

112TH CONGRESS
1ST SESSION

H. RES. 329

Expressing support for the private property rights protections guaranteed by the 5th Amendment to the Constitution on the 6th anniversary of the Supreme Court’s decision of *Kelo v. City of New London*.

IN THE HOUSE OF REPRESENTATIVES

JUNE 23, 2011

Mr. GINGREY of Georgia (for himself, Mr. KING of Iowa, Mr. BROUN of Georgia, Mr. WESTMORELAND, Mr. CULBERSON, Mr. THOMPSON of Pennsylvania, Mr. JONES, Mrs. BONO MACK, Mr. BARTLETT, Mr. MACK, and Mr. WEBSTER) submitted the following resolution; which was referred to the Committee on the Judiciary

RESOLUTION

Expressing support for the private property rights protections guaranteed by the 5th Amendment to the Constitution on the 6th anniversary of the Supreme Court’s decision of *Kelo v. City of New London*.

Whereas, on June 23, 2005, the Supreme Court issued a 5–4 decision in the case of *Kelo v. City of New London*;

Whereas the Takings Clause of the 5th Amendment states, “nor shall private property be taken for public use, without just compensation”;

Whereas the majority opinion in *Kelo v. City of New London* significantly expanded the scope of the public use provision in the Takings Clause of the 5th Amendment;

Whereas the majority opinion in *Kelo v. City of New London* provided for the taking of a person’s private property through eminent domain for the benefit of another private entity;

Whereas the dissenting opinion in *Kelo v. City of New London* affirmed that “the public use requirement imposes a more basic limitation upon Government, circumscribing the very scope of the eminent domain power: Government may compel an individual to forfeit her property for the public’s use, but not for the benefit of another private person”;

Whereas the dissenting opinion in *Kelo v. City of New London* expressed concern that the beneficiaries of this decision were “likely to be those citizens with disproportionate influence and power in the political process, including large corporations and development firms” and “the Government now has license to transfer property from those with fewer resources to those with more”; and

Whereas all levels of government have a constitutional responsibility and a moral obligation to always defend the property rights of individuals and to only execute their power of eminent domain when necessary for public use alone, and with just compensation to the individual property owner: Now, therefore, be it

1 *Resolved*, That it is the sense of the House of Rep-

2 resentatives that—

3 (1) State and local governments should only

4 execute the power of eminent domain for those pur-

5 poses that serve the public good in accordance with

6 the 5th Amendment to the Constitution;

1 (2) State and local governments must always
2 justly compensate those individuals whose property
3 is taken through eminent domain in accordance with
4 the 5th Amendment to the Constitution;

5 (3) any execution of eminent domain by State
6 and local governments that does not comply with
7 paragraphs (1) and (2) constitutes an abuse of gov-
8 ernment power and a usurpation of the individual
9 property rights, as defined in the 5th Amendment to
10 the Constitution;

11 (4) eminent domain should never be used to ad-
12 vantage one private party over another;

13 (5) no State or local government should con-
14 strue the holdings of *Kelo v. City of New London* as
15 justification to abuse the power of eminent domain;
16 and

17 (6) Congress maintains the prerogative and re-
18 serves the right to address, through legislation, any
19 abuses of eminent domain by State and local govern-
20 ments in light of the ruling in *Kelo v. City of New*
21 *London*.

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