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REMARKS: Introduced by Mr. Kastenmeier

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STATE JUSTICE INSTITUTE

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 1980

● Mr. KASTENMEIER. Mr. Speaker, today I am proud to introduce legislation to aid State and local governments in strengthening and improving their judicial systems through the creation of a State Justice Institute. I join with an illustrious and diverse group of colleagues in the House (Mr. RODINO, Mr. DRINAN, Mr. GUDGER, Mr. OBERSTAR, and Mr. BUTLER). All of these individuals have shown continued dedication to improving the administration of justice throughout this country, in both State and Federal courts.

Likewise, I am extremely pleased to join with an equally dedicated and respected group of Senate colleagues. Senator HOWELL HEFLIN, former chief justice of the State of Alabama and present chairman of the Senate Judiciary Subcommittee on Jurisprudence and Governmental Relations, has introduced identical legislation in the Senate. His bill is cosponsored by Senators KENNEDY, DECONCINI, DOLE, SIMPSON, and COCHRAN.

In fact, Senator HEFLIN has already held 2 days of exploratory hearings on the need for such legislation. He has received testimony from a respected group of witnesses, all of whom testified positively as to the merits of creating a State Justice Institute. I applaud Senator HEFLIN's interest in improving State administered justice, his willingness to lend his expertise and knowledge to this endeavor, and the judicious manner in which he has already considered the proposal.

Mr. Speaker, I would like to share with my colleagues the rationale behind the legislation.

The legislation proceeds from the assumption that there is a legitimate basis for Federal financial support for the State judicial systems. There are six reasons for this. First, the quality of justice at the National level is largely determined by the quality of justice rendered at the State level. Second,

according to the supremacy clause of the U.S. Constitution, State courts share the general responsibility of enforcing the requirements of the Constitution and the laws of the United States made pursuant to those constitutional provisions. Third, the Federal Government is providing more and more work to the State courts by reason of Federal legislation. Fourth, the ever-increasing burdens on the Federal judiciary have led to diversion of many of these matters to the State courts. Fifth, the Federal speedy trial act has resulted in increased numbers of criminal cases being filed in State courts. And, sixth, the U.S. Supreme Court has placed more responsibilities on the State courts to apply due process and equal protection requirements.

These propositions, individually or collectively, do not mean that the Federal Government should get into the job of regulating State administered justice. The conclusion does follow, however, as in other areas like transportation, health care, and education, that the State and Federal Governments have concomitant obligations. They must work together to satisfy mutual goals. And the need for quality justice in this country, especially as perceived by the citizen-litigant, does not change depending on whether a State or Federal court handles the matter. Rather, the citizen's expectation of fair, inexpensive, and expeditious resolution of his dispute remains constant.

The question becomes: How can the judicial independence of State justice systems be preserved while making Federal funds available to them? The legislation accomplishes this in three ways. The first is by clearly recognizing the separation of powers in the functioning of State governments and the independence of State judiciaries. Second, the grant program is to be directed by a national institution whose members in the substantial majority represent the State court systems. A final principle is that nationwide organizations and educational institutions supporting State judicial systems should be the principal recipients for the allocation of Federal funds and all grants should be awarded on a discretionary basis. By making the legislation contingent on these three principles, the independence of the State justice systems will be protected from Federal encroachment. The twin themes of federalism and separation of powers, upon which our Government is premised, will remain intact.

Parenthetically, I would like to mention costs. The bill does not provide for the authorization of any moneys. The rationale behind this is that budgetary decisions will be made and discussed during the hearing and markup processes. Based on economic and political considerations, a consensus position on how much money ought to be authorized then can be reached. I do believe that the importance of this legislation is contained not in the money authorized but in the creating of an institute. In addition, if the Congress would pass legislation abolishing the diversity of citizenship of the Federal courts (see H.R. 2202)—as the House did on two occasions during the 95th Congress—an annual savings of well over $50 million would occur. As I have stated previously, there is no reason why State law cases should remain in Federal court, especially those which ground jurisdiction on out-of-State residence. The State courts are ready, willing, and able to accept them. By coupling the creation of a State Justice Institute with the abolition of diversity, we could accomplish two needed reforms with no additional cost to either the Federal Government or to the State court systems. It is not often that major improvements to existing institutions can be effected with no cost to the taxpayers. This point deserves to be highlighted here.

In closing, I would like to note that the seeds for this legislative endeavor were sown by the State courts themselves. In August of 1978 the Conference of State Chief Justices passed a resolution creating a task force on a State Court Improvement Act. The committee was charged with the responsibility of recommending innovative changes in the relations between State courts and the Federal Government and of identifying ways to improve the administration of justice in the several States without sacrifice of the independence of State judicial systems.

The task force was chaired by the able chief justice of the State of Washington—Hon. Robert F. Utter. Ten other chief justices freely gave of their time and expertise: Hon. Albert W. Barney (Vermont), Hon. Bruce F. Beilfuss (Wisconsin), Hon. James Duke Cameron (Arizona), Hon. Arno H. Denecke (Oregon), Hon. Joe R. Greenhill (Texas), Hon. John B. McManus, Jr. (New Mexico), Hon. Robert C. Murphy (Maryland), Hon. Neville Patterson (Mississippi), Hon. William S. Richardson (Hawaii), Hon. Robert J. Sheran (Minnesota). Four State court administrators assisted in the preparation of the report: Mr. William H. Adkins II (Maryland), Mr. Roy O. Gulley (Illinois), Mr. Walter J. Kane (Rhode Island), Mr. Arthur J. Simpson, Jr. (New Jersey). And three advisers to the task force aiding in the drafting: Prof. Frank J. Remington, Mr. Ralph N. Kleps, and Prof. Maurice Rosenberg.

The task force held numerous meetings, circulated several drafts, consulted with political representatives from both Houses of Congress and maintained liaison with national bar associations. I commend the task force for the quality of its work, for the honest and open manner in which it satisfied its written mandate, and for its willingness to work with all segments of the bar, the three branches of government, and State and Federal officials. Its final report and draft legislation reflect the conscientious manner in which the task force did its work.

In short, Mr. Speaker, I am honored to be lead sponsor of this legislation. I look forward to working on it in the House of Representatives, where it will be scrutinized by my colleagues, subjected to budgetary and political analyses, and refined by the legislative drafting process.●

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