

Bob Dole



NEWS

U. S. SENATOR FOR KANSAS

FROM:

SENATE REPUBLICAN LEADER

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Contact: Clarkson Hine
(202) 224-5358

PRIVATE PROPERTY RIGHTS

**DOLE INTRODUCES "OMNIBUS PRIVATE PROPERTY RIGHTS ACT OF 1995";
SWEEPING REFORMS TO LIMIT ARBITRARY EXERCISE OF
GOVERNMENT POWER & PROTECT RIGHTS OF CITIZENS**

Since last November's elections we have pursued an ambitious program of reform to fundamentally change and improve the relationship between the government and its citizens. No doubt about it, to the defenders of business as usual these are wrenching changes we propose: a balanced budget amendment; the line item veto; regulatory reform; and even the elimination of cabinet level departments. Each of these reforms has been opposed by those who do not understand that the American people have instructed us to rein in the federal government. But we will continue to fight for these reforms, and for the American people.

Government v. Individual Liberty

Today, we add to these reforms, by confronting one of the most basic clashes between government and individual liberty: the taking of private property for public uses. There is perhaps no greater foundation for a successful free society than private property. The American Revolution was fought in part because of the threat that tyranny posed to private property, whether it was taxation without representation, restraints on trade, or violation of home and hearth by British soldiers. Private property rights are the rights to enjoy the fruits of our labor and our ideas and thus enjoy a special place in the U.S. Constitution.

One of the most basic of these protections is found in the Fifth Amendment to the Constitution: "nor shall private property be taken for public use, with just compensation." As the Supreme Court has stated, this protection is about basic fairness: preventing the Government "from forcing some people alone to bear public burdens, which in all fairness and justice, should be borne by the public as a whole." The Fifth Amendment thus provides a balance between public need and individual liberty.

Today, however, this balance is missing. A regulatory state that seems only to grow and grow -- that is increasingly intrusive -- has provided the means for a sustained assault on private property rights in America. It is our duty to ensure that we limit the arbitrary exercise of government power and pursue worthwhile goals in ways that protect the rights of our citizens.

Thirty-two of my colleagues today are proud to introduce the "Omnibus Property Rights Act of 1995." I want to especially commend my colleagues who worked hard to bring alot of good ideas together in one comprehensive package. Senator Hatch should be particularly commended for his leadership of the working group that consisted of Senators Shelby, Nickles, Gramm, Craig, Lott, Heflin, Brown, Kyl, Thomas and Abraham.

Four Major Objectives

The "Omnibus Property Rights Act of 1995" would accomplish four major objectives:

1) It would require the federal government to compensate property owners if government action reduces the value of property by one-third;

2) It would provide for alternative dispute resolution procedures and clarify court jurisdiction for takings claims;

(more)

3) It would require federal agencies responsible for Endangered Species Act and Section 404 of the Clean Water Act to provide for administrative procedures to address takings claims;

4) It would require agencies to perform a Takings Impact Analysis of regulations, and ensure that agencies select the regulatory alternative that minimizes the taking of private property.

Real Test: Minimize Takings

These are sweeping reforms. But it is important to point out that our reforms do more than provide that "just compensation" is paid in proper circumstances. The real test is to minimize the number of takings that occur in the first instance. We need to ensure that when we pursue otherwise laudable goals, that we do so in ways that allow the government to take private property only as a last resort, and when it is necessary to do so, to insist that just compensation is paid to the property owner. The "Omnibus Property Rights Act of 1995" accomplishes these goals, and I intend to bring this bill to the floor as soon as possible. I urge my colleagues to support this much-needed legislation.

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