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Commentary

Candidate regrets: Brownback wishes he'd 'been funnier'

By Earthjustice's Glenn Sugameli

EXCERPT:

(Roll Call's Heard on the Hill via The Huffington Post) Brownback praises Craig's efforts on limiting eminent domain: Last week, Idaho Sen. Larry Craig, the ranking member of the Appropriations Subcommittee on the Interior, Environment and Related Agencies before being forced to step down this fall after his sex scandal, assumed a higher profile than he has since his scandal broke, taking to the floor in favor of an amendment limiting eminent domain. Although the amendment failed, the floor debate gave Craig a rare opportunity to win praise from his GOP colleagues, including Sens. Wayne Allard (Colo.) and Sam Brownback (Kan.), who haven't always been so supportive of their scandal-plagued colleague. Brownback went so far as to liken Craig's efforts to the founding fathers, invoking the words of Thomas Jefferson.

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Unfortunately, Sen. Brownback's Floor speech proves that he did not understand the bizarre and draconian Sen. Larry Craig amendment that he cosponsored and praised. Sen. Brownback mistakenly claimed that "This is a narrow issue to get at the Kelo decision." In fact, as Sen. Craig admitted, the amendment allowed taking farm and other land for private use and development, which was the issue in the Supreme Court's Kelo decision. The amendment singled out public parks, while allowing farm and grazing land to be condemned for private development, power lines, pipelines, and prisons.

Sens. Craig and Brownback would have inflexibly banned eminent domain for public parks—a practice that even Justice Clarence Thomas recognized has been a quintessential subject of eminent domain for public use since the Founders. In 1896, the Supreme Court unanimously held that eminent domain to acquire land for Gettysburg National Battlefield Park was "not only a public use" it had "the purpose of protecting and preserving the whole country."

The Craig/Brownback amendment would deny all federal funds for five years to any locality or state that used eminent domain to acquire any amount of farm or grazing land for a public park, conservation or public recreation. If the original owner died, it would be impossible to end this five-year fund cutoff.

Every Senator who understood the amendment and supported property rights, voted against denying the funds needed to protect private property, and to save untold lives from natural disasters, toxic pollution, and other threats. Fortunately, there was overwhelming bi-partisan opposition including, e.g., Utah's Sen. Bob Bennett, both Republican senators from Alabama, and both Nebraska Senators.

The Craig/Brownback approach would unconstitutionally render state and local governments obsolete. If Congress could do this because one acre was taken for a public park, threatened federal fund cutoffs could bludgeon states and localities into submission to federal micromanagement on every issue.

Earthjustice and other conservation groups joined local and state government organizations in opposing this draconian infringement on federalism and traditional rights of states and localities to create public parks and conserve essential resources and recreation areas.

-Glenn Sugameli

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