

ALITO, J., concurring in judgment

**SUPREME COURT OF THE UNITED STATES**

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No. 09–223

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RICHARD A. LEVIN, TAX COMMISSIONER OF OHIO,  
PETITIONER *v.* COMMERCE ENERGY, INC., ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF  
APPEALS FOR THE SIXTH CIRCUIT

[June 1, 2010]

JUSTICE ALITO, concurring in the judgment.

I agree with the Court that principles of comity bar the present action. I am doubtful about the Court’s efforts to distinguish *Hibbs v. Winn*, 542 U. S. 88 (2004), but whether today’s holding undermines *Hibbs*’ foundations is a question that can be left for another day.