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Kenneth H. Davis' statement on the Montana Plan

Kenneth H. Davis

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Chairman Holland, Members of the Judiciary Committee, Con-Con
Delegates and visitors:

I am Kenneth H. Davis of Billings, Montana. I am a past president of the Montana Citizens' for Court Improvement having served in that capacity during 1969-1970.

It is my understanding that the "Montana Plan" for Court Modification has now all been presented to you. I do wholeheartedly endorse it and recommend it for your careful consideration.

The question will often be raised as to whether this plan is the Law School Plan, or the Bar Association, or the Citizen's Plan. Having continuously and actively participated in its conception, modification and final conformation over the past 5 1/2 years I can assure you that it is truly the Citizen's Plan.

I do have a few brief comments to make. This is the time for all of us to speak out plainly if, through our combined thoughts and opinions we are to create a better judicial article and the best possible constitution.

I would like to direct my remarks first to some of the objections. The Montana Citizen's for Court Improvement have no interests to fulfill, no axes to grind. Our sole objective is a better system of justice and the only benefit we may enjoy is better courts for all of us Montanans. On the other hand some objectors may criticize or condemn because their own interests are involved or their own problems receive uppermost consideration.

Here are a few instances that come to mind:

Some of the District Judges object to administration of the lower court system by the Supreme Court. At this time, ~~after~~

after a Judge is elected or appointed, he is in truth responsible ^{to no one} only to God. Under the proposed system the Supreme Court would have the authority to see that the Courts are operated on the same efficient basis that is required of a successful business. Efficient use of the Judges' time will best serve the people.

Some Judges criticize the proposed two level court system, with Magistrates. They opine that they will be bogged down in administrative detail of the Magistrate system and will not have time to take care of their own Court duties. We feel - and the experiences of other States prove it - that a large amount of Court work currently handled by District Judges will be handled by the Magistrates; that the overall effect will be that the Judges burden will be lessened, and that he will have MORE time to handle his most important judicial function.

Many Justices of the Peace oppose our plan. Their opposition is understandable.

Some attorneys are dismayed to note that under the two level, with Magistrates system, appeals must go direct to the Supreme Court. In considering this matter we must balance the small number of appeals which may be necessary compared to the amount of "inferior justice" which is being administered by the so called inferior courts. Some figures are available on the number of appeals to the district courts under our present system but there is no data, unfortunately on the amount of maladministration of justice which does occur.

In conclusion I would like to ask if either the lay people or the members of the bar who are on this committee ^{or in the Convention itself} were to begin to draft a judicial article, where would you go for a source of information on the best features of a judicial system? To the experiences of others, to the other states, of course, where every

conceivable type of arrangement has been tried and discarded, or perfected and adopted. This is, in effect, what we did.

Many of us who will appear before you will pose as experts. We Montana Citizens for Court Improvement make no such claim. We do not attempt to sell this plan as our own creation. We do defend it as the choice of features from proven Court Systems of other States. What could be superior to that?

Kenneth H. Davis
Billings, Montana