserves to be supported.

Mr. HEFLEY. Mr. Chairman, this bill attempts to right a great wrong.

The Supreme Court's June 23 ruling in the case of Kelo v. the City of New London struck at the heart of American liberties, effectively eliminating the pursuit of happiness or property as a basic unalienable right.

I think events since then have proven that the Court was wrong, at least in the eyes of the American people.

According the Institute for Justice, eminent domain reform legislation will be considered in 35 states over the next year.

Justice John Paul Stevens, who wrote an opinion in favor of the Kelo decision, recently said he was troubled by the policy implications of the ruling and that, if he were a legislator, he would work to change it.

And, in a final stroke of justice, New London City Council recently fired the New London Development Corporation that was at the heart of the Kelo case. Unfortunately, this action came after $73 million in public dollars were spent and after it had razed virtually the entire Fort Trumbull neighborhood.

Akhil Reed Amar, a Yale law professor and author of the book America's Constitution, recently observed that the Supreme Court's exalted status as the infallible interpreter of the Constitution is a fairly recent phenomenon and that the Court has been proven wrong before. He pointed to the Dred Scott decision as one example.

This is another.

And when the Supreme Court is wrong, it is the duty of this body, the Congress, to correct it.

This bill goes a long way toward doing that. I'd like to see it go further. Because while I am a supporter of States' rights, I do not know whether individual States have the right to abrogate basic freedoms.

But I'll settle for this. We all took an oath to defend the Constitution and that's what this bill tries to do. Therefore, I urge its support.

Mr. WELDON of Florida. Mr. Chairman, I rise today in strong support of H.R. 4128, legislation to address the U.S. Supreme Court's June 23, 2005, decision in Kelo v. City of New London. This ruling by the Court deeply concerns me, and that is why I rise in strong support of this bill.

It has long been established that the United States may invoke its power of eminent domain to take private property if it is for "public use." However, in its Kelo decision, the U.S. Supreme Court has broken dangerous, new ground by redefining public use. Under Kelo, no longer is the government limited in its acquisition of private property to the creation of roads, military bases, parks, and so forth. Instead, the takings clause has been reinterpreted to allow a government to seize private property from one individual and give it to another private individual, if the local government deems that such condemnation and transfer of property serves a public purpose.

The result of such a decision played out to its logical extreme was seen days after the ruling, when Logan Clements took initial steps to seize the Weare, NH, home of Supreme Court Justice David Souter. On that site, he hoped to build "The Lost Liberty Hotel," which would leave copies of Ayn Rand's Atlas Shrugged in each room, and have a museum exhibit on the loss of freedom in America.

While this may have been done more to make a point than with serious intent or concern for the economic development of Weare, NH, it does illustrate the dangers of the Kelo decision. There is nothing to prevent a local planning board from seizing homes, businesses, churches, or other property if, in the opinions of some, a more economically productive purpose for that land may be pursued. Private property rights are drastically eroded by Kelo and they must be restored.

Government should not be permitted to take property from one individual and give it to another. Thanks to the precedent of Kelo, the private property guarantee the Founders placed in the U.S. Constitution is no more. Legislation, like H.R. 4128, is needed to preserve the right to own private property, and I encourage my colleagues to vote for this bill.

Mr. SENSENBRENNER. Mr. Chairman, I submit the following jurisdictional letters of exchange for inclusion in the CONGRESSIONAL RECORD during floor consideration of H.R. 4128, the "Private Property Rights Protection Act."

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
*Washington, DC, November 2, 2005.*

Hon. F. JAMES SENSENBRENNER, Jr.,
*Chairman, Committee on the Judiciary, House of Representatives, Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN SENSENBRENNER: I understand that you will shortly bring H.R. 4128, as amended, the Private Property Rights Protection Act of 2005, to the House floor. This legislation contains provisions that fall within the jurisdiction of the Committee on Energy and Commerce.

I recognize your desire to bring this legislation before the House in an expeditious manner. Accordingly, I will not exercise my Committee's right to a referral. By agreeing to waive its consideration of the bill, however, the Energy and Commerce Committee does not waive its jurisdiction over H.R. 4128. In addition, the Energy and Commerce Committee reserves its right to seek conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this or similar legislation. I ask for your commitment to support any request by the Energy and Commerce Committee for conferees on H.R. 4128 or similar legislation.

I request that you include this letter in the Congressional Record during consideration of H.R. 4128. Thank you for your attention to these matters.

Sincerely,

JOE BARTON,
*Chairman.*

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HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
*Washington, DC, November 2, 2005.*

Hon. JOE BARTON,
*Chairman, Committee on Energy and Commerce, House of Representatives, Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN BARTON: Thank you for your recent letter concerning the Committee on Energy and Commerce's jurisdictional interest in H.R. 4128, the ''Private Property Rights Protection Act.'' This legislation was introduced on October 25, 2005, and referred solely to the Committee on the Judiciary. The Committee on the Judiciary conducted a mark up and ordered the bill reported on October 27, 2005. I appreciate your willingness to waive further consideration of H.R. 4128 to expedite consideration of the legislation, and acknowledge the Committee on Energy and Commerce's jurisdictional interest in the legislation.

I agree that by foregoing consideration of H.R. 4128, the Committee on Energy and Commerce does not waive any jurisdiction it may have had over subject matter contained in this legislation. In addition, I agree to support representation from the Committee on Energy and Commerce for provisions of H.R. 4128 determined to be within its jurisdiction in the event of a House-Senate conference on the legislation.

Finally, as requested, I will include a copy of your letter and this response in the Congressional Record during floor consideration of this legislation.

Sincerely,

F. JAMES SENSENBRENNER, Jr.,
*Chairman.*

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HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
*Washington, DC, October 28, 2005.*

Hon. JAMES SENSENBRENNER,
*Chairman, Committee on the Judiciary, Rayburn House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: Congratulations on your successful markup of H.R. 4128, the Private Property Rights Protection Act of 2005. As you are aware, I have been a vocal advocate for the protection of private property since coming to Congress 13 years ago. You should be commended for your leadership in marshaling this important private property rights legislation through your committee.

I have reviewed the legislation and discovered provisions that are within the jurisdiction of the Committee on Resources. Because of the importance of moving this legislation to the floor quickly, I will not seek a sequential referral of H.R. 4128 based on their inclusion in the bill. Of course, this waiver does not prejudice any future jurisdictional claims over these provisions or similar language. I also reserve the right to seek to have conferees named from the Committee on Resources on these provisions, should a conference on H.R. 4128 or a similar measure become necessary.

Once again, it has been a pleasure to work with you and your staff. I look forward to seeing H.R. 4128 enacted soon.

Sincerely,

RICHARD W. POMBO,
*Chairman.*

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HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
*Washington, DC, November 2, 2005.*

Hon. RICHARD W. POMBO,
*Chairman, Committee on Resources, Longworth House Office Building, Washington, DC.*

DEAR CHAIRMAN POMBO: Thank you for your recent letter concerning the Committee on Resource's jurisdictional interest in H.R. 4128, the ''Private Property Rights Protection Act.'' This legislation was introduced on October 25, 2005, and referred solely to the Committee on the Judiciary. The Committee on the Judiciary conducted a mark up and ordered the bill reported on October 27, 2005. I appreciate your willingness to waive further consideration of H.R. 4128 to expedite consideration of the legislation, and acknowledge the Committee on Resources' jurisdictional interest in the legislation.

I agree that by foregoing consideration of H.R. 4128, the Committee on Resources does not waive any jurisdiction it may have had over subject matter contained in this or similar legislation. In addition, I agree to support representation from the Committee on Resources for provisions of H.R. 4128 determined to be within its jurisdiction in the event of a House-Senate conference on the legislation.

Finally, as requested, I will include a copy of your letter and this response in the Congressional Record during floor consideration of this legislation.

Sincerely,

F. JAMES SENSENBRENNER, JR.,
*Chairman.*

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U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
*Washington, DC, November 3, 2005.*

Hon. F. JAMES SENSENBRENNER, Jr.,
*Chairman, Committee on the Judiciary, Rayburn Building, Washington, DC.*

DEAR MR. CHAIRMAN: I am writing to you concerning the jurisdictional interest of the Transportation and Infrastructure Committee in matters being considered in H.R. 4128, the Private Property Rights Protection Act of 2005.

Our Committee recognizes the importance of H.R. 4128 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over certain provisions of the bill, I will agree not to request a sequential referral. This, of course, is conditional on our mutual understanding that nothing in this legislation or my decision to forego a sequential referral waives, reduces or otherwise affects the jurisdiction of the Transportation and Infrastructure Committee, and that a copy of this letter and of your response acknowledging our valid jurisdictional interest will be included in the Congressional Record when the bill is considered on the House Floor.

The Committee on Transportation and Infrastructure also asks that you support our request to be conferees on the provisions over which we have jurisdiction during any House Senate conference.

Thank you for your cooperation in this matter.

Sincerely,

DON YOUNG,
*Chairman.*

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
*Washington, DC, November 3, 2005.*

Hon. DON YOUNG,
*Chairman, Committee on Transportation, House of Representatives, Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN YOUNG: Thank you for your recent letter concerning the Committee on Transportation's jurisdictional interest in H.R. 4128, the ''Private Property Rights Protection Act.'' This legislation was introduced on October 25, 2005, and referred solely to the Committee on the Judiciary. The Committee on the Judiciary conducted a mark up and ordered the bill reported on October 27, 2005. I appreciate your willingness to waive further consideration of H.R. 4128 to expedite consideration of the legislation, and acknowledge the Committee on Transportation's jurisdictional interest in the legislation.

I agree that by foregoing consideration of H.R. 4128, the Committee on Transportation does not waive any jurisdiction it may have had over subject matter contained in this legislation. In addition, I agree to support representation from the Committee on Transportation for provisions of H.R. 4128 determined to be within its jurisdiction in the event of a House-Senate conference on the legislation.

Finally, as requested, I will include a copy of your letter and this response in the CONGRESSIONAL RECORD during floor consideration of this legislation.

Sincerely,
F. JAMES SENSENBRENNER, Jr.,
*Chairman.*

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HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
*Washington, DC, November 1, 2005.*

Hon. F. JAMES SENSENBRENNER, Jr.,
*Chairman, Committee on the Judiciary, House of Representatives, Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN SENSENBRENNER: On October 27, 2005, the Committee on the Judiciary ordered reported H.R. 4128, the Private Property Rights Protection Act. This bill protects private property rights by prohibiting eminent domain abuse by States or the Federal Government through limiting the use of ''Federal economic development funds.'' This term is broadly defined in the bill to mean any Federal funds designed ''to improve or increase the size of the economies of States or political subdivisions of States.'' This bill will be considered by the House shortly, and I want to confirm our mutual understanding with respect to consideration of this bill.

Under rule X of the Rules of the House of Representatives, the Committee on Financial Services has jurisdiction over legislation involving financial aid to commerce and industry as well as urban development. This jurisdiction has been exercised in a number of ways. The term Federal economic development funds as defined in this bill would apply to a number of programs developed by this Committee. For example, these programs would include Community Development Block Grants, Brownfields Economic Development Initiative, Economic Development Initiative, Renewal Communities, Empowerment Zones and Enterprise' Communities and the Section 3 Program of the Housing and Urban Development Act of 1968. The term would also apply to the Economic Development Administration, Delta Regional Authority and the Appalachian Regional Commission. Had time permitted, this Committee would have asked for, and likely would have received, a sequential referral of the bill. However, given the desire to expedite consideration of the bill, I will forego making that request. I do so with the understanding that this will not prejudice the Committee on Financial Services with respect to its prerogatives on this or similar legislation. I further request that you support appropriate representation from this Committee in the event of a House-Senate conference.

I will conclude by requesting that you place a copy of this letter and your response in the CONGRESSIONAL RECORD during consideration of the bill. Thank you for your assistance.

Yours truly,
MICHAEL G. OXLEY,
*Chairman.*

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HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
*Washington, DC, November 2, 2005.*

Hon. MICHAEL G. OXLEY,
*Chairman, Committee on Financial Resources, Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN OXLEY: Thank you for your recent letter concerning the Committee on Financial Service's jurisdictional interest in H.R. 4128, the ''Private Property Rights Protection Act.'' This legislation was introduced on October 25, 2005, and referred solely to the Committee on the Judiciary. The Committee on the Judiciary conducted a mark up and ordered the bill reported on October 27, 2005. I appreciate your willingness to waive further consideration of H.R. 4128 to expedite consideration of the legislation, and acknowledge the Committee on Financial Service's jurisdictional interest in the legislation.

I agree that by foregoing consideration of H.R. 4128, the Committee on Financial Services does not waive any jurisdiction it may have had over subject matter contained in this or similar legislation. In addition, I agree to support representation from the Committee on Financial Services for provisions of H.R. 4128 determined to be within its jurisdiction in the event of a House-Senate conference on the legislation.

Finally, as requested, I will include a copy of your letter and this response in the CONGRESSIONAL RECORD during floor consideration of this legislation.

Sincerely,
F. JAMES SENSENBRENNER, Jr.,
*Chairman.*

Mr. CANNON. Mr. Chairman, I rise today in support of H.R. 4128, legislation that would prohibit State and local governments that exercise eminent domain for economic development purposes from receiving federal funds.

John Adams once said ''Property must be secured or liberty cannot exist.'' I join my colleagues in taking action to secure private property rights.

The recent Supreme Court decision Kelo v City of New London eviscerated one of our most fundamental constitutional rights. This case dealt a serious blow to property rights and it is incumbent upon Congress, a co-equal branch of government, to remedy this erroneous decision.

Eminent domain, or the ''despotic power,'' as Justice William Patterson called it in 1795, is the power to force citizens from their homes and small businesses. The Members of the Constitutional Convention were cognizant to the possibility of abuse and that's why the Fifth Amendment provides the simple restriction and remedy: ''nor shall private property be taken for public use, without just compensation.''

The expansion of eminent domain began with the urban renewal movement in the 1950's and it continues today. A recent study by the Institute for Justice found nearly 10,000 cases from 1998 to 2002 of local governments in over 40 States using or threatening to use eminent domain to transfer home and properties from one private owner to another.

Simply put, this abuse has to stop!

Three months prior to the Kelo decision, lawmakers in my home state of Utah passed Senate Bill 184, preventing the exercise of eminent domain authority by redevelopment agencies, which otherwise has the power to transfer land from one private entity to another.

This legislation effectively took the matter out of the courts by placing a higher value on the private property rights of individuals than a city's desire to increase tax revenues.

Just as this legislation served as a wake-up call to redevelopment agencies throughout Utah, I believe the Kelo decision woke America up to the fact that over time, our property rights have quietly been eroded like a stream of water slowly erodes its bank. Fortunately, this erosion has not gone unnoticed by westerners or those they've sent to Washington to represent them.

Private property rights have long been held close to the heart by families and landowners in the Western United States and for good reason. Their farms and ranches have been their livelihood and part of our national heritage since the frontier was closed and the West was settled.

Today many westerners not only have to fight for their economic survival but also have to worry whether their property will be around for them to pass on to future generations. The Federal Government owns more than 50 percent of all land in the West and the population continues to grow.

I am Chairman of the Congressional Western Caucus, and one of our core principles is ''the necessity to protect private property.'' It is the Caucus' position that property rights are the foundation of a free society; that landowners should be compensated when their land is taken or when regulations deprive them of the use of their property.

In H.R. 4128, Chairman SENSENBRENNER and the Committee have produced a bill that represents an important step towards revitalizing basic property rights in this country.

I also believe there is more that can be done to help stem the long-term trend away from property right protections. I, along with my western colleagues, plan to introduce a broad, comprehensive piece of property rights legislation in the near future that will restore much of what has been lost. We believe this bill, in addition to H.R. 4128, will help breathe life into the property rights movement.

The property rights issue is not a class issue. It's not a partisan issue. It's an issue that concerns every property owner in the United States. As Justice Sandra Day O'Conner said in her dissent, ''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.''

I urge my colleagues to join with me in supporting H.R. 4128 to prevent further abuse of government power.

Mr. KIND. Mr. Chairman, I rise in support of the Eminent Domain Property Act offered by my colleague from Wisconsin, Chairman SENSENBRENNER. This bipartisan-supported bill was introduced in response to the Supreme

Court's 5–4 decision in Kelo vs. City of New London, which condoned the use of eminent domain to take private property and transfer it to another private entity for the stated purpose of economic development.

Mr. Chairman, the Kelo decision put homeowners, small business owners, and farmers all across the country at risk of losing their property to this expansion of the government's eminent domain powers.

The Fifth Amendment of the U.S. Constitution allows local government to use eminent domain powers to condemn private property. The only requirement is that owners are given ''just compensation'' and that the land in question goes to a ''public use.'' Traditionally, the ''public use'' requirement in eminent domain cases allowed the local government to condemn property to build railroads, or bridges, or highways. But in a 1954 case, Berman v. Parker, the Supreme Court found that ''public use'' could include condemning blighted neighborhoods to build better ones as a means to raise more tax revenue. But, whereas the Berman case was predicated on the property being 'blighted,' the Kelo decision goes further down the slippery slope and rests solely on whether the condemnation would improve tax revenues.

I would assert, as Justice Scalia did in the Kelo case, that any conceivable commercial development that replaces a church, house, or farm will produce more tax revenue, and that once condemned land is passed off to private developers, it is no longer going to ''public use.'' That is why I strongly believe Congress must act to limit States' eminent domain actions if the only requirement is that the proposed project improves the tax base.

The Eminent Domain Property Act of 2005 will prohibit the Federal Government from using eminent domain for private economic development and also prohibits States from using eminent domain for private economic development if the State receives any Federal economic development funding. A violation by any State will result with the State being ineligible for a Federal economic development for two years. By denying municipalities all Federal development funds when they abuse their eminent domain authority, H.R. 4128 provides a strong economic disincentive to prevent municipalities and local governments from taking private property for the purpose of private economic development.

Lastly, Mr. Chairman, my district in western Wisconsin is largely rural and dependent on the agricultural economy of its many small family farmers. As the sense of Congress portion of this legislation points out, the unfortunate truth is that agricultural lands are particularly vulnerable to the abuse of eminent domain power. Agricultural lands tend to have a lower fair market value than surrounding commercial and residential properties, making them a prime target for growing communities.

It is hard enough, for our struggling farmers who are facing softening commodity prices and weather related disasters, to also have to contend with losing their way of life so that others can have yet another shopping mall.

Mr. Chairman, I commend my colleague, Chairman SENSENBRENNER on crafting this bipartisan legislation and I urge it's adoption and support.

Mr. COSTELLO. Mr. Chairman, today I rise in strong support of H.R. 4128, the Private Property Rights Protection Act. The bill is in response to the recent Supreme Court decision, Kelo v. City of New London, which condoned the use of eminent domain to take private property and transfer it to another private entity for the stated purpose of economic development. This decision puts all property owners at risk. In rural communities and in urban communities, our livelihood is deeply tied to the land and our belief in private property rights runs strong and deep. Landowners should not be vulnerable to the whims of a government that decides to take their land away.

I am opposed to the ruling because it threatens to make all private property subject to the highest bidder. In response to the Supreme Court decision, I am pleased to lend my support to this legislation because it protects Americans' constitutional rights and punishes those who abuse those rights.

The bill does not change state law, nor does it affect the traditional use of eminent domain for the construction of roads, military bases, hospitals, or other truly public uses. Rather, H.R. 4128 provides an effective deterrent against states using their eminent domain authority for private economic development and I urge my colleagues to support its passage.

Mr. POMBO. Mr. Chairman, H.R. 4128, the ''Private Property Rights Protection Act'' is a timely response to the horrendous Kelo decision. I am supportive of this bill and call for its expedited passage. I want to thank Chairman SENSENBRENNER for his leadership on this issue and look forward to working with him and others to see this bill as it moves through the House and Senate.

Property rights are the heart of the individual freedom and the foundation for all other civil rights guaranteed to Americans by the Constitution. Without the freedom to acquire, possess and defend property, all other guaranteed rights are merely words on a page.

The Fifth Amendment holds that private property shall not be taken by the government for public use without compensation. These safeguards have been under assault for decades and until now, the typical victims were family farmers and ranchers in the West.

The Supreme Court's decision in the Kelo v. City of New London case to allow local governments to declare eminent domain in this case goes beyond compensation; it wholly perverts the intent of public use, and in so doing, may turn the American dream of home ownership into a nightmare. It has delivered the property rights assault from rural America right to the doorsteps of suburbia.

In New London, Connecticut, city planners essentially decided that evicting 15 homeowners from their homes was in the ''greater good'' as a ''public use'' for an office park and new condos. But the public, to be directly served in this case, was a private corporation. Whether they were newly wed couples in their first home or life-long residents who owned their homes outright, whether it is farmers and ranchers which have been on their land for generations or urban and suburban communities with the promise of fellowship, this appalling behavior cannot be tolerated any more. The Supreme Court's decision to allow local government to declare eminent domain turns the Fifth Amendment on its head. However, we cannot forget about rural America. Rural America has been fighting this fight for decades and deserves praise for their unshakable stance on protecting private property.

No longer will public use correctly be defined as a road, bridge, or hospital. Now it can be defined as an abstract good, such as increased tax revenue or economic development. Private property can now be taken at will by government and reallocated to another private entity if it runs afoul of a local bureaucrat's notion of public use and greater good. H.R. 4128 would greatly discourage this behavior and the total disregard for private property protections.

Fortunately, Congress maintains the power over the purse strings. We will act to minimize the effects of this ruling to the greatest extent possible. This bill will prevent States and localities from ever doing this again by withholding economic development funds. However, many States and local communities alike are recognizing the importance of private property rights and beginning to act to protect themselves from this decision. This will assist their efforts.

On the other hand, I do believe this legislation can be improved. Under this bill, if a State or locality takes property in violation of this legislation they will incur a 2 year prohibition of economic development funds. That is not long enough. We need to hold States and localities to a higher standard. By withholding Federal economic development funds for a longer period of time, if not permanently, States and localities will rethink the taking of private property, or remedy their previous egregious actions. They need to know there will be consequences. By withholding these funds for an extended period of time, if not indefinitely, they will understand the seriousness of our intentions.

We have a chance at real reform here and this legislation should be passed. Again, I would like to thank Chairman SENSENBRENNER for bringing this to the Floor as quickly as you did and I look forward to working with you in every step of the process to see this commendable legislation enacted. I have been fighting these injustices since before I was elected to this body and will continue to do so in the future.

Mr. BOEHNER. Mr. Chairman, I rise today in support of H.R. 4128, the Private Property Rights Protection Act of 2005.

I was alarmed by the United States Supreme Court's 5–4 decision to allow private property to be seized in the name of ''economic development.'' On June 23, 2005, the Court ruled that the City of New London, Connecticut could seize a series of privately owned homes, offer the homeowners ''just compensation'' and re-sell those properties to private entrepreneurs as part of a city-approved plan aimed at raising the land value and increasing the city's tax base. The court justified the ruling by arguing that the city had the right to seize the private property under the ''public use'' clause of the United States Constitution's 5th Amendment. The 5th Amendment reads as follows:

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

No one has ever denied the fact that in certain rare cases, a government (federal, state, or local) must exercise its Constitutionally limited power to seize land in order to complete a public project like a road, school, military base, or court house. That power is known as ''eminent domain.'' America's Founding Fathers acknowledged it as an unfortunate, but sometimes necessary, evil and it has historically been pursued in America with great reservation. According to a majority of the Court however, seizing private property in the name of ''public use'' does not necessarily mean that the property seized must be used for the public. Instead, the land seized could merely be used in the name of a ''public purpose.'' While the concurring justices never actually define what constitutes a ''public purpose,'' they write that the elected politicians on the local, state, and federal level are more than capable of making such determinations on their own. In this particular case, the ''public purpose'' happened to be a pharmaceutical research facility, a waterfront hotel, and a series of new commercial and residential buildings.

As a result of the Court's 5–4 ruling, any government body (city council, state assembly, Congress) with a good enough lawyer or simply a one vote majority can now take any citizen's private property, offer ''just compensation,'' and dispense with it as it sees fit. In other words, your property is now only your property so long as the government wants it to be.

John Adams once said, ''The moment that the idea is admitted into society that property is not as sacred as the Laws of God, and that there is not a force of law and public justice to protect it, anarchy and tyranny commence. Property must be sacred or liberty cannot exist.'' Allowing a man's property to be so easily taken at the whim of a legislative body represents a complete departure from the very core value upon which America was founded—your natural human right to your property. America's Founding Fathers considered property to be the one sacred right above all others. They knew that true freedom came not from a political declaration or a legislative promise but from the ability of each and every citizen to dispense with his property as he saw fit. Those who would take that right away often try to assure us that by surrendering the freedom to control the supposedly less important aspects of our lives, we shall somehow obtain freedom in the pursuit of higher values. I could not disagree more. The ability to control your own property, whether it be your home, your car, or even a simple trinket, is not simply some marginal aspect of life which can be separated from the rest. It is the means to express your values and strive for your dreams. It is the ability to offer shape to your highest ideals and reject those that conflict. In short, it is freedom.

Now the human right to property seems relegated to a mere afterthought. The Institute for Justice, which represented the New London residents in court, released a study showing some 10,000 cases between 1998 and 2002 where local governments in 41 states used or threatened to use eminent domain to take property from one private owner and give it to another. The New York State Supreme Court forced a man off of property his family had owned for more than a hundred years to make way for the new headquarters of The New York Times. Several cities in Ohio have already seized homes in the name of ''economic development''—be it a shopping mall or a new factory. And now the highest court in the land has confirmed that this is all completely legal.

The Kelo decision merely confirmed a depressing trend where those who think ''government knows best'' gain and property rights and therefore liberty yield. I believe that government which governs best is that which governs least. I believe in property rights and the rule of the written law that is the Constitution.

I am proud to support the Private Property Rights Protection Act of 2005. But this bill is merely a first step. The only truly effective way to stop these abuses of power is for every American citizen to remain vigilant in observing that every government official that has sworn an allegiance to uphold the written law of the Constitution remains true to his word. That fight however, begins here, today. I urge my colleagues to take the first step toward once again defending every American's basic human right to his or her property by voting for this important bill.

Mr. POMBO. Mr. Chairman, as a fourth generation rancher, my life has been shaped by the traditions and values associated with proper stewardship of the land. Our Constitutional rights put property ownership of capital importance in the Fifth Amendment.

The right to own property is the backbone of our free-market system. With eminent domain becoming an expanding practice, a bipartisan approach bridging urban, suburban, and rural communities is necessary to uphold the rights of the individual.

The regulatory takings that have been plaguing America's family farmers and ranchers have now spread to suburban neighborhoods, as the decision in the Kelo v. City of New London made absolutely clear. Congress has an inherent responsibility to uphold the Constitution, and on the property rights of United States citizens, the Constitution is clear. The need for H.R. 4128 has never been greater.

Mr. GOODLATTE. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. SIMPSON). All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 4128

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the ''Private Property Rights Protection Act of 2005''.*

***SEC. 2. PROHIBITION ON EMINENT DOMAIN ABUSE BY STATES.***

*(a) IN GENERAL.—No State or political subdivision of a State shall exercise its power of eminent domain, or allow the exercise of such power by any person or entity to which such power has been delegated, over property to be used for economic development or over property that is subsequently used for economic development, if that State or political subdivision receives Federal economic development funds during any fiscal year in which it does so.*

*(b) INELIGIBILITY FOR FEDERAL FUNDS.—A violation of subsection (a) by a State or political subdivision shall render such State or political subdivision ineligible for any Federal economic development funds for a period of 2 fiscal years following a final judgment on the merits by a court of competent jurisdiction that such subsection has been violated, and any Federal agency charged with distributing those funds shall withhold them for such 2-year period, and any such funds distributed to such State or political subdivision shall be returned or reimbursed by such State or political subdivision to the appropriate Federal agency or authority of the Federal Government, or component thereof.*

*(c) OPPORTUNITY TO CURE VIOLATION.—A State or political subdivision shall not be ineligible for any Federal economic development funds under subsection (b) if such State or political subdivision returns all real property the taking of which was found by a court of competent jurisdiction to have constituted a violation of subsection (a) and replaces any other property destroyed and repairs any other property damaged as a result of such violation.*

***SEC. 3. PROHIBITION ON EMINENT DOMAIN ABUSE BY THE FEDERAL GOVERNMENT.***

*The Federal Government or any authority of the Federal Government shall not exercise its power of eminent domain to be used for economic development.*

***SEC. 4. PRIVATE RIGHT OF ACTION.***

*(a) CAUSE OF ACTION.—Any owner of private property who suffers injury as a result of a violation of any provision of this Act may bring an action to enforce any provision of this Act in the appropriate Federal or State court, and a State shall not be immune under the eleventh amendment to the Constitution of the United States from any such action in a Federal or State court of competent jurisdiction. Any such property owner may also seek any appropriate relief through a preliminary injunction or a temporary restraining order.*

*(b) LIMITATION ON BRINGING ACTION.—An action brought under this Act may be brought if the property is used for economic development following the conclusion of any condemnation proceedings condemning the private property of such property owner, but shall not be brought later than seven years following the conclusion of any such proceedings and the subsequent use of such condemned property for economic development.*

*(c) ATTORNEYS' FEE AND OTHER COSTS.—In any action or proceeding under this Act, the court shall allow a prevailing plaintiff a reasonable attorneys' fee as part of the costs, and include expert fees as part of the attorneys' fee.*

***SEC. 5. NOTIFICATION BY ATTORNEY GENERAL.***

*(a) NOTIFICATION TO STATES AND POLITICAL SUBDIVISIONS.—*

*(1) Not later than 30 days after the enactment of this Act, the Attorney General shall provide to the chief executive officer of each State the text of this Act and a description of the rights of property owners under this Act.*

*(2) Not later than 120 days after the enactment of this Act, the Attorney General shall compile a list of the Federal laws under which Federal economic development funds are distributed. The Attorney General shall compile annual revisions of such list as necessary. Such list and any successive revisions of such list shall be communicated by the Attorney General to the chief executive officer of each State and also made available on the Internet website maintained by the United States Department of Justice for use by the public and by the authorities in each State and political subdivisions of each State empowered to take private property and convert it to public use subject to just compensation for the taking.*

*(b) NOTIFICATION TO PROPERTY OWNERS.—Not later than 30 days after the enactment of this Act, the Attorney General shall publish in the*

*Federal Register and make available on the Internet website maintained by the United States Department of Justice a notice containing the text of this Act and a description of the rights of property owners under this Act.*

***SEC. 6. REPORT.***

*Not later than 1 year after the date of enactment of this Act, and every subsequent year thereafter, the Attorney General shall transmit a report identifying States or political subdivisions that have used eminent domain in violation of this Act to the Chairman and Ranking Member of the Committee on the Judiciary of the House of Representatives and to the Chairman and Ranking Member of the Committee on the Judiciary of the Senate. The report shall—*

*(1) identify all private rights of action brought as a result of a State's or political subdivision's violation of this Act;*

*(2) identify all States or political subdivisions that have lost Federal economic development funds as a result of a violation of this Act, as well as describe the type and amount of Federal economic development funds lost in each State or political subdivision and the Agency that is responsible for withholding such funds;*

*(3) discuss all instances in which a State or political subdivision has cured a violation as described in section 2(c) of this Act.*

***SEC. 7. SENSE OF CONGRESS REGARDING RURAL AMERICA.***

*(a) FINDINGS.—The Congress finds the following:*

*(1) The founders realized the fundamental importance of property rights when they codified the Takings Clause of the Fifth Amendment to the Constitution, which requires that private property shall not be taken ''for public use, without just compensation''.*

*(2) Rural lands are unique in that they are not traditionally considered high tax revenue-generating properties for State and local governments. In addition, farmland and forest land owners need to have long-term certainty regarding their property rights in order to make the investment decisions to commit land to these uses.*

*(3) Ownership rights in rural land are fundamental building blocks for our Nation's agriculture industry, which continues to be one of the most important economic sectors of our economy.*

*(4) In the wake of the Supreme Court's decision in Kelo v. City of New London, abuse of eminent domain is a threat to the property rights of all private property owners, including rural land owners.*

*(b) SENSE OF CONGRESS.—It is the sense of Congress that the use of eminent domain for the purpose of economic development is a threat to agricultural and other property in rural America and that the Congress should protect the property rights of Americans, including those who reside in rural areas. Property rights are central to liberty in this country and to our economy. The use of eminent domain to take farmland and other rural property for economic development threatens liberty, rural economies, and the economy of the United States. Americans should not have to fear the government's taking their homes, farms, or businesses to give to other persons. Governments should not abuse the power of eminent domain to force rural property owners from their land in order to develop rural land into industrial and commercial property. Congress has a duty to protect the property rights of rural Americans in the face of eminent domain abuse.*

***SEC. 8. DEFINITIONS.***

*In this Act the following definitions apply:*

*(1) ECONOMIC DEVELOPMENT.—The term ''economic development'' means taking private property, without the consent of the owner, and conveying or leasing such property from one private person or entity to another private person or entity for commercial enterprise carried on for profit, or to increase tax revenue, tax base, employment, or general economic health, except that such term shall not include—*

*(A) conveying private property to public ownership, such as for a road, hospital, or military base, or to an entity, such as a common carrier, that makes the property available for use by the general public as of right, such as a railroad, or public facility, or for use as a right of way, aqueduct, pipeline, or similar use;*

*(B) removing harmful uses of land provided such uses constitute an immediate threat to public health and safety;*

*(C) leasing property to a private person or entity that occupies an incidental part of public property or a public facility, such as a retail establishment on the ground floor of a public building;*

*(D) acquiring abandoned property;*

*(E) clearing defective chains of title; and*

*(F) taking private property for use by a public utility.*

*(2) FEDERAL ECONOMIC DEVELOPMENT FUNDS.—The term ''Federal economic development funds'' means any Federal funds distributed to or through States or political subdivisions of States under Federal laws designed to improve or increase the size of the economies of States or political subdivisions of States.*

*(3) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any other territory or possession of the United States.*

***SEC. 9. SEVERABILITY AND EFFECTIVE DATE.***

*(a) SEVERABILITY.—The provisions of this Act are severable. If any provision of this Act, or any application thereof, is found unconstitutional, that finding shall not affect any provision or application of the Act not so adjudicated.*

*(b) EFFECTIVE DATE.—This Act shall take effect upon the first day of the first fiscal year that begins after the date of the enactment of this Act, but shall not apply to any project for which condemnation proceedings have been initiated prior to the date of enactment.*

***SEC. 10. SENSE OF CONGRESS.***

*It is the policy of the United States to encourage, support, and promote the private ownership of property and to ensure that the constitutional and other legal rights of private property owners are protected by the Federal Government.*

***SEC. 11. BROAD CONSTRUCTION.***

*This Act shall be construed in favor of a broad protection of private property rights, to the maximum extent permitted by the terms of this Act and the Constitution.*

The Acting CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 109–266. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to an amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 printed in House Report 109–266 offered by Mr. SENSENBRENNER:

Page 9, strike lines 1 through 7, and insert the following:

(A) conveying private property—

(i) to public ownership, such as for a road, hospital, airport, or military base;

(ii) to an entity, such as a common carrier, that makes the property available to the general public as of right, such as a railroad or public facility;

(iii) for use as a road or other right of way or means, open to the public for transportation, whether free or by toll;

(iv) for use as an aqueduct, flood control facility, pipeline, or similar use;

Page 8, line 7, after ''States.'' insert the following: ''The taking of farmland and rural property will have a direct impact on existing irrigation and reclamation projects. Furthermore, the use of eminent domain to take rural private property for private commercial uses will force increasing numbers of activities from private property onto this Nation's public lands, including its National forests, National parks and wildlife refuges. This increase can overburden the infrastructure of these lands, reducing the enjoyment of such lands for all citizens.''.

Add at the end the following new section:

**SEC. ___. LIMITATION ON STATUTORY CONSTRUCTION.**

Nothing in this Act may be construed to supersede, limit, or otherwise affect any provision of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

The Acting CHAIRMAN. Pursuant to House Resolution 527, the gentleman from Wisconsin (Mr. SENSENBRENNER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the manager's amendment simply makes clear that private roads and those that are open to the public, free or by toll, and flood control facilities are covered under the exceptions of the bill. It also includes a savings clause making clear that nothing in the legislation shall be construed to affect the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which requires the Federal Government to pay the displacement costs of those adversely affected by the Federal Government's use of eminent domain.

The manager's amendment also incorporates into the bill's sense of congress section some language provided by the Resources Committee regarding the effect of the abuse of eminent domain on irrigation and reclamation projects and on public lands.

I urge my colleagues to support the improvements made by this manager's amendment.

Mr. Chairman, I reserve the balance of my time.

Ms. WATERS. Mr. Chairman, I am not opposed to the amendment, and I ask unanimous consent to claim the time in opposition.

The Acting CHAIRMAN. Is there objection to the request of the gentlewoman from California?

There was no objection.

The Acting CHAIRMAN. The gentlewoman from California is recognized for 5 minutes.

Ms. WATERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Wisconsin.

This amendment does not change the bill in any substantive way. Rather, this amendment seeks to clarify some of the exceptions that provide for the use of eminent domain for those uses that have traditionally been considered for a public purpose.

This amendment also enhances the sense of congress provision and points out that the bill does nothing to restrict the Federal Government from fulfilling its obligation under current law when it exercises eminent domain.

Most importantly, this amendment serves to reflect the bipartisan interests of the various committees that have been at the forefront of this issue, Agriculture, Resources and Judiciary. I am pleased that we have been able to work together on what I feel is an appropriate response to the Kelo decision.

I just want to say to Chairman SENSENBRENNER, you know how strongly I feel about this issue. And while I offered some amendments in committee so that there would be absolutely no exceptions, I think that if we are able to pass this bill today we will have taken a giant step to stop what I think is a wrongheaded decision by the Supreme Court. So I am willing to certainly support the chairman's amendment, and if we have to continue to work on this issue to get to where I want to be with no exceptions, then I will look forward to working with the gentleman in the future on it.

Mr. Chairman, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 printed in House Report 109–266 offered by Mr. NADLER:

Page 2, line 8, strike ''(a) IN GENERAL.—''.

Page 2, strike line 16 and all that follows through line 17 on page 3.

Page 4, beginning in line 1, strike ''to enforce any provision of this Act'' and insert ''to obtain appropriate injunctive or declaratory relief,''.

Page 4, beginning in line 6, strike ''Any'' and all that follows through line 16.

Page 4, line 17, strike ''(c)'' and insert ''(b)''.

The Acting CHAIRMAN. Pursuant to House Resolution 527, the gentleman from New York (Mr. NADLER) and the gentleman from Wisconsin (Mr. SENSENBRENNER) each will control 5 minutes.

The Chair recognizes the gentleman from New York.

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment is very straightforward and, in my opinion, will better protect the rights of property owners than the way the bill is designed.

Under the bill, if the government takes your property for a prohibited purpose, you could sue, and if you win your lawyers get paid and your town gets bankrupted. You get no damages, and if you think the town will bulldoze the new downtown and rebuild your house, you are fooling yourself.

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Instead, you should have the right, and my amendment grants you the right, to go to court and stop the government in the first place dead in its tracks. Americans do not want to bankrupt their towns; they want to keep their homes.

Keep in mind the economic threat the penalties of this bill would pose to every single State and local government in the country.

Any property owner under this bill could sue for 7 years after the conclusion of the condemnation proceeding, or at any time in the future if a public facility is later used for a private purpose.

This is an open-ended and catastrophic threat. No financial institution would underwrite a bond or extend any financing to a city or State because the risk is too great. No private company would take a public contract because the city could lose 2 years' funding in the future. If the current city administration does not want to use eminent domain for any improper purpose or, for that matter, any proper purpose, it will still have trouble floating bonds because maybe its successor 10 years from now will use eminent domain improperly, they will lose 2 years of all the Federal revenue, and they will not be able to repay the bonds. Therefore, the bond counsel now will instruct the people not to lend to the city. No bank would do business with a public contractor for the same reason.

This is absurd. We should protect our homes. The way to do that is to establish in this bill, as it does, a substantive right not to have eminent domain used against your home or property for the prohibited purposes, and then give you the right to enforce that by an injunction, with attorneys' fees paid in advance, that stops it. You do not need the ability of someone in the future to go to court and punish the city which does not even get the property owner help.

So my amendment would say no penalty for the State or city later, that is unnecessary, because we are granting you the right to get an injunction, a permanent injunction to stop the taking in the first place. That is the proper protection.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman this is a gutting amendment. It is a gutting amendment because it removes the constitutional hook that this Congress and the Federal Government have to prevent the abuses that have been sanctioned by Kelo, and that is the Federal funds that have been used for economic development.

The amendment strikes out all the penalty in the bill that would prevent the government officials from abusing eminent domain. No penalty, no tap on the wrist. We say you should not do it; but if you go ahead and do it, then you are not going to be penalized. Without these penalties in the bill, the government could take private property from one person and simply give it to a wealthy corporation. Because this amendment guts the entire bill, it ought to be opposed.

Under this legislation, there is a clear connection between the Federal funds that would be denied and the abuse that Congress is intending to prevent. The policy is that States and localities that abuse their eminent domain power by using economic development as a rationale for a taking should not be trusted with Federal economic development funds that could contribute to similarly abusive land grabs.

There is an entirely appropriate connection in the base bill between the Federal policy of protecting private property rights from eminent domain abuse and making sure that the Federal Government does not subsidize eminent domain abusers. The amendment should be defeated for these reasons.

Mr. Chairman, I reserve the balance of my time.

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is not a gutting amendment. The constitutional basis for granting the injunction against the taking is the fact that the State is accepting Federal funds. The bill, on lines 12 through 15 on page 2, says clearly: ''if that State or political subdivision receives Federal economic development funds during any fiscal year in which it does so.'' That is the constitutional basis for saying, you cannot do certain kinds of takings as this bill prohibits and, if you do, you can establish penalties or injunctive relief.

All I am saying is, we are using the Federal jurisdictional hook that the chairman mentioned and instead of penalizing later, which does not help the homeowner who has lost his home, you say you can stop it now, get an injunction for stopping it now, because the State has agreed not to use its power in this way as a condition of taking Federal funds. There is well-established constitutional law that we can condition Federal funds on that.

That being the case, you can go into Federal or State court and get an injunction if you do my amendment. With the injunction, you do not have the taking, you do not have to worry about punishing anybody 10 years later, because there is no taking in the

first place. It is a much better protection for the property owner. We prohibit the taking. The court says you cannot do it. There is no constitutional problem with that.

It does not gut the bill because it says you do not have to punish what cannot have occurred. It cannot have occurred because the bill would now say you may not do it; and if you may not do it, the court will prohibit you from doing it, because we are establishing the right to go into court in advance and get an injunction against it.

So total protection of the property owner against the improper taking. You do not have to worry about fouling up the State or city's ability to float bonds or the State or city finances later; you do not punish all the citizens of the city because the mayor is paying off some campaign contributor with a private taking, just prohibit the mayor from doing so in the first place and enforce that by letting the property owner get an injunction, period.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, I respectfully offer this statement against the amendment offered by the gentleman from New York. Essentially, this amendment eliminates the teeth of this bill: the denial of Federal funds for 2 fiscal years to those States and cities that have violated this act. The denial of Federal economic development funds should serve as a real deterrent for those States and cities that want to exercise eminent domain for development, that is, the taking of private property for private use. Without this provision, this bill will not be taken seriously, and the eminent domain abuses that many in this country are complaining about will continue.

I just waved before my colleagues a list of over 125 cases of the taking of private land for private use, or attempts to do that; and I think the bill that we have before us today will stop this kind of abuse of eminent domain.

Mr. NADLER. Mr. Chairman, I yield myself the remaining time.

Mr. Chairman, the fact is, this does not gut the bill, as the gentlewoman from California said. It takes out the penalty, but you do not need the penalty because you establish the right of the court and the duty of the court to stop it in the first place. There will be no private taking for the prohibited use because you give the rights to the landowner to get an injunction against it in the first place. It is a much better protection than worrying about punishing the city later. You do not have to punish the city because you protect against it in advance, 100 percent.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, we do not know if the gentleman from New York's approach is constitutional. That has not been tried before, and it would be a case of first impression in the courts.

We know that the provision of denying Federal funds in the base bill is constitutional, because it was done by this Congress 20 years ago where we denied States transportation funds that did not raise the drinking age to 21. So the constitutional precedent was set 20 years ago in the transportation area. The base bill does that. The gentleman's amendment does not. That is why it ought to be rejected.

The Acting CHAIRMAN (Mr. SIMPSON). The question is on the amendment offered by the gentleman from New York (Mr. NADLER).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. SENSENBRENNER. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York will be postponed.

AMENDMENT NO. 4 OFFERED BY MR. SODREL

Mr. SODREL. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 printed in House Report 109–266 offered by Mr. SODREL:

Page 4, line 6, after ''jurisdiction.'' insert ''In such action, the defendant has the burden to show by clear and convincing evidence that the taking is not for economic development.''

The Acting CHAIRMAN. Pursuant to House Resolution 527, the gentleman from Indiana (Mr. SODREL) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Indiana.

Mr. SODREL. Mr. Chairman, I yield myself such time as I may consume.

I thank the chairman and ranking member for bringing this bill forward, a bill that I was proud to cosponsor.

H.R. 4128 is a good bill. It addresses a new-found power of government that frightens every homeowner and small businessman, the possibility of having their home or business involuntarily taken to be given to someone else to build some other business or development that government may prefer. Compounding that fear is the fear of having to go to court and pay to prove that the government violated the provisions of this bill, having to pay a lawyer and possibly hire experts to prove that the taking of their property is for economic development in violation of the act.

My amendment clarifies that the burden of proof is on the State or the agency seeking to take the property, and the evidence it has provided must go beyond merely saying so. This issue is important enough that a court reviewing the taking should not give deference to the government assertions that the ultimate use of the property is for other than economic development as outlined in the act. The burden of proof should rightly be placed on the government entity that initiated the action, not on the property owner. I urge the adoption of this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I will claim the time in opposition, even though I am not opposed.

The Acting CHAIRMAN. Without objection, the gentleman from Wisconsin will control the time in opposition.

There was no objection.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment would help property owners by putting the burden of proof on the government to show that it is not abusing eminent domain by taking private property for a private use. It is a good amendment, and I support it.

Ms. WATERS. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentlewoman from California.

Ms. WATERS. Mr. Chairman, I support this amendment also. I am tired of poor people and working people having to go and find lawyers and pay them. Who can afford $250 and $300 an hour? The average poor person certainly cannot. So you are right, let us put it on the entity that is trying to pull these tricks in the first place to take these properties away from these citizens.

So I support the amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. SODREL).

The amendment was agreed to.

AMENDMENT NO. 5 OFFERED BY MR. MORAN OF VIRGINIA

Mr. MORAN of Virginia. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 printed in House Report 109–266 offered by Mr. MORAN of Virginia:

Page 8, strike line 17 and all that follows through line 19 on page 9 and insert the following:

(1) ECONOMIC DEVELOPMENT.—The term ''economic development'' means taking private property, without the consent of the owner, and conveying or leasing such property from the taking authority to a private person or entity, or from such private person or entity to another private person or entity, where the grantee or lessee person or entity is to use the property for commercial enterprise carried on for profit, or where the conveying or leasing is for the primary purpose of increasing tax revenue, tax base, employment, or general economic health, except that such term shall not include—

(A) conveying private property for a public use, such as—

(i) for a road, hospital, or military base;

(ii) for use by the general public as of right, such as a railroad or public facility; or

(iii) for use as a right of way, aqueduct, pipeline, utility or similar use;

(B) removing harmful uses of land provided such uses constitute an immediate threat to public health and safety;

(C) leasing property to a private person or entity that occupies an incidental part of public property or a public facility, such as a retail establishment on the ground floor of a public building;

(D) acquiring abandoned property; and

(E) clearing defective chains of title.

Page 4, beginning in line 15, strike ''and the subsequent use of such condemned property for economic development''.

The Acting CHAIRMAN. Pursuant to House Resolution 527, the gentleman from Virginia (Mr. MORAN) and the gentleman from Wisconsin (Mr. SENSENBRENNER) each will control 5 minutes.

The Chair recognizes the gentleman from Virginia.

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Well, here we have those folks who are considered to be on the far left and those on the far right and those just left of center and those just right of center; everybody agrees that this bill should be passed. It reminds me of a comment or observation that Plato once made: ''The minority are oftentimes wrong, but the majority always are.''

Now, I can understand why we are reflexively doing this bill, but I cannot understand why we would make this bill so broad with such an interminably long period of time with which to take any grievance to the courts, that it will create unintended consequences which will cause very severe consequences and economic problems for localities all over our country.

We do not have one dictatorship at the local level of American government. Every single official at every single level of local government is elected, so all of them are responsible to the voters; and that is where this should be decided.

But I am going to suggest two changes that will be achieved by my amendment. They address the two major deficiencies of this bill: first, it is much too broad; and, secondly, the period of time within which a government can be sued is much too long.

The broad definition of ''economic development'' in section 8 includes a conveyance or lease of property that is ''to increase tax revenue, tax base employment, or general economic health.''

Unfortunately, practically every conveyance of condemned property can have at least an incidental or secondary purpose and effect of increasing taxes, creating jobs, or otherwise producing a positive economic impact, virtually everything that a local government may need to do even though that might not be the primary purpose of the taking.

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So the bill has the potential of prohibiting virtually every taking which occurs as part of public-private partnerships that are not for economic development purposes at all, for example, the conveyance or lease of condemned property as part of a public-private partnership to a private entity that could be used for a waste-to-energy facility.

The processing of solid waste would be prohibited under this. Delivering recreational services in a public area, a public park. Supplying affordable housing. I could give you any number of examples that would have been precluded under this. Providing a parking facility in a downtown that is desperately needed in many communities.

These projects may well produce tax revenues, new jobs, a healthier economy, but that is not the primary purpose of these projects. Their primary purpose is simply to deliver a service that the local community needs and to do so by partnering with a private for-profit entity. Yet the broad language of the bill would prohibit virtually all such public-private partnerships.

My amendment addresses this problem by making clear that the bill reaches the conveyance or lease of condemned property definition only when the primary purpose of the transaction is the increase of taxes, jobs or economic benefits. That is a change that is very much needed to this legislation.

Secondly, the time to file suit under the bill is much too long. Under the bill, a cause of action must be brought no later than 7 years following the conclusion of condemnation proceedings and the subsequent use of such condemned property for economic development. So where you have a property that was condemned, say, next year, in 2006, and the owner believes its economic development use begins in 2011, the owner has until 2018, 12 years after the property's condemnation, to challenge its validity. In many cases, the statute could extend the right to sue for generations to come.

There is no need or reason to provide such a lengthy statute of limitations. The validity of a condemnation action has to be put to rest in some reasonable time; and the Judiciary Committee has, in other contexts, agreed with that principle.

The 7 years should be measured from the conclusion of the condemnation proceeding. At this time, a property owner knows whether his or her property has been taken, knows the reasons for the taking, and can judge whether the taking is subject to the bill's prohibition. My amendment would reduce the statute of limitations to 7 years from the end of the condemnation proceeding, not 7 years after the property's economic development.

Mr. Chairman, this bill needs additional clarification, and I do think this amendment would provide it. I have substantial problems with this bill. So I am reluctant to fix it, but I know it is going to pass. If it passes, it should be a bill that does not cause the kind of unintended consequences this bill will impose on every locally elected government.

Third, the bill defines "economic development" as conveying or leasing condemned property from one private party to another private party—but not from the condemning government to a private party. However, in the "real world," many economic development projects involve the conveyance of condemned property from the condemning authority to a private person or entity—a project the bill does not reach. For instance, the bill would not reach the conveyance by a city or county of 10 acres of taken property to, say, the Marriott Corporation for the use as a convention center, even though the primary purpose of the conveyance is the production of increased tax revenue and jobs.

The amendment addresses this problem by including in the definition of "economic development" conveyances and leases from the condemning government to a private party. In addition, the bill makes some corresponding technical changes to the definition of economic development in light of the other changes I have just explained.

Mr. Chairman, to conclude, this bill is too broad, too unclear, and overreaching. I urge you to adopt this amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, unlike the characterization that my friend from Virginia has made in this bill, this is a bill that is supported by the mainstream of Members of Congress. And how many times in anybody's congressional career would you see Jim Sensenbrenner and Maxine Waters supporting the same bill? That means that we have a very, very big tent of people who are supporting it, because it is the right thing to do.

The amendment should be defeated because it would gut the bill. Because it completely goes back to the definition of public purpose that the Supreme Court allowed this terrible miscarriage of justice to occur in the Kelo case.

The Kelo decision held that the term public use could actually mean a private use such that the government can take perfectly fine property from one person just to give it to another wealthier person. And the amendment would put back into the bill an exception for any public use, I would submit, as defined by a majority vote of the city council, which in the wake of the Kelo decision means a private use as well.

This amendment would put property owners everywhere back to where they were before the Kelo decision, and that is way behind the eight ball, subject to the mercy of a majority vote of their city council. The whole point of this legislation is to counter the Supreme Court's reading of public use in a way that includes private use as well, and the amendment guts the bill by allowing exceptions for private uses as well as public uses. Because this amendment is a giant step backwards in the protection of property rights, it should be soundly defeated.

With respect to the comments the gentleman made on the statute of limitations, yes, it is a long statute of limitations. Because the city has the time and the money to wait out the property owner simply by putting it on the shelf until the time expires. And we should have a longer statute of limitation, rather than a shorter one, so that the city cannot be tempted by the siren song of using its power and using its money to run roughshod over the owner of a piece of private property.

Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, I respectfully offer this statement against the amendment offered by the gentleman from Virginia (Mr. MORAN).

Mr. Chairman, this amendment seeks to prohibit a taking of private property only when the taking's primary purpose is economic development, maybe for the parking lots he described.

I am fearful that such an amendment would create a loophole for States and cities, allowing them to take property in a manner that is inconsistent with this Act, by arguing that the economic benefits of the taking were incidental rather than primary.

Also, this amendment seeks to confine property owners to a 7-year period in which they must bring a suit under this Act. This means that an owner who has had his or her property taken better hope that the State or the city puts the property to use in 7 years. If a State or city takes property for a public purpose, sits on it for 8 years and then puts it to use for economic development, the owner has no recourse.

Mr. Chairman, I do not think that you can argue that the statute of limitations is too long. These people, citizens buy their homes, and they expect to live in them for life. They do not expect someone to come along and say that we have decided that we are going to give it to someone else, a developer to develop for private purposes to make money on.

So I would ask my colleagues to reject this amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield the balance of my time to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Chairman, I would say very quickly to the gentleman from Virginia, the majority that he mistrusts is about the business of protecting the minority that he values, because a private property owner facing eminent domain powers being used to take their property for private economic development purposes is very much alone, and he needs this kind of weight of authority behind him or her to protect their private property rights.

If the gentleman's amendment is adopted, it will reopen exactly the kind of confusing and controversial court decisions that we are about trying to address here today. The specificity in the bill is superior to the gentleman's amendment.

The Acting CHAIRMAN (Mr. SIMPSON). The question is on the amendment offered by the gentleman from Virginia (Mr. MORAN).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. SENSENBRENNER. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia will be postponed.

AMENDMENT NO. 6 OFFERED BY MR. TURNER

Mr. TURNER. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 printed in House Report 109–266 offered by Mr. TURNER:

Page 9, beginning in line 8, strike ''provided'' and all that follows through line 10 and insert '', including a property or preponderance of properties which constitute a threat to public health and safety by reason of dilapidation, obsolescence, overcrowding, lack of ventilation, light, and sanitary facilities, excessive land coverage, deleterious land use, obsolete subdivisions, or because it constitutes a brownfield, as that term is defined in the Small Business Liability Relief and Brownfields Revitalization Act (42 U.S.C. 9601(39))''.

The Acting CHAIRMAN. Pursuant to House Resolution 527, the gentleman from Ohio (Mr. TURNER) and the gentleman from Wisconsin (Mr. SENSENBRENNER) each will control 5 minutes.

The Chair recognizes the gentleman from Ohio.

Mr. TURNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Supreme Court in Kelo v. City of New London went too far in allowing the taking of private property for private development. Congress must take action to protect property rights of individuals. However, we must be careful not to prohibit traditional pre-Kelo justifications for eminent domain.

Mr. Chairman, my amendment enumerates harmful effects which constitute a threat to public health and safety. These harmful effects are traditional justifications for cities, municipalities and other governmental entities to acquire property to protect public health and safety. In fact, the list of harmful effects in my amendment includes elements from several State laws.

The amendment is derived from the State definitions from Wisconsin, the home of Chairman SENSENBRENNER; Texas, the home of our President; Illinois, the home of our Speaker; Missouri, the home of Majority Leader BLUNT; and Virginia, the home of Chairman GOODLATTE.

I have also included an exception for brownfields in my amendment. Brownfields, which are contaminated properties, are a dangerous problem for cities and must be redeveloped to protect the current residents of these communities and also bring people back into our cities.

This amendment, in order to protect public health and safety, has been endorsed by the National Association of Home Builders, the International Council of Shopping Centers, the National Association of Industrial and Office Properties, the International Economic Development Council, the Building Owners and Management Association International, the Real Estate Roundtable, the American Institute of Architects, the American Planning Association, the National Association of Local Government Environmental Professionals, the United States Conference of Mayors, the International City County Management Association, and the National League of Cities.

This amendment, Mr. Chairman, is necessary. Without this amendment, our States will lose their pre-Kelo authority.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment must be defeated because it uses undefined terms that would gut this vital legislation designed to protect the property rights of all Americans from abuse of Government land grants.

The list of organizations that the gentleman from Ohio read off in support of his amendment shows why it ought to be defeated, if we want to stand up for the property rights of individual landowners.

The terms used in this amendment are broad in their scope; and, consequently, the amendment would subject just about any property owner in America to the threat of having their property taken by a government official willing to abuse the power of eminent domain to take property from one private citizen and give it to another wealthier developer.

The amendment would allow the taking profit for ''excessive land coverage,'' ''lack of ventilation,'' ''lack of light,'' and ''obsolescence,'' just to name a few. None of these terms are defined in the amendment, and each would be subject to tremendous abuse. No home in the country would be safe if a government official were allowed to use those concepts to take private property.

If a government bureaucrat thinks your porch is too big, they can take your whole house and all of your land under the amendment. If your barn has only one light bulb in it or no artificial light at all, then your barn and all of the farm land surrounding it could be confiscated by the government. Webster's Dictionary defines obsolete, which is one of the terms used in this amendment, as of a kind or style no longer current. Under the amendment, then, if the design of your house is out of fashion in the eyes of government officials, you could lose both your house and your property; and that is wrong.

The base bill already includes a reasonable exception that allows the government to take property when property is being used in a way that imposes an immediate threat to the public health and safety. And the base bill does absolutely nothing, absolutely nothing that prevents States and localities from enforcing public nuisance laws under its police powers and tearing down an unsafe building.

But the amendment goes much further in a way that threatens low-income and minority communities, and for that reason I join the NAACP in opposing this amendment. Listen to what actual practitioners in the field have to say about it. This is from the Institute for Justice, the public interest law firm that represented Suzette Kelo and the other New London homeowners who took their fight to keep their homes from being taken for private commercial development all the way to the Supreme Court.

The Institute for Justice states, ''In our experience litigating eminent domain cases all over the country, we have seen each of the terms in the amendment applied in such a way as to allow the use of eminent domain on perfectly normal residential and business neighborhoods. Dilapidation can mean that a building has chipped mortar or needs a new handrail. Obsolescence can be a single-family home that lacks three bedrooms, two full bathrooms and a two-car attached garage. Both overcrowding and lack of ventilation, light and sanitary facilities were routinely used during urban renewal to remove poor and minority communities from their neighborhoods. Deleterious land use can mean a combination of residences and businesses in a single area, even though many planners think that such neighborhoods are ideal. Time and time again, the terms found in this amendment have served as vehicles for the abuse of eminent domain for private commercial development''. From the Institute.

This gutting amendment should be defeated.

Mr. Chairman, I reserve the balance of my time.

Mr. TURNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, wow, light bulbs burnt out, paint peeling, those are scary things that the chairman has said would be used for eminent domain. But not in America. That is not what the eminent domain pre-Kelo has been in America.

The 49 States who have definitions of harmful effects that are in this amendment are from States that have litigated over this issue and that have taken into consideration the issue of property rights, the issue of the property rights of individuals that live next to abandoned factories, the people who have children that are in neighborhoods that have property that is near them that has an impact on the public health and safety. The ability for them to enjoy their property and to enjoy it where they are living next to public health and safety threats are what the amendment would rise to.

□ 1615

It does not permit anybody to take any property because a light bulb is burned out. In fact, again it is based on 49 States and the exact language that is used by them in defining harmful effects. The chairman's own State's language includes, from Wisconsin, dilapidation, obsolescence, sanitation, light, air. These are not terms of burned-out light bulbs. These are issues where they rise to the level of a safety and health threat to the individuals of the communities, of the people whose properties are next to them. It is not Kelo.

We all believe that Kelo has gone too far and that an individual's property rights of his home should be protected. But similarly, the home that stands next to a property that is abandoned and is a health threat or the property that is next to a factory for which there are health and safety issues for a community needs to be addressed. Forty-nine States have passed legislation permitting eminent domain in public safety and health threats. Certainly we should acknowledge this and not take away from these communities the pre-Kelo rights of eminent domain.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Ohio (Mr. TURNER). This is the most dangerous of all the amendments that have been offered today.

We take up the Private Property Rights Protection Act today in an effort to provide all property owners with greater protections. The Turner amendment will essentially create a blight exception. By prohibiting the use of eminent domain for economic development in almost all instances except blight, we make blighted communities an easy target for States and cities.

This is why the NAACP supports this bill also. Too many of our communities, the minority, the elderly and the low-income have witnessed an abuse of eminent domain powers. Given this history of abuse, we would like all legislative responses to Kelo to be sensitive to that.

Historically and today, it has been too easy to characterize minority, elderly or low-income communities as blighted for eminent domain purposes and subject them to the will of the government. If legislative proposals contain language that could potentially excluding these communities from protection against eminent domain abuses, we have failed to be sensitive to the interests of this constituency.

These communities should be afforded the same rights and protections all homeowners, business owners, and other property owners will be afforded in a Federal policy response to Kelo.

The Acting CHAIRMAN (Mr. SIMPSON). The gentleman from Ohio has 1 minute remaining.

Mr. TURNER. Mr. Chairman, I yield 45 seconds to the gentleman from California (Mr. FARR).

Mr. FARR. Mr. Chairman, I have mixed emotions about this bill, but I see it as an environmental bill. This is a great bill. This stops growth, particularly the section of the sense of Congress on the use of eminent domain funds to take farmland or other real property for economic development. It just says you cannot do that.

But what really bothers me in this bill is the fact that the terms of Federal economic development means any Federal funds distributed to or through States or political subdivision of the States under Federal laws designed to improve or increase the size of economies of the State or political subdivisions.

As I look at it, those laws mean all the BRAC money that comes to reuse of military bases. It means transportation monies. It means sewer and water monies. It essentially is a no-growth bill. For those on the environmental side this is good. For those who want to see some economic development, we need this amendment.

Mr. TURNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, in communities all across this country, there are buildings that represent a public health and safety threat to a community. Many times people drive by those buildings and they say to their elected officials, someone ought to do something about that. It is not a Kelo decision of saying we ought to have something better. It is saying that there is something damaging to our community and damaging to our neighborhoods.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. TURNER).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. TURNER. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Ohio will be postponed.

AMENDMENT NO. 7 OFFERED BY MR. GARY G. MILLER OF CALIFORNIA

Mr. GARY G. MILLER of California. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 printed in House Report No. 109–266 offered by Mr. GARY G. MILLER of California:

Page 9, line 17, strike ''and''.

Page 9, line 19, strike the period and insert ''; and''.

Page 9, after line 19, insert the following:

(G) redeveloping of a brownfield site as defined in the Small Business Liability Relief

and Brownfields Revitalization Act (42 U.S.C. 9601(39)).

The Acting CHAIRMAN. Pursuant to House Resolution 527, the gentleman from California (Mr. GARY G. MILLER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. GARY G. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I yield to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman for yielding.

The amendment would simply make an exception for the taking of property that is categorized as a brownfield under Federal law, meaning it is a site that contains or is perceived to contain hazardous contaminants. I support the adoption of the amendment and commend the gentleman from California for introducing it.

Mr. GARY G. MILLER of California. Reclaiming my time, I rise to offer a modest amendment to ensure the Federal Government continues to work with local communities to promote and encourage brownfield redevelopment in America.

The bill has a list of exemptions that recognizes eminent domain is sometimes used for legitimate purposes. These exemptions in H.R. 4128 are not sufficient to address brownfield sites. While the bill is an important step to protect private property rights, it could have the unintended consequence of inhibiting redevelopment of brownfield sites.

My amendment corrects the oversight by adding brownfield redevelopment as specifically defined in the Small Business Liability Relief and Brownfield Revitalization Act of 2001. Owners of brownfield sites are frequently unwilling to sell them for fear of cleanup and cost of contamination they find. Eminent domain can often help break through legal and procedural barriers to the sale of the land.

To address this, local governments can take advantage of the liability protection in CERCLA for acquiring potentially contaminated sites ''through the exercise of eminent domain authority by purchaser or condemnation.''

Without using eminent domain as provided for in CERCLA, a local government would be held strictly liable for all costs and cleanup of polluted land as the owner and operator of the site.

I want to stress strongly that brownfield sites are not residential properties. They are abandoned, idle, or underused industrial and commercial facilities where expansion or redevelopment is complicated by real or perceived environmental contamination.

Let us make sure the cities have the tools they need to clean up brownfield sites. It is a reasonable amendment, and I ask for an ''aye'' vote.

I rise today to offer a modest amendment to ensure the Federal Government continues to work with local communities to promote and encourage Brownfields redevelopment in America.

PROTECTING PRIVATE PROPERTY RIGHTS IS IMPORTANT

There is no question that the right to own private property is one of the cornerstones of American freedom.

Governmental regulatory takings are becoming more and more prevalent in today's society and Congress must do everything possible to ensure that lands acquired by private means are protected. As more and more Americans are working to purchase property and become homeowners, the threat of governmental takings must not overshadow the pursuit of the American dream.

The recent United States Supreme Court decision set the precedent that local governments may be afforded wide latitude in seizing property for land-use decisions. I strongly disagree with the implications of this decision. Private property has been the foundation of our society, and I believe it is unwise for government to deprive citizens of this most basic tenet of the American dream.

I am pleased that we have a bill before us today to respond to the Supreme Court's ill-advised decision. While the bill is an important step to protect private property rights, it could have the unintended consequence of inhibiting the redevelopment of Brownfields sites.

BILL'S EXEMPTIONS DO NOT COVER BROWNFIELDS

The bill has a list of exemptions that recognize that eminent domain is sometimes used for legitimate purposes. However, Brownfields redevelopment is not part of this list.

The current exemptions in H.R. 4128 are not sufficient to address Brownfields sites. Brownfields are not always ''abandoned'' and may not ''impose an immediate threat to health or safety.'' My amendment corrects this oversight by adding Brownfields redevelopment as specifically defined in the Small Business Liability Relief and Brownfields Revitalization Act.

BROWNFIELDS REDEVELOPMENT IS IMPORTANT

Experts estimate that the United States has more than 450,000 vacant or underused industrial sites as a result of environmental contamination caused by chemical compounds and other hazardous substances. These sites are known as Brownfields.

Brownfields represent more than just eyesores—they threaten our groundwater supply, cost our local communities jobs and revenue, and contribute to urban sprawl. Returning the nation's Brownfields sites to productive economic development could generate more than 550,000 additional jobs and up to $2.4 billion in new tax revenues for cities and towns.

We must not inhibit or stymie the ability of localities to responsibly exercise eminent domain authority for the redevelopment of Brownfield sites. The redevelopment of Brownfield sites has proven to revitalize distressed neighborhoods, while fostering economic growth, creating jobs, increasing local tax revenues, and reducing public service demands.

This amendment will ensure that the use of eminent domain to redevelop Brownfield sites will remain available.

BROWNFIELDS POSE OBSTACLES TO REDEVELOPMENT THAT SOMETIMES CAN ONLY BE OVERCOME BY EMINENT DOMAIN

Owners of Brownfield sites are frequently unwilling to sell them for fear of the cleanup costs of any contamination found. Eminent domain can often help break through legal and procedural barriers to the sale of the land.

To address this, local governments can take advantage of the liability protections in CERCLA for acquiring potentially contaminated sites ''through the exercise of eminent domain authority by purchase or condemnation.'' Without using eminent domain as provided for in CERCLA, a local government would be held strictly liable for all costs of cleaning up polluted land as an ''owner or operator'' of the site. As a result, local governments would be less likely to redevelop a Brownfield site.

BY PROMOTING BROWNFIELDS REDEVELOPMENT, WE ARE NOT THROWING PEOPLE OUT OF THEIR HOMES

Brownfields are not Residential Properties. They are abandoned, idle, or under-used industrial and commercial facilities where expansion or redevelopment is complicated by real or perceived environmental contamination.

CITIES WILL NOT BE ABLE TO ABUSE THE BROWNFIELDS EXCEPTION

The Brownfields Revitalization Act creates a specific scientific standard for determining whether a former industrial site is a potential Brownfield site.

The real problem is that when a property is a Brownfield, it is in legal limbo. It is the ''possibility'' of contamination alone that results in the lack of redevelopment. The land might not be contaminated, but if the owners have reason to believe it might be, it will likely sit, unused.

Without the city's ability to exercise eminent domain, many contaminated properties that can be redeveloped would instead continue to impose heavy environmental, financial, and social burdens on communities.

CONCLUSION

We must give cities the opportunity to minimize urban sprawl and preserve existing green space by allowing communities to work with local developers and builders to utilize previously developed properties.

This amendment preserves the ability of cities to take ownership of Brownfields and work with their development community to design projects that utilize existing infrastructure.

Most importantly, it is estimated that up to $2.4 billion in new tax revenues can be generated through Brownfields redevelopment. Let's make sure cities have the tools they need to clean up Brownfields sites.

I urge my colleagues to support this crucial amendment to demonstrate that we support Brownfields redevelopment.

Mr. Chairman, I reserve the balance of my time.

Ms. WATERS. Mr. Chairman, I claim time in opposition to the amendment.

The Acting CHAIRMAN. The gentlewoman from California is recognized for 5 minutes.

Ms. WATERS. Mr. Chairman, I claimed this time to raise some concerns about the amendment offered by the gentleman from California. I believe the gentleman from California and the gentlewoman from Texas have a sincere interest in furthering this Nation's development of brownfields, land that is difficult to expand because of environmental contamination. However, I believe that such development is already protected under the bill.

First, this bill will provide an exception for removing harmful uses of land

provided such uses constitute an immediate threat to health and safety. If land truly constitutes a brownfield, then it meets this exception.

Second, brownfields are often acquired by clearing title on, for example, old industrial property where ownership exchanged numerous times without proper recording. The bill creates an exception for clearing defective claims of title; and, again, brownfields would be protected.

Brownfields are also protected under the abandoned property exception that is in the bill. Owners often abandon these properties to escape liability. I am confident that there are sufficient protections in this bill for brownfields in question if an additional exception needs to be created.

We do not want cities to now use the brownfields label as an excuse to take private property and turn it over to a private business or developer. Worse yet, we do not want brownfields to become the modern-day blight exception.

You can see that we have heard requests for any number of exceptions, and if we stayed on this floor for 24 hours or 48 hours, more Members, perhaps, could think of reasons why you should take private land for private use. I maintain that if you want to package land or you want to acquire land, you have to work within the marketplace to do it. You have to go out, you have to find the owners, you have to negotiate market rates, you ''have'' to convince people it is for good uses. You have to work. And you have to engage in order to acquire land. You cannot simply come up with every excuse that is convenient to mayors and city council members and to developers to take people's private land.

If it is private, if it is owned, whether it is residence or business or ''vacant'' land, whatever, it belongs to somebody, somebody paid for it. They have a right to it. The government does not have the right to take it. And so I would simply be opposed to yet another request for an exception to this very good bill that is put forth to protect the citizens of the States.

I commend the chairman and those of us on both sides of the aisle for stepping forward in the manner that we have in a timely fashion to say no.

I have often criticized my friends on the opposite side of the aisle for accusing courts and the Supreme Court of creating law, of creating legislation. They did it on this one. They absolutely did. The Constitution simply says that you must compensate for the taking of land for public use.

We are not opposed to eminent domain for public use. I question it from time to time, but that is not what this is all about. This is about the taking of private land for private use.

Mr. Chairman, I reserve the balance of my time.

Mr. GARY G. MILLER of California. Mr. Chairman, I yield 2¼ minutes to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I proudly join the gentleman from California in supporting this amendment.

I appreciate the response that H.R. 4128 is attempting to convey. We just feel that there is a possibility that it might have some unintended consequences.

In 2002, President Bush signed the Small Business Liability Relief and Brownfields Revitalization Act, and that bill authorized $200 million annually for Federal assistance to States and local communities to assess brownfield sites and to conduct cleanup where the assessment indicates the cleanup was warranted.

The measure represented the centerpiece of the administration's environmental agenda. It was widely praised and received broad bipartisan support, and rightfully so. According to the Government Accountability Office, there are well over 500,000 brownfields in communities around the country; and brownfields represent the economic opportunity wherever they exist.

These abandoned and underused industrial sites pose heavy economic, financial, and social burdens on the community. These burdens include blight, deterioration of neighboring properties and property values, neighborhood health hazards from contamination, and increased need for fire and police protection to limit the nuisance effect of brownfields, and increased sprawl as individuals and families and businesses relocate to the suburbs, farmland, and open space.

Over the past decade, communities across the country have realized that responsible brownfield redevelopment can transform environmentally impaired property into productive property and positively impact distressed communities.

The city of Dallas that I represent was one of the first cities to be designated as a brownfield showcase community by the Environmental Protection Agency. Dallas has used assessment and remediation grant programs to redevelop 35 sites in the core of the city.

Although the city has not used eminent domain to date in its brownfield redevelopment projects, they have shared with me that they certainly can anticipate perhaps a situation where the city might want to do this to acquire. I fully and strongly support the amendment.

Ms. WATERS. Mr. Chairman, I reserve the balance of my time.

Mr. GARY G. MILLER of California. Mr. Chairman, I yield myself the balance of my time.

The gentlewoman from California said a few things that I think I have to address. She said she believed this is included within the bill. It is not. The other thing she said is that the cities should work within the marketplace to acquire these properties.

The problem you have with cities doing that is without eminent domain that is provided for in CERCLA, a local government would be held strictly liable for all costs of cleanup of the polluted land as the owner-operator of the site. That is a complete different liability that the city would accept through eminent domain.

By not having eminent domain through CERCLA, a city then would not want to have a piece of property that was a brownfield because they then are accepting the total liability of the owner. This is going to shut down development in local communities. The problem we have with the bill, there is no immediate threat to health because, as you know, brownfields are usually fenced in. They are sites that are not being used. The owners generally do not want to know if they are contaminated because then they have to accept liability.

It is a reasonable amendment. I thank the chairman for accepting it.

Mr. Chairman, I yield back the balance of my time.

□ 1630

Ms. WATERS. Mr. Chairman, I yield myself the balance of the time.

I respect the gentleman's request for yet another exception, but I oppose it. I think that the chairman and the framers of this legislation have been very responsible in the way that we have tried to advance a piece of legislation to protect the citizens of this Nation from a bad Supreme Court decision.

A lot of people may be inconvenienced by our bill, people who want to acquire property, people who want to take private property for a development, people who want to make money, people who will use any means necessary by which to gain property that they think will help to bring them additional profits. There are a lot of reasons why people will be inconvenienced by this bill.

The bottom line is we do not wish to continue to abuse and inconvenience, marginalize and deny property owners of this country. We feel that our number one responsibility is to the property owners. We are elected to represent our citizens in the best way possible. There is no better way to represent citizens than to say we stand with you in the ownership of the land that you have bought, that you have inherited, that you have invested in.

We know a lot of people may not like it. It may inconvenience some people. You may not be able to build that parking lot, you may not be able to develop that shopping center, but we stand with the people against those kind of inconveniences. We ask for a ''no'' on the gentleman's amendment.

The Acting CHAIRMAN (Mr. SIMPSON). The question is on the amendment offered by the gentleman from California (Mr. GARY G. MILLER).

The amendment was agreed to.

AMENDMENT NO. 8 OFFERED BY MR. GINGREY

Mr. GINGREY. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 printed in House Report 109–266 offered by Mr. GINGREY:

Add at the end the following new section:

**SEC. 12. RELIGIOUS AND NONPROFIT ORGANIZATIONS.**

(a) PROHIBITION ON STATES.—No State or political subdivision of a State shall exercise its power of eminent domain, or allow the exercise of such power by any person or entity to which such power has been delegated, over property of a religious or other nonprofit organization by reason of the nonprofit or tax-exempt status of such organization, or any quality related thereto if that State or political subdivision receives Federal economic development funds during any fiscal year in which it does so.

(b) INELIGIBILITY FOR FEDERAL FUNDS.—A violation of subsection (a) by a State or political subdivision shall render such State or political subdivision ineligible for any Federal economic development funds for a period of 2 fiscal years following a final judgment on the merits by a court of competent jurisdiction that such subsection has been violated, and any Federal agency charged with distributing those funds shall withhold them for such 2-year period, and any such funds distributed to such State or political subdivision shall be returned or reimbursed by such State or political subdivision to the appropriate Federal agency or authority of the Federal Government, or component thereof.

(c) PROHIBITION ON FEDERAL GOVERNMENT.—The Federal Government or any authority of the Federal Government shall not exercise its power of eminent domain over property of a religious or other nonprofit organization by reason of the nonprofit or tax-exempt status of such organization, or any quality related thereto.

The Acting CHAIRMAN. Pursuant to House Resolution 527, the gentleman from Georgia (Mr. GINGREY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Georgia.

Mr. GINGREY. Mr. Chairman, I yield myself such time as I may consume.

I rise today in support of this amendment I have offered to H.R. 4128, the Private Property Rights Protection Act of 2005.

Mr. Chairman, from Matthew 22:17, we know that the Pharisees tried to trap Jesus regarding allegiance to the Roman government; and, of course, Jesus said, Render to Caesar the things that are Caesar's but render to God the things that are God's.

Mr. Chairman, for over 2,000 years God has owed no taxes to the government, but that all changed on June 23, 2005.

Mr. Chairman, my amendment would add an additional section to this bill to ensure that our houses of worship and other nonprofit organizations are not penalized because they are tax-exempt and, therefore, provide no revenue to the treasuries of State and local governments. Thus, they became low-hanging fruit, ripe for the taking.

In the wake of the Kelo decision that gutted the property protections of the fifth amendment, the properties of religious organizations and other nonprofits have indeed become potential prime targets for the government wrecking ball.

State and local governments should never target, or even contemplate targeting, our houses of worship or nonprofit organizations simply because another use of the property would almost certainly build up their tax base.

Mr. Chairman, I believe my amendment turns this unique vulnerability into an asset for our houses of worship and nonprofit organizations. Its chilling effect will force State and local governments to think twice before they contemplate buying gasoline for a steamroller to plow down our houses of worship.

Mr. Chairman, I want to encourage my colleagues on both sides of the aisle to support my amendment and the overall bill to strengthen private property rights for the sake of all Americans.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. GINGREY. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman from Georgia for yielding.

What the Kelo decision has said is that the land that the house of God is built on belongs to Caesar and Caesar can go condemn the land that the house of God is built on to turn it to into a strip mall or hotel or whatever will bring in more tax base, and that is wrong.

The amendment that the gentleman from Georgia has offered simply states that the tax-exempt status of a religious or nonprofit organization cannot be used for a taking under the Kelo case. The amendment is a good one. It ought to be supported, and I am happy that he offered it.

Mr. GOODLATTE. Mr. Chairman, will the gentleman yield?

Mr. GINGREY. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman for yielding, and I am going to acquiesce with the chairman on the amendment, but I want to express some reservations.

It appears that it is the author's intention that nonprofit and religious organizations not be singled out by local governments due to their tax-exempt status alone. Is that correct?

Mr. GINGREY. That is correct.

Mr. GOODLATTE. Mr. Chairman, is it also the gentleman's intention that this provision would not trump the other provisions of the bill that provide additional protections to nonprofits by prohibiting takings from private entities for other economic development reasons to give to other private entities?

Mr. GINGREY. That is correct. The gentleman is correct.

Mr. GOODLATTE. Mr. Chairman, to the extent that the language in the bill could be confusing in the amendment, would the gentleman be willing to work with the chairman of the Judiciary Committee and myself and others to ensure in conference that his intentions are accurately reflected in the amendment language?

Mr. GINGREY. Mr. Chairman, certainly we would be glad to work with both chairmen in regard to that in the conference if there is any confusion regarding the amendment.

Mr. GOODLATTE. I appreciate the gentleman's willingness to work with us; and, on that basis, we will support the amendment.

Mr. GINGREY. Mr. Chairman, with the indulgence of the chairman of the Judiciary Committee, I yield 1 minute to the gentleman from Maryland (Mr. BARTLETT), who has asked for time on this amendment.

Mr. BARTLETT of Maryland. Mr. Chairman, I urge my colleagues to support the Gingrey amendment.

Before Kelo, a Christian church, after spending 5 years acquiring property, had the city intercede when it learned there would be a church built on the property. The city initiated eminent domain to give the land to Costco. The church prevailed, but that was before Kelo.

In Justice O'Connor's Kelo dissent, she warned that in expanding the definition of ''public use,'' the majority had come close to embracing ''the absurd argument that any church might be replaced with a retail store.'' She continued to state that this ''is inherently harmful to society.''

Because of Kelo in general and in this situation in particular, the fifth amendment takings clause has been stretched beyond the bounds that the Framers intended. By expanding the fifth amendment's definition of ''public use,'' it could limit the scope of the ''free exercise'' of religion guaranteed in the first amendment.

Kelo shattered our private property rights. Today, by passing H.R. 4128, Congress will help pick up the pieces. Congress must act to prevent the demolition of our rights, our homes, our businesses and our houses of worship.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. GINGREY).

The amendment was agreed to.

AMENDMENT NO. 9 OFFERED BY MR. CUELLAR

Mr. CUELLAR. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 printed in House Report 109–266 offered by Mr. CUELLAR:

Add at the end the following:

**SEC. 13. REPORT BY FEDERAL AGENCIES ON REGULATIONS AND PROCEDURES RELATING TO EMINENT DOMAIN.**

Not later than 180 days after the date of the enactment of this Act, the head of each Executive department and agency shall review all rules, regulations, and procedures and report to the Attorney General on the activities of that department or agency to bring its rules, regulations and procedures into compliance with this Act.

The Acting CHAIRMAN. Pursuant to House Resolution 527, the gentleman from Texas (Mr. CUELLAR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. CUELLAR. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, I thank the gentleman from Wisconsin and the gentlewoman from California for this opportunity to present this amendment. I believe this amendment is acceptable to the chairman and the gentlewoman from California.

Chairman SENSENBRENNER and Congresswoman WATERS, thank you for this opportunity to present my amendment to H.R. 4128, the Private Property Rights Protection Act of 2005.

I will not spend much time describing my amendment, which is acceptable to the Chairman and Congresswoman WATERS, because the concept is simple. My amendment will require all Federal agencies and departments to submit a report to the Attorney General verifying that all rules, regulations, and procedures of that agency are in compliance with the provisions of H.R. 4128.

There is a saying in business: ''what gets measured gets done.'' H.R. 4128 is an important and timely bill, and it will do a great deal to help protect private property rights in this country. My amendment will strengthen H.R. 4128, by making sure that the practices and procedures of Federal agencies are quickly and uniformly brought into compliance with the new law.

My amendment will require all Federal agencies and departments to review their practices with regard to eminent domain, and to submit a report to the Attorney General verifying that all rules, regulations, and procedures of that agency are in compliance with the provisions of H.R. 4128. This amendment will help to make the transition clearer, and will introduce an added dimension of accountability into the process.

As a believer in responsible government, I always have and will continue to hold our bureaucracy accountable for knowing the law and following it correctly. This simple reporting requirement will ensure that it is done in a timely fashion. H.R. 4128 is a good bill, and my amendment will help to ensure that it is enforced quickly, uniformly, and fairly.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. CUELLAR. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I am happy to accept the amendment because it requires the Federal Government agencies do whatever they need to do to come into compliance with the bill's prohibition on abuse of eminent domain. It is a good amendment, and I hope we accept it.

Mr. CUELLAR. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. CUELLAR).

The amendment was agreed to.

AMENDMENT NO. 10 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 printed in House Report 109–266 offered by Ms. JACKSON-LEE of Texas:

Add at the end the following:

**SEC. ___. SENSE OF CONGRESS.**

It is the sense of Congress that any and all precautions shall be taken by the government to avoid the unfair or unreasonable taking of property away from survivors of Hurricane Katrina who own, were bequeathed, or assigned such property, for economic development purposes or for the private use of others.

The Acting CHAIRMAN. Pursuant to House Resolution 527, the gentlewoman from Texas (Ms. JACKSON-LEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I might consume.

Might I just for my colleagues read very briefly the language of this amendment, and I hope that we can join in a bipartisan manner in the spirit of this underlying legislation.

Mr. SENSENBRENNER. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentlewoman for yielding.

I am happy to accept this amendment that amends the sense of Congress section of the bill that says that victims of Hurricane Katrina cannot have their property condemned simply because it was damaged by the hurricane. Unless the amendment is adopted, then victims of Hurricane Katrina end up getting penalized twice. That is twice too many times. We can take away one of those times by adopting the amendment, and I urge the House to support it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I cannot thank you enough, and I would ask your kind indulgence if I could reclaim my time to put these items in the RECORD, and I would like to yield a moment to the gentlewoman from California, but let me just say this.

The chairman is so very right. Let me make these points. It is legislation to, in fact, make a very pronounced statement that we are very much watching and seeking to protect the Hurricane Katrina survivors from unreasonable taking of property away from them for economic development or for private use.

Let me share this paragraph: New Orleans will be the center of a reconstruction project that will have a price tag in excess of $200 billion. Eminent domain will play a major role in the local government's ability to assemble properties to carry out their plans, whether residents like it or not.

The NAACP, which the chairman cited in another debate, stated that the eminent domain process mostly targets, in many instances, racial and ethnic minorities because cities often want to redevelop areas with low property values because minorities have less political clout and are less able to fight back. That is one aspect, but the rural community and the surrounding areas in New Orleans and Gulfport and other areas are equally victims, and so this amendment speaks to the wholeness of the region that will be under attack for economic development.

Might I close by these words: ''South-of-Boston residents, especially those in coastal towns, need to confront the nasty implications of the recent Supreme Court decision in a post-Katrina era. If a Category 5 hurricane wipes houses from Houghs Neck, Minot, Humarock, Marion, or Mattapoisett, might not the remaining citizens take kindly to an offer to replace the houses with a resort hotel?''

I want to remind my colleagues that the eminent domain theory came when the British soldiers wanted to place their soldiers in American homes or colonial homes, and so this has the underpinnings of a long history. This is an important step for us to take for the Katrina survivors, and I thank the chairman for supporting it.

Mr. Chairman, I have an amendment to H.R. 4128, the Private Property Rights Protection Act of 2005, that has been reported by the Committee on Rules, #12 as printed in the Congressional Record and captioned as Jackso.177. This legislation seeks to curtail the decision handed down by the U.S. Supreme Court in Kelo v. City of New London on June 23, 2005. Kelo held ''economic development'' to be a ''public use'' under the Fifth Amendment's Taking Clause. The Takings Clause states that ''nor shall private property be taken for public use without just compensation.''

In the 1990's, a state agency declared that New London, CT was a ''distressed municipality'' after its unemployment numbers hit double the rate in the rest of Connecticut. The holding by the Supreme Court purported to defer to the city's judgment and that the development would be a ''catalyst to the area's rejuvenation.''

To lay the foundation for the relevance of my amendment, I cite an article in the Tulsa World:

> The situation in New London is a time-extended version of the crisis in New Orleans . . . New Orleans saw its demise in the course of days, not decades. There was no choice but to create a package of initiatives that would bring the private sector in on the rebuilding effort. In some areas, eminent domain may be the only answer. The urgency of government planning, however, is offset by the fact that the first contracts have gone out to some of the usual suspects—namely, corporations with strong ties to the administration In Washington.

The land use situation in the areas most affected by Hurricane Katrina presents the situation that is most ripe for eminent domain takings under the guise of ''economic development.'' My amendment seeks to add the legislative intent to H.R. 4128 that the law seeks to put the people first even in the face of post-disaster reconstruction.

I thank the Chairman of the Committee on the Judiciary for his support of this amendment. It is critical that we continue the spirit of bi-partisanship that was started with the resolution disapproving the Kelo decision, of which I was an original co-sponsor, the Private Property Rights Protection Act of 2005, H.R. 3135.

New Orleans will be the center of a reconstruction project that will have a price tag in excess of $200 billion. Eminent domain will play a major role in the local governments' ability to assemble properties to carry out their plans—whether the residents like it or not. NAACP representative Hillary Shelton stated that "the eminent domain process mostly targets racial and ethnic minorities because cities often want to redevelop areas with low property values and because minorities have less political clout and are less able to fight back." My amendment seeks to clarify that, in redefining the boundaries of the federal government's Taking power, unfair practices will not be tolerated and that the rights of property owners will be given the highest regard.

Mr. Chairman, I ask that my colleagues support this amendment.

Mr. Chairman, I yield such time as she may consume to the distinguished gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, I would first like to thank Chairman SENSENBRENNER for accepting the gentlewoman's amendment, and I would like to thank her for this very timely amendment.

While we began to work on this simply because of the Supreme Court decision and the danger that American citizens' homes and lands were placed in with this decision, the gentlewoman is absolutely right: We have to take another step to protect those victims of Katrina.

There has been a lot of discussion from homeowners and others who are observing what is going on and what could possibly happen, wondering if there are not schemes already going on that would deny these homeowners who have lost their homes the ability to hold on to that land, whether or not the speculators are cooking up schemes with those in local government even. So this amendment would protect the victims of Katrina, and they will be very grateful for this, and they will be very, very thankful that the gentlewoman provided the leadership in thinking about them as this legislation was winding its way through the government of the United States of America.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I ask my colleagues to support this amendment, and it lays further precedent for the victims of Hurricanes Rita and Wilma. I thank the chairman for accepting it, and I yield back my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was agreed to.

AMENDMENT NO. 11 OFFERED BY MR. WATT

Mr. WATT. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 printed in House Report 109–266 offered by Mr. WATT:

Page 2, strike line 3 and all that follows through line 25 on page 6.

Page 8, strike line 15 and all that follows through line 4 on page 11.

Page 7, strike line 1 and insert the following:

**SECTION 1. SENSE OF CONGRESS.**

The Acting CHAIRMAN. Pursuant to House Resolution 527, the gentleman from North Carolina (Mr. WATT) and the gentleman from Wisconsin (Mr. SENSENBRENNER) each will control 5 minutes.

The Chair recognizes the gentleman from North Carolina.

Mr. WATT. Mr. Chairman, I yield myself 1 minute.

First of all, I am fully aware that it is a dangerous combination to be opposing both the chairman of the full Judiciary Committee and the gentlewoman from California (Ms. WATERS), but I simply think this bill is an overreaction.

This amendment would strike all the provisions of the bill except the sense of Congress which I believe adequately conveys the legitimate concerns with the decision of the Supreme Court in Kelo and does what we should appropriately do, express our concern about it and any possible abuse of it but not go so overboard as this bill does in my opinion.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 15 seconds.

The amendment guts the bill by striking out every provision of it except the sense of Congress and the report requirement. If we are for the bill, we ought to vote against the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. WATT. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, we can all agree that Federal powers should not be used to enrich the powerful and the wealthy, but the first response to Kelo should be from responsible local and State governments, not the United States Congress. One narrow Supreme Court decision should not be the basis for an overbroad Federal amendment that will have many unintended consequences.

Earlier I asked what would be the impact if this legislation had been passed for the revitalization of Times Square, where eminent domain transformed one of the most notorious places in America or the Dudley Street neighborhood initiative in the Roxbury Dorchester area in Boston or just outside our window where we have had Pennsylvania Avenue restored using eminent domain.

□ 1645

I would strongly suggest that the gentleman from North Carolina's approach is a more reasonable and prudent one. We do not have a crisis at this point. State and local governments should be dealing with this in an appropriate fashion. We should not have overbroad legislation that could have many unintended consequences.

Mr. WATT. Mr. Chairman, I yield myself such time as I may consume.

First of all, I want to thank the gentleman from Oregon for his thoughtful approach to this and express my desire to have all of the Members of the Congress have an equally thoughtful approach to it.

The Kelo decision was met with a tremendous uproar, with many echoing the view that all private property is now vulnerable to condemnation as long as the new use of the land will produce additional tax revenue. While I appreciate that concern and share the view that private property should not be taken solely for the purpose of increasing State coffers or local coffers with additional tax revenue, I do not believe that the Court's decision leads to that result.

What is even more important is I do not believe that this bill does much, if anything, to address that concern even if it did do that. Unless we get down to a definition of what removal of blight is, and this bill does nothing to do that, local communities are still going to be able to condemn property, as they should, for public purposes. There really is nothing inconsistent with that in the Kelo decision.

Flexibility by local communities in determining whether the public use requirement has been served by ensuring that condemned property creates a public benefit or advantage has long existed, and I believe should continue to exist, as the gentleman from Oregon (Mr. BLUMENAUER) has so eloquently stated. I feel like State and local officials have as much intellect and discretion and are as accountable, probably even more so, to their constituents than Members of Congress; and they should be answering to their constituents on these issues.

Again, while I believe that the power of eminent domain must be exercised judiciously, I think this bill goes too far in limiting the power of States and local governments. In addition, the punitive measures included in the bill will visit additional harms on the very distressed communities that are often the target of eminent domain proceedings.

I would just point out that apparently after this bill is passed, if it is passed, a local government, a State government could still condemn blighted property. The problem now is that it would just have to sit there vacant with nothing developed on it, otherwise they would be in violation of the provisions of this bill if there were any kind of private development, even a public-private partnership.

So I think we are going too far and we need to take a giant step back, take a deep breath, and pass the sense of

Congress part of this resolution expressing our concern, but not the bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield the balance of my time to the gentleman from Michigan (Mr. CONYERS), the ranking member of the Judiciary Committee.

Mr. CONYERS. Mr. Chairman, I thank the chairman of the committee for yielding me this time.

This is an unusual note to end the debate on a very important subject like this, because the last amendment from my friend from North Carolina is to strike everything in the bill except the sense of Congress provisions expressing support for property rights. Well, that is a vote on the bill. Why do we not just have a vote on final passage and skip this? Because that is what this is.

And I would like to emphasize the fact that the people, the citizens, are in support of this amendment. I am proud that we have the civil rights organizations supporting me and not my friend from North Carolina. The NAACP is not known to take issues against the majority of ordinary people. That is what it was founded on. We support the NAACP in everything. Here is the thing. Here is the point. The NAACP says, support this bill, and my friend and I, who support the NAACP, tells me, let us have a vote before final passage that strikes every blooming thing from the bill.

Mr. WATT. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield briefly to my friend from North Carolina, contrary to my best instincts.

Mr. WATT. I just want to clarify for the gentleman that the NAACP has advised me that they are concerned about the abuse of eminent domain, as everybody else is, and the sense of Congress part of the resolution would continue to express that concern. They do not endorse the bill, however.

Mr. CONYERS. Mr. Chairman, reclaiming my time, I thank the gentleman, but this is an unusual division.

Here I am supporting many of my friends on the other side of the aisle, but we have this unusual division here. What I am saying is that the concept of not using private takings for private use should not be allowed. We know that casinos benefit from these takings. We know that hotels and private developments benefit. And all I am saying, and I thought that everybody would mostly agree with this in the Congress, is that that is wrong. That is a misuse. That is an abuse.

So let us be careful. Let us control this. Let us not overdo it, but let us support the measure of 4128, which tries to finally answer what happened to us in Detroit. Our experience was that we had thousands of residences, businesses, and churches that were taken to develop an automobile plant. That is not what my idea of an eminent domain should be about. That is all we are saying here. It is not that complicated.

Now, I am not pitting somebody's intellectual abilities at the local level versus the national level or who is more dedicated. I am dealing with a Supreme Court case that has forced us into this action. This measure would not have been here if the Supreme Court had not given us one of the most shocking rulings that just came out this year. So I urge that not only my friend from North Carolina's amendment be rejected but that this bill be supported on final passage.

The Acting CHAIRMAN (Mr. SIMPSON). The question is on the amendment offered by the gentleman from North Carolina (Mr. WATT).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. WATT. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from North Carolina will be postponed.

The point of no quorum is considered withdrawn.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order:

Amendment No. 2 by Mr. NADLER of New York.

Amendment No. 5 by Mr. MORAN of Virginia.

Amendment No. 6 by Mr. TURNER of Ohio.

Amendment No. 11 by Mr. WATT of North Carolina.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 2 OFFERED BY MR. NADLER

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. NADLER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 63, noes 355, not voting 15, as follows:

[Roll No. 564]

AYES—63

Abercrombie
Ackerman
Aderholt
Bishop (NY)
Blumenauer
Brown (OH)
Brown, Corrine
Capuano
Case
Cleaver
DeGette
Delahunt
Dicks
Dingell
Emanuel
Engel
Farr
Fattah
Hinchey
Holt
Hooley
Hoyer
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Larson (CT)
Levin
Lowey
Maloney
Markey
Matsui
McCollum (MN)
McDermott
McKinney
Meeks (NY)
Miller (NC)
Miller, George
Moran (VA)
Nadler
Neal (MA)
Oberstar
Olver
Owens
Pastor
Payne
Pelosi
Rangel
Rothman
Ryan (OH)
Sabo
Sánchez, Linda T.
Schakowsky
Schwartz (PA)
Scott (VA)
Serrano
Slaughter
Solis
Thompson (CA)
Towns
Watt
Weiner
Woolsey

NOES—355

Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Burgess
Burton (IN)
Butterfield
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carnahan
Carson
Carter
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
English (PA)
Eshoo
Etheridge
Evans
Everett
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Honda
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Keller
Kelly
Kennedy (MN)
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lee
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lucas
Lungren, Daniel E.
Lynch
Mack
Manzullo
Marchant
Marshall
Matheson
McCarthy
McCaul (TX)
McCotter
McCrery
McGovern
McHenry
McHugh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neugebauer
Ney
Northup
Nunes
Nussle
Obey
Osborne
Otter
Oxley
Pallone
Pascrell
Paul
Pearce
Pence

Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Rush
Ryan (WI)
Ryun (KS)
Salazar
Sanchez, Loretta
Sanders
Saxton
Schmidt
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiberi
Tierney
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Waxman
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—15

Boswell
Boyd
Brown-Waite, Ginny
Buyer
Davis (FL)
Hastings (FL)
Lewis (GA)
McMorris
Norwood
Ortiz
Pombo
Roybal-Allard
Schiff
Sullivan
Tiahrt

□ 1723

Messrs. GRIJALVA, AL GREEN of Texas, BONILLA, CARDOZA, SKELTON, WYNN, RYUN of Kansas, WAXMAN, BECERRA, Ms. LORETTA SANCHEZ of California, and Ms. VELÁZQUEZ changed their vote from ''aye'' to ''no.''

Ms. SCHWARTZ of Pennsylvania and Mr. ABERCROMBIE changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. ADERHOLT. Mr. Chairman, on rollcall No. 564. I inadvertently voted "aye." I would like the record to reflect that I meant to vote "no."

AMENDMENT NO. 5 OFFERED BY MR. MORAN OF VIRGINIA

The Acting CHAIRMAN (Mr. DAVIS of Kentucky). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. MORAN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 49, noes 368, not voting 16, as follows:

[Roll No. 565]

AYES—49

Baird
Blumenauer
Brady (PA)
Capuano
Carson
Case
Cleaver
DeGette
Delahunt
Dingell
Emanuel
Engel
Fattah
Hinchey
Holt
Hooley
Jackson (IL)
Jefferson
Kanjorski
Kennedy (RI)
Larson (CT)
Levin
Lowey
Markey
McGovern
Miller (NC)
Moran (VA)
Murtha
Nadler
Neal (MA)
Olver
Payne
Pelosi
Price (NC)
Rangel
Rothman
Sabo
Schakowsky
Schwartz (PA)
Scott (VA)
Shays
Sherman
Slaughter
Smith (WA)
Watt
Waxman
Weiner
Woolsey
Wynn

NOES—368

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burton (IN)
Butterfield
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carnahan
Carter
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Honda
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson-Lee (TX)
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lee
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McHenry
McHugh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Murphy
Musgrave
Myrick
Napolitano
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schmidt
Schwarz (MI)
Scott (GA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NOT VOTING—16

Boswell
Boyd
Brown-Waite, Ginny
Buyer
Davis (FL)
Feeney
Hastings (FL)
Lewis (GA)
McMorris
Norwood
Ortiz
Pombo
Roybal-Allard
Schiff
Sullivan
Tiahrt

□ 1734

Mr. BAIRD and Mr. ENGEL changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 6 OFFERED BY MR. TURNER

The Acting CHAIRMAN (Mr. DAVIS of Kentucky). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Ohio (Mr. TURNER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 56, noes 357, not voting 20, as follows:

[Roll No. 566]

AYES—56

Baker
Beauprez
Bishop (GA)
Blumenauer
Blunt
Boehlert

Capuano
Case
Chabot
Chocola
Davis, Jo Ann
Davis, Tom
DeGette
Delahunt
Ehlers
Eshoo
Farr
Fortenberry
Gerlach
Granger
Green, Gene
Hobson
Jackson (IL)
Kanjorski
Kelly
Kennedy (RI)
Langevin
Larson (CT)
LaTourette
McDermott
McGovern
Miller (MI)
Miller (NC)
Miller, George
Moran (VA)
Neal (MA)
Oxley
Pascrell
Pickering
Pryce (OH)
Regula
Rothman
Sanchez, Loretta
Schmidt
Souder
Sweeney
Tiberi
Tierney
Turner
Udall (CO)
Watson
Weller
Wicker
Woolsey
Wynn
Young (FL)

NOES—357

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (NY)
Blackburn
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burton (IN)
Butterfield
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carnahan
Carson
Carter
Castle
Chandler
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Deal (GA)
DeFazio
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Emanuel
Emerson
Engel
English (PA)
Etheridge
Evans
Everett
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Graves
Green (WI)
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kaptur
Keller
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Lantos
Larsen (WA)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller, Gary
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Otter
Owens
Pallone
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanders
Saxton
Schakowsky
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Spratt
Stark
Stearns
Strickland
Stupak
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Towns
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Westmoreland
Wexler
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)

NOT VOTING—20

Bishop (UT)
Boswell
Boyd
Brady (TX)
Brown-Waite, Ginny
Buyer
Davis (FL)
Dingell
Green, Al
Hastings (FL)
Hunter
Lewis (GA)
McMorris
Norwood
Ortiz
Pombo
Roybal-Allard
Schiff
Sullivan
Tiahrt

□ 1742

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. GREEN of Texas. Mr. Chairman, on rollcall No. 566, I was detained. Had I been present, I would have voted "no."

AMENDMENT NO. 11 OFFERED BY MR. WATT

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from North Carolina (Mr. WATT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 44, noes 371, not voting 18, as follows:

[Roll No. 567]

AYES—44

Ackerman
Blumenauer
Brady (PA)
Capuano
Carson
Case
Clay
Cleaver
DeGette
Delahunt
Dingell
Emanuel
Fattah
Hinchey
Jackson (IL)
Kanjorski
Larson (CT)
Levin
Lofgren, Zoe
Lowey
Markey
Matsui
McDermott
Miller (NC)
Miller, George
Moran (VA)
Nadler
Neal (MA)
Olver
Pastor
Payne
Pelosi
Rangel
Rothman
Sabo
Schakowsky
Schwartz (PA)
Scott (VA)
Slaughter
Stark
Visclosky
Watt
Waxman
Wynn

NOES—371

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burton (IN)
Butterfield
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carnahan
Carter
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lee
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Marshall
Matheson
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Paul

Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Sánchez, Linda T.
Sanders
Schmidt
Schwarz (MI)
Scott (GA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Young (AK)
Young (FL)

NOT VOTING—18

Boswell
Boyd
Brown-Waite, Ginny
Buyer
Davis (FL)
Harris
Hastings (FL)
Lewis (GA)
McMorris
Norwood
Ortiz
Pombo
Roybal-Allard
Sanchez, Loretta
Saxton
Schiff
Sullivan
Tiahrt

□ 1750

So the amendment was rejected.

The result of the vote was announced as above recorded.

The Acting CHAIRMAN (Mr. DAVIS of Kentucky). The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The Acting CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. TERRY) having assumed the chair, Mr. DAVIS of Kentucky, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4128) to protect private property rights, pursuant to House Resolution 527, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 376, nays 38, not voting 19, as follows:

[Roll No. 568]

YEAS—376

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burton (IN)
Butterfield
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carnahan
Carson
Carter
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lee
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Paul
Payne
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schmidt
Schwarz (MI)
Scott (GA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiberi
Tierney
Towns
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wu
Young (AK)
Young (FL)

NAYS—38

Ackerman
Blumenauer
Boehlert
Brady (PA)
Capuano
Case
Cleaver
DeGette
Dingell
Emanuel
Fattah
Hinchey
Jackson (IL)
Larson (CT)
Levin
Lowey
McDermott
Meeks (NY)
Miller (NC)
Miller, George
Moran (VA)
Nadler
Neal (MA)
Olver
Pastor
Pelosi
Rothman
Sabo
Schakowsky
Schwartz (PA)
Scott (VA)
Stark
Turner
Visclosky
Watt
Waxman
Woolsey
Wynn

NOT VOTING—19

Bachus
Boswell
Boucher
Boyd
Brown-Waite, Ginny
Buyer
Davis (FL)
Ehlers
Hastings (FL)
Lewis (GA)
McMorris
Norwood
Ortiz
Pombo
Roybal-Allard
Schiff
Sullivan
Tiahrt
Wolf

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. TERRY) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1808

Ms. WOOLSEY changed her vote from ''yea'' to ''nay.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. POMBO. Mr. Speaker, I was unable to make votes today on the House floor because of an untimely and unexpected need requiring me to be back home with my family in California. I take my responsibility to vote very seriously.

Had I been present, I would have voted "yea" on H.R. 4128, the Private Property Rights Protection Act of 2005.