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House of Representatives

The House met at 9 a.m. and was called to order by the Speaker pro tempore [Mrs. EMERSON].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 9, 1997.

I hereby designate the Honorable JO ANN EMERSON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 21, 1997, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates.

The Chair will alternate recognition between the parties, with each party limited to not to exceed 25 minutes, and each Member except the majority leader, the minority leader, or the minority whip limited to not to exceed 5 minutes each, but in no event shall debate continue beyond 9:50 a.m.

The Chair recognizes the gentleman from Kansas [Mr. RYUN] for 5 minutes.

RAILWAY ABANDONMENT CLARIFICATION ACT OF 1997

Mr. RYUN. Madam Speaker, I am here today to discuss one of the most fundamental rights contained in the Constitution, the right to own private property. My bill, the Railway Abandonment Clarification Act, protects private property owners whose land once held a railway. Specifically, it returns powers to the States to determine how to develop railways into trails.

It boils down to this: The farmer owns a piece of land. The farmer allows a railroad to lay a railway, that is, the ties and the tracks, across his land, and to use the land. He grants the railroad an easement, but keep in mind, the farmer still owns the land.

When the railroad stops operating its trains and removes the tracks and railroad bed, again, the farmer still owns the land. However, the problem is that the Federal Government currently tells farmers they cannot use their own land. Instead, the Government tells farmers that the land belongs to the public.

Now, let us talk for a moment about how in the world private land becomes public.

In 1983, Congress passed the National Trails Act, which took power from the States and determined that when a railroad removes its tracks, the land is not abandoned—no tracks, no ties, and yet, the land is still not considered abandoned. It seems to me that this is a prime example of the absurdity of Federal Government. The way this 1983 law is written, the Federal Government not only prevents the farmer from using his land, but it invites special interest groups to come and use the farmer's land for recreational purposes. These special interest groups are granted permission for interim use of the farmer's land. The Federal law tramples on the property owner's rights and it tramples on the rights of many State governments.

Kansas law, for example, says that when a railroad ceases to use its tracks on the farmer's property and the trains stop rolling, the use of the land automatically reverts to the rightful landowner.

The Founding Fathers wrote the fifth amendment to the Constitution to protect private property rights. While best known for its protection against self-incrimination, the fifth amendment also contains what we call the

“takings clause” which states, “no person shall be deprived of property without due process of law, nor shall private property be taken for public use without just compensation.” This clause provides a constitutional shield that specifically rejects the idea that the Government can seize the property of landowners without compensation, regardless of what public good is accomplished.

In the first 10 years after the enactment of the National Trails Act, the Government took property from 62,000 landowners, and thousands more have lost their property in just the last few years. Not one of these aggrieved farmers, landowners, or homeowners has received any compensation for their loss. It is evident that our constitutional right to own property is eroding, and this must stop.

My bill will head us in the right direction. The Railway Abandonment Clarification Act ensures that farmers and property owners have the use of their own land. It conforms Federal railway abandonment law to the Constitution. It preserves a State's right to determine private property issues, and it continues to encourage trail development.

I want to make it clear that my bill does not repeal the National Trails System Act. It does return constitutionally granted powers to the States and allows them to determine how trails will be developed.

As a runner, I have covered many miles on trails, more than I care to count, and I appreciate good surfaces to run on. But my own desire to run on a trail should not come at the expense of a property owner, whose constitutional rights rest in the balance.

Again, the farmer owns the land, he owns the soil and everything beneath the ties and the tracks. The ties and the tracks belong to the railroad. When the railroad removes those ties and tracks, there is nothing left but the land owned by the farmer.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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