

Conference of Chief Justices

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February 28, 2000

The Honorable Henry J. Hyde, Chairman
The Honorable John Conyers, Jr. Ranking Member
Committee on the Judiciary
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, DC 20515-6216

Dear Chairman Hyde and Ranking Member Conyers:

I write on behalf of the Conference of Chief Justices (CCJ), to express, briefly, some of our concerns with H.R. 2372, the "Private Property Rights Implementation Act of 1999". We also wish to offer our continuing assistance to the Committee in its future deliberations on this matter.

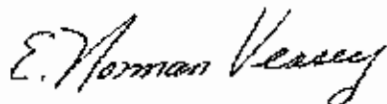
We believe that H.R. 2372, in its present form, is an unwarranted incursion on the principles of judicial federalism underlying our system of government. In essence, it is substantially similar to H.R. 1534, the Property Rights Implementation Act of 1997 which passed the House of Representatives in the 105th Congress and which was the subject of Resolution X of the CCJ mid year meeting of 1998. Resolution X (enclosed) opposes premature Federal intervention in State property rights proceedings (takings claims) and strongly urges that these matters should be decided on the merits in state courts prior to any federal involvement. Absent clear, empirical evidence of the inability of the state judicial systems to process and decide these types of cases in a fair and impartial manner, we do not believe this legislation is justified. We would also note that the Judicial Conference of the United States in a letter to you from its Secretary, Leonidas Mechem, dated February 14, 2000, has similar problems with H.R. 2372. We concur with their analysis of the Bill.

In our opinion, the proposed legislation impinges upon the basic responsibilities of state courts and diminishes fundamental federalism principles. We respectfully request that you and your colleagues consider our comments before acting on this issue. If you and your staff have any

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questions on CCJ's position, please feel free to call me or our Senior Counsel, Edward O'Connell, in our Washington Office, at (703) 841-0200.

Respectfully,



E. Norman Veasey
Chief Justice
President, Conference of Chief Justices

Encl.

c: Members of the House Judiciary Committee

CONFERENCE OF CHIEF JUSTICES

Resolution X

In Opposition to Premature Federal Intervention in State Property Rights Proceedings

WHEREAS, the Conference of Chief Justices has long committed itself to protect and strengthen independent state judicial proceedings as a central part of the federal system of American government; and

WHEREAS, the Conference has consistently taken strong issue with any efforts that threaten the independence and integrity of state judicial systems; and

WHEREAS, the United States House of Representatives approved the Property Rights Implementation Act of 1997 (H.R. 1534) which would undermine the ability of state courts to protect private property rights; and

WHEREAS, the bill would eliminate the exhaustion of state remedies as a prerequisite for federal court consideration of "takings claims" arising from state and local actions and substitutes federal courts for state courts in an area of law long recognized as being within the jurisdiction of state courts; and

WHEREAS, the bill would sharply restrict the use of traditional abstention doctrines by federal courts in deference to state courts on legal issues pertaining to local land use cases;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices:

- strongly believes that "takings" cases arising under state law should be decided on the merits in state courts prior to any federal court involvement; and**
- strongly opposes legislation that would drastically change the traditional state and federal roles in "takings" cases and upset the balance of our federal system in an area that is fundamentally a state and local matter**

Adopted as proposed by the State-Federal Relations Committee of the Conference of Chief Justices in Point Clear, Alabama, at the twenty-first Midyear Meeting on January 29, 1998.