



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 105<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 143

WASHINGTON, TUESDAY, SEPTEMBER 9, 1997

No. 118

## 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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Somehow, the Federal Government does not believe that Kansans and Americans know how best to use their own land. Instead of making the rights of private property a priority, the Government has made recreational use a priority.

This error in Federal legislation needs to be rectified. My bill would change the law and restore private property rights issues to the State, and ensure Kansas farmers and property owners the use of their own land by conforming the national railway abandonment law to the Constitution.

Madam Speaker, I urge my colleagues to support this bill and to restore private property rights to Americans.

#### AUTOMATIC DEPORTATION CAN BE UNJUSTIFIED AND CRUEL

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997 the gentleman from Massachusetts [Mr. FRANK] is recognized during morning hour debates for 5 minutes.

Mr. FRANK of Massachusetts. Madam Speaker, last year in a combination of procedural outrage and substantive outrage, we enacted into law, over the objection of myself and many others, provisions which made deportation automatic in a number of cases where deportation is inhumane, disruptive not just to individuals, but to other countries, and wholly unjustified.

No society has an obligation to tolerate within its midst people who are a danger to others, people who disrupt the lives of others. We have had deportation laws on the books to protect us in those situations, although they have not always been enforced with the vigor which should have obtained.

Last year, reacting to the terrorism and other things that happened, we passed legislation to try to improve our internal security. Much of that was sensible and I voted for it. Some of it was simply abusive, demagogic, and cruel. One example was what we did in deportation.

What we said was, in effect, if one has ever been convicted of a felony, one will be automatically deported, despite the virulence of the offense, and in particular, regardless of whether or not in the interim one had become a good citizen.

Let me give an example of what this outrageous law now requires. I recently received a letter, in July, just before we broke, from Michael Carter from the Center of Health and Human Services, a drug treatment center in my district. He told me about a client of his.

He says, this man has been in recovery for 6 years and he is receiving treatment. Due to recent changes in immigration laws, he is being deported due to a charge of possession of heroin in 1989. Since that time, he has had no further incidents, but he is being deported.

Let me read this essay from this dangerous criminal that this Congress is insisting be deported, and let me make it very clear, this is not the fault of the Immigration Service. They have to deport this man because we made it mandatory, foolishly, cruelly, and without justification.

Dear Congressman, I am a 31-year-old man that came to this country when I was 3 months. I was brought up an American and that is all I know how to be. In 1986, I lost three of my fingers in an industrial accident in work. I went through 3 years of surgery and physical therapy. Unfortunately, I found relief from my pain through the use of drugs. I know it was the wrong thing to do, but I got a false sense of comfort from it.

In 1989, I was arrested in Providence, Rhode Island, for heroin and I got 2 year's probation. I made it through those years without incident. I got help for my problem in therapy. I have never been in jail and I am still in therapy.

Let me just note here, as his counselor has said, he has since that time been free of drugs, free of any incident. He had a drug problem. He should not have had it; he acknowledges it. He was found guilty of possession, no violence, no theft; he hurt himself, no one else. He was sentenced only to probation. Now he is going to be automatically deported.

Let me read a little bit more.

Two years ago I applied for citizenship while I was going to trade school. Instead of citizenship, I was arrested. This month I was deported. I go back to court on the 4th of August. I graduated from the New England Tractor Trailer School of Rhode Island, and I have my class A driver's license. I have a corporation interested in giving me a job, but it is on hold.

Sir, I made some mistakes when I was a young man, a kid. But my convictions are 9 to 12 years old and I am showing you my record, and you will see I have had most of the charges dismissed. I have 3 young children, babies, age 3, 5 and 6 years of age. My oldest daughter has cystic fibrosis and she needs the care and love of both of her parents, sir.

I am not a bad person. I am not a terrorist. I am a man who made some mistakes when I was a foolish kid. Sir, I love my children very much, more than life itself, and I have the means to support my children very well with the career I intend to make for myself. I can go anywhere in this country and get a good job driving tractor trailers. I do not know how to write or read Portuguese. I know just enough language to get by.

Where am I going to live? How am I going to eat? I don't know the answers to these questions myself. I am terrified. All of my family is here. I don't know why they want to take a father away from his children. Did I do something that bad where my children are going to lose their father?

I am a 31-year-old Catholic that wants to work hard, pay his taxes, become a citizen, vote, raise my children the best I know how and help them live the American dream. Sir, in my heart and soul I am an American. I love this land and I would die for it.

But he is going to be deported. This is a man, now 31, who when he was very young, after an accident, became addicted to heroin. He should not have been addicted to heroin. He was sentenced to 2 year's probation. He completed that sentence successfully. He

has now been in treatment. He has for 8 years been a good citizen. He has since that time brought three children into the world whom he is trying to bring up and protect.

By an arbitrary and thoughtless act of this Congress, well, I should not say thoughtless, unfortunately, thought went into it, he will be deported, no matter how good a citizen he is. No matter how clearly we can establish that he is no threat to anyone, he will be deported and he will be sent to a country which is a foreign country to him.

I hope we will, in this House, change the law and prevent this sort of injustice from being visited on this individual, his children, and other people.

CENTER FOR HEALTH AND

HUMAN SERVICES, INC.,

Fall River, MA., July 24, 1997.

DEAR CONGRESSMAN FRANK: — is my client. He has been in recovery on this clinic for 6 years and receiving treatment. Due to recent changes in Immigration laws, he is being deported due to a felony charge (possession of Heroin in 1989). Since that time he has had no further incidents. Due to the new law, having had a prior felony, Immigration wants to deport him.

Both he, his family, and I are asking for any assistance you might be able to provide, to prevent this from happening.

— is thirty one years old, a father of three US citizen children and has a wife soon to obtain citizenship. He had three fingers severed on his left hand and is partially disabled, but does have a CDL license, Class A.

He wants to work and provide for his family, however, if he is deported, he will not be able to parent his children for five years. Any assistance would be highly appreciated.

Thank you,

MICHAEL D. CARTER, MA, LMHC.

FALL RIVER, MA.

DEAR CONGRESSMAN FRANK: Im a 31 year old man that came to this country when I was the age of 3 months, I was brought up an american and that's all I know how to be. Anyway Sir, about two years ago I decided to go back to trade school, because in 1986 I lost three of my fingers in an industrial accident in work. I went through three years of surgery and physical therapy. Within the second year I unfortunately found relief for my physical and emotional pain through the use of drugs. I know now it was the wrong thing to do but I got a false sense of comfort from it. In 1989 I was arrested in Providence RI for heroin. I got two years probation, and I successfully made it through those years without incident. I got help for my problem and therapy which I'm very grateful for. I never been in jail sir and I'm still in therapy which I'm very grateful. Two years ago I applied for my citizenship while I was going to school. But instead of my citizenship I was arrested by the I.N.S. This month I was deported, I go back to court on the 4th of August. I appealed this decision. I graduated from New England Tractor Trailer School of Rhode Island I now have my C.D.L. class A driver's license, I have a lot of corporations that are interested in giving me a job, a career sir. But because of what's happening to me it's on hold, Sir, I made some mistakes when I was a young man, "A kid". But all three convictions are nine to twelve years old. I'm showing you my record sir and you'll see I have almost 75 percent of the charges brought against me were dismissed because I didn't do wrong and I didn't do things the way they said I did and I proved