the incentive for private property owners to participate in negotiated land use solutions. This includes the opportunity to address takings claims through local administrative procedures. Further, the enhanced threat of federal legal action raises the stakes for local government as it seeks to protect the general public welfare against the private actions of individual landowners. This is a grave threat to the delicate balance of public and private interests which the state and federal court system has stuck in the land use arena.

Finally, the City of Boulder notes that the federal government has given a great deal of attention in recent years to the notion of federalism. This is the principle that the federal government should only interject its authority in matters which are of a peculiar interest to national concerns. Clearly, the individual disputes between local governments and private landowners rarely have national implications, and the federal courts are properly loathe to become local planning boards of appeal. The Hamilton Bank precedent that House Bill 1534 seeks to overturn stands for that very proposition. Local administrative procedures and state court actions are sufficient to rectify most improper limitations on private property rights. It is at these levels that takings claims should first be adjudicated, with the federal courts serving to hear appeals of cases which are mishandled in the local and state processes. To permit landowners to skirt state and local remedies in favor of the federal court system runs completely contrary to federalist principles.

For the above reasons, the City of Boulder asks you to vote against House Bill 1534 and to oppose any similar takings legislation.

Sincerely,

LESLIE L. DURGIN,
Mayor.

CITY COUNCIL,
CITY AND COUNTY OF DENVER,
October 14, 1977.

Re: S. 1204 ''Property Owners Access to Justice Act of 1997''; H.R. 1534 ''Private Property Rights Implementation Act of 1997''.

DEAR MEMBERS OF THE COLORADO CONGRESSIONAL DELEGATION, As members of the Denver City Council, we are urging your opposition to S. 1204 and H.R. 1534, bills which stand for the extraordinary proposition that federal courts should be much more involved in local land use decisions.

As you know, debates over land use, growth management, and property rights are raging all over Colorado at the moment. Municipal officials are doing their best to balance the rights of developers and the desires of current residents to preserve existing communities and our treasured quality of life, even as growth proceeds at a break neck pace in many jurisdictions. Often our officials find themselves squeezed between two equally sincere factions, both of whom argue for protection of their property values and rights, and both whom may threaten to sue if their rights are not vindicated.

As you are also undoubtedly aware, our political and legal system has been set up to resolve such disputes at the lowest possible level through local processes, appropriate local administrative procedures, and appeal to state courts. These traditional methods of dispute resolution are near and dear to Coloradans as this is a state with a particularly powerful tradition of local control and home rule on land use matters.

The bills currently before the House and the Senate to radically expand Federal jurisdiction over land use matters would be utterly contrary to this tradition in Colorado, and would also contradict the recent trend in Congress to devolve power to state and local governments.

Before granting plaintiffs and their attorneys easier and earlier opportunities to haul Colorado local governments (and by implication their taxpayers) into Federal courts, please ask yourself one simple question: Where is the empirical evidence to show that local political institutions and state courts have been insufficient to protect the rights of property owners in Colorado?

Thank you for your attention to our concerns. Please let us know if you would like to discuss the matter with us.

Cathy Reynolds, Council President; Dennis Gallagher, Council District 1; Joyce Foster, Council District 4; Bill Himmelmann, Council District 7; Edward Thomas, Council District 10; Ted Hackworth, Council District 2; Polly Flobeck, Council District 5; Hiawatha Davis, Jr., Council District 8; Happy Haynes, Council District 11; Ramona Martinez, Council District 3; Susan Casey, Council District 6; Debbie Ortega, Council District 9; Susan Barnes-Gelt, Council At-Large.

Mr. COBLE. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. SMITH], a member of the Committee on the Judiciary.

(Mr. SMITH of Texas asked and was given permission to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Chairman, first of all, I thank the chairman of the subcommittee for yielding me time.

Mr. Chairman, I rise in support of H.R. 1534, the Private Property Rights Implementation Act of 1997. This legislation is necessary to protect a basic civil right for all Americans: Protection against governmental confiscation of homes, farms, and businesses.

Today, the fundamental liberties of all of our citizens are threatened by a regulatory regime imposed by Government officials. The Government is able to confiscate the property of workers, farmers, and families without providing compensation.

Adding insult to injury, is a landowner's inability to have their day in court. Not only is the Government taking the private landowner's property, but is using a legal maze to prevent landowners from presenting and receiving a fair hearing on the merits of their case. Without H.R. 1534, property owners will continue to find themselves trapped in a legal nightmare from which they are unable to escape.

Mr. Chairman, I urge my colleagues to support this bill.

Ms. LOFGREN. Mr. Chairman, noting that the Attorney General of Texas opposes the bill, I yield 2 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, I thank the gentlewoman for yielding me time.

Mr. Chairman, I would like to express to my colleagues that may be observing this debate that this really is what the gentleman from Colorado referred to as a world turned upside down. This legislation is absolutely outrageous. The unintended consequences are limitless.

I would perfectly agree, especially with the gentleman from Louisiana [Mr. TAUZIN] that if someone's property rights are hindered by a Federal action, that individual should have an expedited process to get to Federal court. But this bill goes way beyond that. This legislation deals with local zoning laws that have nothing to do with Federal action, and they have a major impact on State land use that has nothing to do with Federal action. So what we are doing here is completely taking out of the hands of your local planning commission, their right to decide zoning and land use and what is best needed for their community.

Mr. Chairman, we all want expedited Federal process when a Federal action impedes private property, but this takes the right of a local planning board in a community to have their say about how land is supposed to be used.

Land use, is it to be controlled by the Federal Government, or is it to be controlled by the State? If you think land use is a State issue and a local zoning issue, then you must vote against this legislation.

The idea that if your property is taken away for the public good, you should be compensated, that is absolutely, 100 percent for sure. But if the local government wants to regulate your property and regulate land to prevent public harm on other property, they should have a right to do that.

Mr. COBLE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Ms. PRYCE of Ohio) having assumed the chair, Mr. SNOWBARGER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1534), to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the U.S. Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when Government action is sufficiently final to ripen certain Federal claims arising under the Constitution, had come to no resolution thereon.

MAKING IN ORDER ADDITIONAL AMENDMENT AND PERMISSION TO POSTPONE VOTES DURING FURTHER CONSIDERATION OF H.R. 1534, PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT OF 1997

Mr. COBLE. Madam Speaker, I ask unanimous consent that during further consideration of H.R. 1534 in the Committee of the Whole, pursuant to House

Resolution 271, first, it be in order to consider the amendment offered by the gentleman from Ohio [Mr. TRAFICANT] in the form I have placed at the desk, after the disposition of the amendment offered by the gentleman from Michigan [Mr. CONYERS], as though printed in part 2 of the House Report 105–335, which shall be debatable for 10 minutes, equally divided and controlled by the proponent and an opponent; and, second, the Chairman of the Committee of the Whole may, (a) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and, (b) reduce to 5 minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT.

OFFERED BY MR. TRAFICANT OF OHIO

Insert the following after section 4 and redesignate the succeeding section accordingly:

SEC. 5. DUTY OF NOTICE TO OWNERS.

Whenever a Federal agency takes an agency action limiting the use of private property that may be affected by the amendments made by this Act, the agency shall give notice to the owners of that property explaining their rights under such amendments and the procedures for obtaining any compensation that may be due to them under such amendments.

Mr. COBLE (during the reading). Madam Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. BOEHLERT. Madam Speaker, reserving the right to object, I would like to ask a question of the Chair. I have no objection to the Traficant amendment, but I just want to make certain it is clarified when that will occur. Will that amendment come after the Boehlert substitute? If it does, I have no objection. If it does come before the Boehlert substitute, then we have a problem.

The SPEAKER pro tempore. The Chair understands the amendment would be made in order before the Boehlert substitute.

Mr. BOEHLERT. Madam Speaker, I object, I reserve the right to object.

Mr. TRAFICANT. Madam Speaker, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Ohio.

Mr. TRAFICANT. Madam Speaker, if the gentleman's substitute is passed, then his substitute would pass, with or without. This was approved unanimously. It is the only measure that gives notice to people who do not have accountants and attorneys of some protections, and has been worked out by leadership on both sides. I believe that position would not be in the best interests of our taxpayers and property owners of our country.

Mr. BOEHLERT. Madam Speaker, maintaining my reservation of objection, as I have made clear, I have no objection to the gentleman's amendment, I am in support of that amendment. I do have some serious reservations about when it would appear.

Mr. COBLE. Madam Speaker, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from North Carolina.

Mr. COBLE. Madam Speaker, I want to ask a question of the gentleman from Ohio [Mr. TRAFICANT] in an effort to clear the cloud.

Would the gentleman from Ohio be willing for his amendment to follow that of the gentleman from New York [Mr. BOEHLERT] since it appears he will object if it does not?

Mr. TRAFICANT. Madam Speaker, if the gentleman will yield further, I do not, as long as if my amendment passes it would be in order to either of the actions taken here today that might pass, if it would be amendable to both.

Mr. BOEHLERT. Madam Speaker, reclaiming my time, maybe we can resolve this. I have had some conversations away from the microphone.

Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Ms. LOFGREN. Madam Speaker, reserving the right to object, and I will not object. I just want to clarify that the minority supports the desire of the gentleman from Ohio [Mr. TRAFICANT] to debate this amendment. That does not necessarily mean we support the amendment itself, but the gentleman from Ohio's right to offer it, subsequent to the Boehlert amendment.

Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Without objection, the request is granted.

There was no objection.

GENERAL LEAVE

Mr. COBLE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1534.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT OF 1997

The SPEAKER pro tempore. Pursuant to House Resolution 271 and rule XXIII, the Chair declares the House in the Committee of the Whole on the State of the Union for the further consideration of the bill, H.R. 1534.

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IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1534) to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the U.S. Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when government action is sufficiently final to ripen certain Federal claims arising under the Constitution, with Mr. SNOWBARGER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the gentleman from North Carolina [Mr. COBLE] had 3 minutes remaining in debate, and the gentlewoman from California [Ms. LOFGREN] had 2 minutes remaining.

Ms. LOFGREN. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, what happened to the Federalists in the Congress? We were going to empower the States. This is the most extraordinary preemption of local and State laws in my 11 years in the Congress.

This is unbelievable. We heard horror stories from people from States that do not have a regular land use process. Those States should adopt a land use process. Those local jurisdictions should adopt a land use process, and it should be regular. It should have process of appeal and litigation through their States. But not the Federal Government.

Do we want the Federal Government wading into every single local land use dispute? Peep shows next to schools, liquor stores next to high schools? I think not.

I do not think the people on that side of the aisle really believe that. They are playing here to an audience of special interests, very well-funded special interests. This is horrible legislation for small town America. It is horrible legislation for our States and States' rights. Reject this legislation.

Ms. LOFGREN. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I believe in the fifth amendment and the minority believes in the fifth amendment. I believe there ought to be compensation when there is a taking, and there ought to be due process. There is no dispute about that. But what we dispute is this remedy. We have heard a lot of discussion about widows who have been abused by the heavy-handed Government. But we need to get beyond that appealing image to what is really going on here.