

order to address the question of an energy shortage besides the fact that I come from Texas and we are known, my particular district, for being the energy capital of the world, but I think good common sense, no matter where you come from, would suggest that mobility is an important part of energy conservation, and mobility dealing with trains and transit systems, buses that are more conservation, if you will, sensitive, electrical cars, hybrids, all of those are on the table and I am glad to say that as we look toward the energy bill, we will be looking at those issues; but the transportation bill addresses them as well.

Let me cite, Mr. Speaker, a few of the concerns that I have and also a few of the accolades. Let me first of all say that I believe that we are a United States of America, small States and large States. I happen to come from a donor State. That means that we send more money to the Federal Government than we get back. It is not a question of selfishness. It is a question of spreading the wealth across the United States per person. I am glad to note that this good sense of the United States House came together to increase the donor State return so that Texas gets more money on its return as it is investing in the United States Government while not hurting the smaller States. That is the donor State equity, and I would say that we as members of the Texas delegation and other large States were willing to work with the leadership to make this happen.

Might I also say that I am disappointed in all of the amendments that came about on the toll roads. These are roads that you pay to go on. I know if I look at most of my constituents, they wish we did not have toll roads. But I certainly think it is unfair if a local jurisdiction decides to provide some sort of relief for low-income workers, many of whom are driving the 1990, 1980 vintage cars, maybe some of you have those cars, and are day laborers or hourly workers and really cannot afford to get to work. They have no mass transit which we are trying to promote. They cannot get to work. That was passed and I hope it is taken out in conference where local jurisdictions can give relief, meaning a lower rate, to those low-income workers who are driving cars who are trying to get to work. Would you not rather have them working than to be on the public benefit, if you will, because they cannot get to work?

That brings me as well, Mr. Speaker, to a provision in my constituency that is called the Safe Clear program. It means that you are automatically moved off a freeway in my jurisdiction in Houston without any option to call any relatives or to move in another direction. It is an automatic tow. We had an enormous crisis and many of these tolls are on interstate highways. I hope

that we will have the monitoring of this program, though it has been fixed by city council and they have tried to work with the State, they were concerned, but the United States Government Department of Transportation should be monitoring what we call the Safe Clear program in Houston, Texas, in order to avoid what we call impeding of interstate commerce.

Let me also cite a very important issue in my district and that is Metro. That is our mass transit that has been struggling for 20 years to get on the books.

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We finally got over 50 percent.

Many of you in your communities may be facing this. You want mass transit, and two people do not, and those two people have been holding it up. That is what has been happening in Houston, Texas. I would beg of the Department of Transportation not to be engaged in politics, that is what you are engaged in, and expedite the approval process so that people who want to get on mass transit in jurisdictions like Houston, Texas, and maybe other parts of the Nation, can get an expedited approval so they can move forward with the dollars and get people out of their cars and into effective mass transit.

Our metro system now, with only 7.5 miles, has some 30,000 riders per day. It connects the Medical Center and students to downtown Houston. It is imperative that we work on that.

Again, I want to applaud those who brought a resolution to the donor problem, and I want to likewise be mindful of the fact that as we move towards this bill, let us take out the poison pills, those provisions such as not allowing some individual relief, let us take out the poison pill of not allowing local toll jurisdictions to use their profitable dollars to invest in other mobility projects.

This is a good bill, but we need oversight, and we certainly need to move those transit projects forward that are sitting and waiting on the FTA's desk.

#### ENSURING TRANSPORTATION EARMARKS STAY BELOW THE LINE

The SPEAKER pro tempore (Mr. DENT). Under a previous order of the House, the gentleman from Arizona (Mr. FLAKE) is recognized for 5 minutes.

Mr. FLAKE. Mr. Speaker, I rise today to talk about the transportation bill. I offered an amendment earlier today, and time constraints prohibited me from really explaining the amendment, what I was seeking to do and the problem with the bill as it currently is or may become once it gets through conference.

During debate on the bill, the chairman of the committee said that every

earmark in the bill was related and being spent on transportation. He actually stated that every dollar in the bill was for transportation.

I am holding here some 200 pages of earmarks, over 3,300, about 30 per page here. Let me just give you an example of some of them, and you can decide for yourself whether or not they are related to transportation.

You the taxpayer are spending \$3 million in the bill to renovate and expand the National Packard Museum and adjacent Packard facilities in Warren, Ohio.

You the taxpayer are spending \$7,268,486 for the Vermont Association of Snow Travelers to build a snowmobile trail in Vermont.

You the taxpayer are spending \$750,000 to construct horse riding trails in the Jefferson National Forest.

This is in the transportation bill, mind you, all dollars that are supposed to be spent exclusively on transportation.

You the taxpayer are spending \$540,000 to establish a transportation museum on Navy Pier.

How about \$3.2 million to acquire site, design and construction of an interpretive center, whatever that is, and enhancement of trail corridor for the Daniel Boone Trail Wilderness Corridor?

How about \$1.7 million for reconstruction and conversion of Union Station to establish a transportation museum?

On and on and on it goes. Here is the last one, not the last, but another one: \$1 million you are spending to fund reconstruction of the home of James Madison in Orange, Virginia. Now, one might argue that, when a visitor is visiting the home of James Madison, he is not on the road, and therefore, he is freeing up available space for the other motorists. Perhaps that relates to transportation. I am stretching here, but they must be stretching for spending our taxpayer dollars that way. But certainly, I think the taxpayer is owed a better explanation than that.

The problem with the transportation bill, to add insult to injury, is that, too often, these earmarks in other States come out of your State's formula. Arizona is a donor State; we give far more than we get back from the Federal Government, and too frequently, these earmarks traditionally have been taken out of our formula. An earmark for \$7 million for a snowmobile trail in Vermont comes out of Arizona's formula, because Arizona is a donor State. It is simply not right.

In this bill, the amendment I offered, I withdrew it, because my amendment was largely included in the manager's amendment, meaning that earmarks will now be under the line, meaning they will be counted against a State's formula. So, theoretically, an earmark in Vermont will not come out of Arizona's formula.

I worry about that, however. I worry if that will hold in the end when this bill gets through conference, because if we have that kind of criteria for earmarks in the bill itself, then the criteria which identifies programs of regional and national significance, programs and earmarks that are above the line that will not come out of a State's formula, if they are as loosey goosey as these criteria by which we claim these earmarks are related to transportation, the regular high priority earmarks, then we are going to see our formula dollars taken once again and spent on earmarks where they should not be.

Obviously, Mr. Speaker, what we need is a turn-back bill. It is estimated that it would cost about 3 cents, rather than the 18.4 cents we are currently spending per gallon to maintain the interstate highway system. Instead, we are sending all 18.4 cents to Washington. Some of it makes it back. What does come back, comes back with mandates and stipulations that decrease the value of those dollars that we actually do receive back. It is no wonder that the roads and the infrastructure in this country are suffering so badly.

We need that turn-back bill. I have introduced it; it is awaiting action. In the meantime, certainly, we need to instruct and plead with the conferees on this bill to ensure that earmarks stay below the line, meaning, you can take all the earmarks you want, but they come out of your State's formula, not everyone else's. I urge the conferees to do this.

#### THE PIRATES OF EMINENT DOMAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, a couple of weeks ago, the U.S. Supreme Court heard oral arguments in the case of *Kelo v. City of New London*, a Connecticut eminent domain case which I think is one of the most important cases it will hear certainly during this term of court and for the future of this Nation.

Nationally syndicated columnist Jeff Jacoby wrote a column about this on February 28, and he quoted Scott Bullock of the Institute for Justice. Listen to what Scott Bullock said, "Every home, church or corner store would produce more jobs and tax revenue if it were a Costco or a shopping mall. If State and local governments can force a property owner to surrender his land so it can be given to a new owner who will put it to a more lucrative use, no home or shop in America will ever be safe again."

Jeff Jacoby asks, "But can government kick people out of their homes or businesses simply to make way for new development?"

No one gets concerned about the taking of property unless it is their property being taken. But this is getting to a very dangerous point in this country today. The whole history of eminent domain has been in large part taking land from the poor for the use and benefit of the rich and our government bureaucrats.

Government at all levels in this country now owns or controls half the land and continuously wants more. You can never satisfy government's appetite for money or land. On top of this, government at all levels is continually putting more and more restrictions on the land that remains in private ownership. If this trend continues, Mr. Speaker, housing prices will continue to skyrocket. New homes will be built on much smaller pieces of land, and more young families will be crowded into high-rise apartments or townhouses. A very important part of the American dream, home ownership, will slowly fade away for many young people.

Huge parts of East Tennessee, my home area, have been taken over the years from poor or lower-income families who would be rich today if they still had their land.

Columnist Thomas Sowell recently wrote about what he called the "misuse of the power of eminent domain" and how government was taking property from working class people. Columnist Sowell said this, "Those who are constantly denouncing greed almost never apply that term to what the government does, no matter how unconscionable it may be, as the routine misuse of eminent domain has become with its Robin-Hood-in-reverse redistribution of wealth."

Many people do not realize how important private property is to our freedom and our prosperity. As I said a few minutes ago, the Federal Government now owns or controls over 30 percent of the land and State, and local governments and quasi-governmental entities now own another 20 percent. Half the land is in some type of public ownership, and government at all levels keeps taking more and more and putting more and more restrictions on the land that is still private.

Richard W. Rahn, a senior fellow at the Discovery Institute, wrote recently, "Government-owned land is removed from the tax base, so it not only costs everyone to maintain it, but the government also loses tax revenue. When land is removed from private use by government ownership or unreasonable use restrictions, it reduces the supply of land, thus driving up housing prices."

Because of government taking or restricting use of land, more and more people are being forced on to smaller and smaller areas or developments. You can never satisfy government's appetite for land or money, and we des-

perately need to elect more people at all levels who will pledge to stop taking private property.

As I have said, it is just impossible to satisfy government's appetite for land, and over the last 40 years or so, governments at all levels have been taking private property at a very alarming rate.

Private property is an extremely important element for both our freedom and our prosperity. It used to be that eminent domain was used mainly to take private property for public use. Now, according to a column in the non-partisan *National Journal*, condemning private property for private use is a booming national business. The magazine gave several examples, including the taking of Randy Bailey's 27-year-old brake shop in Mesa, Arizona, for a new chain store.

This is happening in thousands of places all over the Nation. Jonathan Rauch wrote in the *National Journal*, "In the last decade, it has become common for city leaders to define blighted as not developed as nicely as we would prefer or not developed by the people we would prefer. But property is held sacrosanct in America not to protect the rich and powerful, who always make out all right, but to protect the poor from the predations of the rich and powerful."

He quoted in his column an official of the Institute for Justice, a law firm trying to protect private property owners, as saying "this is now a major nationwide problem."

Once again, I will say, I hope we elect more people to Federal, State and local offices who will stop taking so much private property. It sounds good for a politician to create a park, but then when that land is taken off the tax rolls, the taxes for everybody else have to keep going up. We are doing this at a very, very alarming rate, and we need to at least cut back on this.

We cannot take care of all the national parks and State parks and local parks that we have in this country today, and we need to stop taking more, or we are going to ruin our economy, and we are going to take away an important part of the freedom that we have in this Nation.

#### SUPREME COURT NOT FOLLOWING PRECEDENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GOHMERT) is recognized for 5 minutes.

Mr. GOHMERT. Mr. Speaker, there have been times in this Nation's history when the United States Supreme Court was composed of distinguished jurists who were extremely cautious to avoid inserting the justices' will or desires in place of legitimate decisions and legitimate legislation. That, sadly, is no longer the case.