

IN MEMORIAM

TRIBUTES TO ROBERT W. KASTENMEIER

Robert W. Kastenmeier died on March 20, 2015, at the age of ninety-one. After serving in the Army in World War II, he graduated from the University of Wisconsin Law School in 1952. He practiced law in Watertown, Wisconsin and served as a justice of the peace. Starting in 1959, he represented the state and people of Wisconsin in the United States House of Representatives for thirty-two years. Since 1992, the University of Wisconsin Law School has hosted the Robert W. Kastenmeier Lecture in his honor each fall.

The following tributes evince the extraordinary scope of Representative Kastenmeier's legacy. The authors describe his enduring influence on a wide range of legal fields as diverse as intellectual property, the administration of the federal courts, and civil rights. They also detail the profound impact that Representative Kastenmeier had on their lives and careers.

Many of these tributes are edited transcripts of remarks delivered by the authors at memorial events held in honor of Representative Kastenmeier in Washington, D.C., and Madison, Wisconsin. This is indicated in the author footnote of each applicable piece. The remaining tributes were originally composed for this collection. These tributes are presented in alphabetical order by the last name of the author.

The *Wisconsin Law Review* is honored to celebrate Representative Kastenmeier's legacy of public service to Wisconsin and the United States.



THE KASTENMEIER INFLUENCE ON WISCONSIN COURTS

SHIRLEY S. ABRAHAMSON*

Mrs. Kastenmeier, Kastenmeier family, Congressman Obey, and guests:

Each speaker has claimed Bob Kastenmeier as his or her Congressman. I make a similar claim. I'm honored to be on the program today recognizing the work of *my* Congressman, Bob Kastenmeier. Bob was exactly what he seemed to be—soft-spoken, no artifice, a public official committed to substantive issues. Public service was his way of life.

The Congressman was in Madison frequently, and we would see each other. We spoke about Wisconsin. We spoke about Madison. We spoke about his commitment to the University of Wisconsin and especially his commitment to the University of Wisconsin Law School. One of Bob and Dorothy's favorite activities was to return to Madison to participate in the law school's Kastenmeier Lectures, a very successful lecture series indeed.

You've heard about Bob and his work in the federal government, especially about his work on copyright and patent law, uniquely federal issues. You've heard about his interest in and effect on the administration of the federal courts. In a January 1991 editorial, the American Judicature Society called Kastenmeier "a torch-bearer for the improvement of the administration of justice."¹

I begin a group of speakers who have worked in the state and local levels of government. Bob's influence in Congress extended to us. His federal work and influence spread to the states, especially Wisconsin's state and local government.

The Congressman understood not only the federal courts, but also the state courts. He understood that ninety-five percent or more of the judicial business in this country is conducted in the state courts. In

* The Honorable Shirley S. Abrahamson has served on the Wisconsin Supreme Court since 1976 and began serving as Chief Justice in 1996. Prior to 1976, she practiced law in Madison and served as a professor on the faculty of the University of Wisconsin Law School. This piece is an edited transcript of remarks delivered by the author at a memorial service held in Madison, Wisconsin, honoring the life and work of Congressman Kastenmeier.

1. See *Former Rep. Kastenmeier Leaves Lasting Impact on Federal Courts*, U.S. CTS. (Mar. 25, 2015), <http://www.uscourts.gov/news/2015/03/25/former-rep-kastenmeier-leaves-lasting-impact-federal-courts>.

1991, the Conference of Chief Justices, which consists of the chief judicial officers of all the state court systems and territories of this country, recognized Bob Kastenmeier's contributions to the state courts across the nation, stating, "He never lost sight of the critical role played by state courts in the nation's justice system."²

Bob showed us how the judicial and legislative branches could work together for the public good in promoting effective and efficient administration of justice. He led an eight-year effort to obtain Congressional creation of and funding for the State Justice Institute. The Institute continues to be very influential in assisting state court reforms.

When Bob left Congress, he worked with the Governance Institute of the Brookings Institute on judicial-congressional relations. That Institute promoted the work of the federal courts of appeal, sending appellate opinions to Congress, so that Congress could examine the opinions and perhaps be influenced to remedy defects in federal legislation. State courts have undertaken similar programs. I began sending state court opinions to the Wisconsin legislature, hoping that the legislators would examine the opinions and consider remedial legislation.

Bob's involvement in the nuts and bolts of federal judicial administration—and Judge Crabb gave you a long but only partial list—influenced not only the federal courts, but also all the state courts. The Federal Courts Study Committee, on which he served, published influential studies that are still used. The Committee's recommendations were directed to the federal courts, but were helpful to state courts.

As Judge Crabb told you, Bob was committed to protecting the independence and integrity of the judiciary. Bob's efforts as a member of the National Commission on Judicial Discipline and Removal and his work on recusal and the Code of Judicial Conduct are well known. There was no better friend or defender of the judicial role, judicial independence, judicial accountability, and judicial transparency than Bob Kastenmeier. A resolution of the Judicial Conference of the United States, presented by then-Chief Justice Rehnquist, noted that Congressman Kastenmeier had "demonstrated an unwavering faith in the judicial process as a protector of individual rights under the Constitution and a guarantor of equal justice for all."³

2. See Michael J. Remington, *Robert W. Kastenmeier: Copyright Legislator* Par Excellence, 55 LAW & CONTEMP. PROBS., Spring 1992, at 297, 299.

3. See *id.*

The Congressman saw judges as neutral, fair, impartial, and non-partisan arbiters of cases, but also as accountable for being effective and efficient administrators of the judicial system. These same concepts of judicial independence and accountability are being emphasized in state courts.

I can't complete my remarks remembering the Congressman for all he has done for the state judiciary without commenting on Congressman Obey's recognition of Bob's staff. Bob's staff was marvelous. Picking out one or two staff members to recognize is dangerous, but I'm going to do it. One staff member who worked in the district, and whom I remember very well with great fondness and thanks, is Helen Vukelich. The other, who worked in Washington, is Michael J. Remington, a great influence in Congress and in Wisconsin. I recently participated in the admission of the tenth or eleventh member of the Remington family as a member of the Wisconsin bar. I said then, thinking of Mike, "There aren't enough Remingtons. Can't get enough Remingtons."

I end my speeches to new admittees to the State Bar of Wisconsin by quoting Oprah Winfrey. I really love quoting Oprah because I don't usually get a chance to cite her. I cite Oprah Winfrey, but I think of Bob Kastenmeier. Oprah Winfrey's advice to the graduates in her commencement address was, don't sell out.⁴ Don't sell out. Bob Kastenmeier lived his life by those words. We all should.

4. See *Oprah Winfrey*, GRADUATION WISDOM (May 12, 2007), <http://www.graduationwisdom.com/speeches/0024-winfrey.htm>.

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A REMEMBRANCE OF BOB KASTENMEIER

GAR ALPEROVITZ*

I had the great good fortune to work as a Legislative Assistant to Bob Kastenmeier very shortly after he was elected. I joined his staff in 1961, a very young kid only two years after graduating from the University of Wisconsin. Though I had interned with Congressman Henry Reuss (of Milwaukee) and Senator Bill Proxmire—and subsequently became Senator Gaylord Nelson’s Legislative Director—my position working for Bob was my first real job. It was the first year of the Kennedy Administration.

I didn’t understand how lucky I was!

Bob Kastenmeier was one of the most morally and politically serious men I have ever met. Dave Obey recalls—and I recall—that it is all but impossible to think of a vote he ever cast that was not a vote based on principle. Nor did he duck the consequences:

Shortly before I arrived in his Washington office, Bob had cast one of only five votes against continuing authorization of the House Un-American Activities Committee (HUAC), the then vicious right-wing McCarthyite center of rabid attacks on anything seriously progressive, to say nothing of radical. Most people today do not recall what it meant to tangle with HUAC—especially for a Wisconsin congressman. The state, after all, had provided Joe McCarthy with his political base only a few years earlier.

Bob did tangle with HUAC; and he did it knowing he would have to pay the price: His stance brought forth an extreme right wing response. I recall, for instance, what was called “pink sheeting” at the time—massive circulation of anti-Kastenmeier propaganda printed on pink paper, the implication being that he was well on the way to being “red.” Angry calls, massive mail, and an all-out continuing attack followed.

What his stance also did, however, was invigorate a progressive response: It was a genuinely courageous act, and his supporters came forth in droves to back him up.

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Something very similar happened during the very early days of the Vietnam War: Bob organized hearings in Madison to challenge the war and the largely bogus pretense which produced the Gulf of Tonkin Resolution authorizing the war. Again, the right-wing attack, and again Bob held firm in his moral as well as political stance.

Taking the responsibilities of his job very seriously was not restricted to dramatic challenges to the right, on the one hand, and a Democratic Administration, on the other. My predecessor, Marcus Raskin, left me the task of helping Bob organize what was called “The Liberal Project” in Congress—an effort to mobilize the best progressive voices in the House around a strong progressive program. Out of this work came a book titled “The Liberal Papers,” and then many projects that went far beyond Bob’s position on the Judiciary Committee. Among the most important was an inspired initiative to create what became the U.S. Arms Control and Disarmament Agency, one of the first centers of advocacy within the Kennedy-Johnson era to generate serious arms control proposals.

It would not surprise me if many who remember Bob might have forgotten such developments. The reason is not that they were not important. (They were very important.) It is that Bob loathed self-promotion. It was almost impossible for him to do some of the required things any congressman has to do to keep getting elected and re-elected. His constituents, I think, knew this—and made up for it with their own energetic support of a very remarkable man.

I cannot end this very brief remembrance without recalling, too, some of the oddities and also fun we had. First, one of the oddities, one which also is telling in how Bob dealt with people: Sometime before I joined Bob’s staff, his Administrative Assistant Kaz Oshiki had hired a wonderful woman named Jackie Lushin to work partly as a secretary and partly as a receptionist in Bob’s Washington office. I don’t know the full story, but Jackie was French and spoke with a pretty serious French accent—not the person a young congressman would normally locate at the entrance to his Capitol Hill office to greet constituents from back home in Wisconsin. I should also mention that Jackie liked to smoke cigars—big cigars! What stands out in memory was not only the unusual nature of the person Bob was happy to have as a receptionist, but rather that he never—not once—ever thought it was his place to ask someone about personal matters that he might or might not have agreed with (including those big cigars!). Bob just did not believe such things were matters he ought to be concerned with. For many years Jackie, French accent and big cigar, was what greeted you when you came to see Bob about official business.

A second and different memory: Any congressman needs to raise money to fund his re-election campaign, and, as noted, the period I worked with Bob was one in which a very young and very new congressman was under heavy attack from the far-right because of his vote against HUAC. Though I knew almost nothing about how to do it, one of my jobs was to help Bob raise funds for his reelection campaign. I don't recall how or from whom I got "lists" of potential progressive donors, but I do remember dialing lots of people with urgent pleas for support, one of whom was the famous playwright Arthur Miller. (We did not know him; he was simply on some list someone had suggested we call.) This resulted in a visit by Bob (and me, tagging along) to New York and to Arthur Miller in his hotel apartment—and I distinctly recall the playwright's fascination (and fun) with Bob—this very young, very fresh-faced Wisconsin Congressman who actually was a genuinely courageous public leader!

It is often said, "They don't make them like that anymore." In the years after I worked for Bob, I met many political figures. Sadly, in my experience, very, very few rise to the level of integrity and honor that was Bob Kastenmeier's quiet, ordinary, but ever-so-powerful political stance.

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A TRIBUTE TO THE LIFE AND WORK OF BOB KASTENMEIER

TAMMY BALDWIN*

Well it's an honor to join you all this afternoon in paying tribute to Bob Kastenmeier.

I had an opportunity earlier this week to join a packed-full room in the Rayburn House Office building, paying tribute to Bob Kastenmeier. And it was extraordinary, just like today; the room was filled with those who had labored side-by-side with him and those who admired his work from afar. There were lots of incredible stories of his political legacy. You've heard already about the work that he did on intellectual property in the House Judiciary Committee. He was the House Champion of the Bayh-Dole Act, legislation that embodies the Wisconsin Idea and the traditions born at the Wisconsin Alumni Research Foundation. I heard tributes to his work on civil rights and to his work on sentencing reform that is so important to this day and beyond.

But I want to share the reflections of a life-long Madisonian who grew up with Bob Kastenmeier as my Congressman. He was my Congressman during my childhood, my formative years, and during my early adulthood when I opened my eyes to the possibility of public service—maybe running for office—as a rewarding profession. And he was such an incredible role model.

He also so deeply embodied our Wisconsin progressive traditions. You've already heard the name of fighting Bob La Follette come up multiple times. I think of the synergy between Senator Gaylord Nelson and Bob Kastenmeier. And I think about the commonalities among those progressive leaders, in particular the way they engaged the voice of the people in their work.

And what is so memorable to me, about growing up with Bob Kastenmeier as my Congressman, was how he dealt with an issue as controversial as our involvement in the Vietnam War. As most of you in this room know, he held the first Congressional field hearing in the country on the Vietnam War in 1965. And the event was significant

* United States Senator, Wisconsin. This piece is an edited transcript of remarks delivered by the author at a memorial service held in Madison, Wisconsin, honoring the life and work of Congressman Kastenmeier.

because even here in the city of Madison, which was a hotbed of opposition to the Vietnam War, he treated those in support of his beliefs, his position, and those opposed to it equally because Bob Kastenmeier was not afraid to listen.

Bob understood something that is too often lost in today's politics: That true leadership isn't driving the divides that exist. True leadership is moving the debates beyond the division to a place where common ground can be found to advance our common good.

I learned a lot from having Bob Kastenmeier as my Congressman growing up in my formative years and early adulthood. He inspired me in so many ways. He inspired me in part to a life of public service. But he always inspired me by embracing that rock-solid Wisconsin progressive tradition of elevating the voices of all of those around him.

Dorothy, Edward, and Andrew, we're so sorry for your loss, but we are so grateful for your sharing this incredible man with all of us.

IN MEMORY OF ROBERT W. KASTENMEIER

BARBARA B. CRABB*

All of you here today—political supporters, congressional colleagues, longtime friends, and family—think of him as “Your Bob Kastenmeier,” but those of us in the federal judiciary have a claim to him, as well. We, too, think of him as “Our Bob Kastenmeier” because of his long, dedicated, and productive efforts to help, and often prod, the courts to work effectively to carry out their constitutional duties.

Most people who are not lawyers, and many in Congress, tend to think of the “judiciary” as merely a judge presiding from the bench. They have no reason to think about, let alone concern themselves about, the people and resources required to keep that judge on the bench: the persons who summon jurors, keep the case records, staff the courtrooms, record court proceedings, escort prisoners to and from the courthouse, or supervise persons released from prison. They do not think about the importance of technology in today’s courts. Few think about the judiciary as a whole system. And, until scandal breaks out, few have any reason to contemplate what is to be done about judges with life tenure who become too disabled to work but refuse to step down or who violate the law or act unethically.

Bob Kastenmeier understood the complexity of the courts’ operations and their need for resources. He never lost sight of his commitment to ensuring that the federal courts carried out their constitutional duties to litigants and to the public. Fortunately for all of us, he was well placed to give life to this commitment. He was the ranking majority member of the House Judiciary Committee and chair of the Subcommittee on Courts, Intellectual Property, and the Administration of Justice.

He worked to reduce the mandatory jurisdiction of the Supreme Court, giving it a greater choice about the cases it accepted. He promoted and oversaw the establishment of the Court of Appeals for the Federal Circuit, which now hears all appeals in patent cases, relieving the regional courts of appeals of a good-sized portion of their

* United States District Judge, Western District of Wisconsin. Judge Crabb delivered the 2011 Robert W. Kastenmeier Lecture. See Barbara B. Crabb, *Bridging the Divide Between Congress and the Courts*, 2012 WIS. L. REV. 871. This piece is an edited transcript of remarks delivered by the author at a memorial service held in Madison, Wisconsin, honoring the life and work of Congressman Kastenmeier.

workloads. He worked to expand the federal magistrates system, adding non-Article III judges (judges not covered by Article III of the Constitution and not requiring Senate confirmation), to assist the district judges by handling more routine civil and criminal matters, which freed them to spend their time on duties only Article III judges could perform; he championed the federal defender organization, which provides highly qualified criminal defense lawyers to persons charged with crimes; and he played a large role in helping to reorganize the bankruptcy courts. In addition, he helped to form the State Justice Institute.

But Bob Kastenmeier cared about more than just providing resources to the courts, important as that was. His deep experience and interest in the judiciary gave him a better understanding of courts, their functions and shortcomings than even most members of the judiciary, whose knowledge of the courts was often parochial, limited to their own courts and caseloads. His commitment to justice fueled his efforts to improve the courts. He believed that judicial accountability was not in tension with judicial independence. He advocated openness; he promoted (unsuccessfully) the televising of court proceedings; he favored financial reporting by judges; he was the author of the Judicial Conduct and Disability Act of 1980, which set up Judicial Councils in each judicial circuit and made it easier for citizens to complain about actions by judges they believed to be in violation of the law or ethics; and he sponsored the Civil Justice Reform Act, which led to significant improvements in the courts' accountability for their work.

It is embarrassing now to remember that when I started out in the federal judiciary, I took for granted Bob Kastenmeier's interest in the courts. It seemed perfectly reasonable to me that he would take the time once a year or so to set up a meeting at the Madison courthouse with the judges and the clerk of court. He would ask about the kinds of cases that were being filed, how those cases were being handled, and what the needs of the court were. He asked insightful questions and listened carefully to the answers. As so many have mentioned today, he was a great listener, an attribute captured by Professor John Kidwell in a tribute to Bob Kastenmeier on another occasion:

By my recollection, he often stood with his left arm across his body, holding his right elbow, and with his right hand near his chin. His posture made it clear that he was not merely waiting for you to finish so he could take his turn. . . . [His

posture] invited you to speak, or to continue if you were already speaking.¹

My embarrassment is that I did not realize in those early days as a judge how rare it was to have such a well-informed, active supporter of the courts in Congress. It was only as the years passed that I fully realized that, with all the demands on the time of our congressional representatives, few have time to worry about the federal judiciary.

It was the judiciary's good fortune that Bob Kastenmeier cared so much about the federal judiciary. He truly was the Third Branch's champion and its conscience.

1. John A. Kidwell, *Congressman Robert Kastenmeier and Professor John Stedman: A Thirty-Five Year Relationship*, 55 *LAW & CONTEMP. PROBS.*, Spring 1992, at 129, 130.

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REPRESENTATIVE BOB KASTENMEIER

BILL KAPLAN*

Representative Bob Kastenmeier was a courageous and principled political giant. Moreover, Bob was my hero, role model, and my friend. He was an early critic of the carnage and senselessness of the Vietnam War. My first column for the *Wisconsin State Journal* said:

Kastenmeier's 1965 grass roots hearings on the Vietnam War showed McNamara [LBJ's secretary of defense] a different road to go down. Kastenmeier's prescient opposition to the Vietnam War was a profile in courage and set a political standard for decency, honor and morality that few political leaders anywhere have since matched.¹

Yes, it was gutsy to oppose a war, but it took heroism to speak out against a slaughter waged by the president of your own party and most of Congress. The Vietnam horror was a misbegotten catastrophe. More than 58,000 Americans, including 1,160 Wisconsinites, came home in body bags. And, nearly 3,000,000 Vietnamese died. It took too much time for Congress and the American people to heed the wisdom of Kastenmeier, a World War II veteran.

Bob also spoke truth to power on other issues. He was among a handful to vote against funding the so-called House Un-American Activities Committee. His friend and colleague, California Democratic Representative Don Edwards, recalled: "What the committee actually did was break up families, turn friends into enemies, and destroy reputations and lives, while demonstrating that the United States

* Bill Kaplan served on the Board of the Kastenmeier Lecture Fund and worked closely with UW Law School faculty and staff to organize the annual lecture. He is currently a political writer, who previously wrote a guest column from Washington, D.C., for the *Wisconsin State Journal* from 1995-2009. He was a close friend of Bob Kastenmeier. A version of this piece previously appeared as a column on wisopinion.com. Bill Kaplan, *Remembering Rep. Bob Kastenmeier*, WISOPINION.COM (Mar. 23, 2015), <http://www.wisopinion.com/index.html?mdl=article.mdl&article=60195>.

1. Bill Kaplan, *McNamara's 'Purgation' Isn't Enough*, WIS. ST. J., June 19, 1995, at 7A.

government could take on characteristics that are usually associated with our totalitarian adversaries.”²

Moreover, Bob championed civil rights legislation and more. In 1964, LBJ, fearful of controversy and loss of support from southern white voters, moved to seat a Mississippi segregationist delegation at the Democratic convention over an integrated pro-civil rights delegation. Bob dissented.

Kastenmeier went on to have a long and productive congressional career. Longtime friend and former Wisconsin Democratic Representative Dave Obey said: “In my view, he was one of the great legislators of his era. . . . He was very progressive, and he was extremely bound by conscience. . . . I never saw him cast a vote for political reasons . . . [or] that was contrary to his beliefs.”³

That was true during the Watergate scandal. Bob worked with his Democratic and GOP colleagues on the Judiciary Committee to draft separate articles of impeachment against Nixon, making clear which laws had been broken.

Knowing Bob made all of us better people. Deepest condolences to his wife and full partner, Dorothy, and three terrific sons—Bill, Andrew and Edward—as well as his devoted staff.

2. Don Edwards, *HUAC? In '81? Today?*, N.Y. TIMES, Feb. 19, 1981, at A31.

3. Matt Schudel, *Robert W. Kastenmeier, Former Wisconsin Congressman, Dies at 91*, WASH. POST, Mar. 22, 2015, at C7.

REMEMBERING ROBERT W. KASTENMEIER

ROBERT A. KATZMANN*

As I think about Robert W. Kastenmeier, I remember a person of extraordinary commitment to public service, someone who reached great heights, who made a substantial impact on public policy over a generation, while at the same time exhibiting always qualities of humility and character.

As a legislator, Robert Kastenmeier immersed himself in the nitty-gritty of issues which had no political payoff, but which were fundamental to the functioning of democracy. For example, there was no better friend of the federal judiciary and defender of judicial independence than he. That then-Chief Justice William Rehnquist would deliver the inaugural Kastenmeier Lecture at the University of Wisconsin Law School in 1992, *after* Bob Kastenmeier had left public office, is testament to the unique role he played with regard to the Third Branch.¹ That upon his passing, the official publication of the federal judiciary would pay special tribute to him a quarter century after he left office, is further confirmation of his contributions.² Moreover, his knowledge of intellectual property and trademark made him the leader in those fields. In the area of foreign policy, Robert Kastenmeier was very much concerned about preserving congressional prerogatives and was wary about what he perceived to be the expansion of executive power. He was unequaled in championing the disadvantaged. In all that he did, his unquestioned integrity made him one of the most admired legislators on Capitol Hill for more than three decades, respected by colleagues on both sides of the aisle.

On a personal note, I first came to know Robert Kastenmeier in 1986 when I asked him and his counsel, Michael Remington, to participate in a symposium I organized on judicial-congressional relations at the Brookings Institution. In our pre-event meeting, I was struck by his modesty and humility. Although I was years junior to him, he treated me, as he did everyone else, with respect, and his views

* Chief Judge, United States Court of Appeals for the Second Circuit.

1. See Chief Justice William H. Rehnquist, *Seen in a Glass Darkly: The Future of the Federal Courts*, 1993 WIS. L. REV. 1.

2. *Former Rep. Kastenmeier Leaves Lasting Impact on Federal Courts*, U.S. COURTS (Mar. 25, 2015), <http://www.uscourts.gov/news/2015/03/25/former-rep-kastenmeier-leaves-lasting-impact-federal-courts>.

about interbranch relations very much informed the symposium. The chapter that he and Mike Remington contributed to the volume I edited following the conference was deeply insightful, examining what the judiciary should understand about the legislative branch.³ Three years later, he generously participated in another program with which I was involved, at the Woodrow Wilson International Center for Scholars. Although he had a full plate of meetings that day and was no doubt tired, he came and spoke to an evening seminar about the importance of fostering improved relations between courts and Congress. Not long thereafter, I had the privilege of testifying before him when he held the first hearing ever on statutory interpretation and the uses of legislative history.⁴ He was ahead of his time, giving focus to a critically important issue.

When Robert Kastenmeier left office, he could have found a cushy job in a law firm or lobbying firm. After all, his judiciary committee jurisdiction included intellectual property (including patents, copyrights, and movies). As someone who had spent his life in public service, he had always lived modestly, and he might have followed the example of some of his colleagues who join the private sector with all of its riches. But Bob Kastenmeier was someone who would never capitalize on public service for private gain. Not long after the 1990 election, I went to him and asked if he might help me in a young enterprise, the Governance Institute—a small non-profit organization based at Brookings, concerned in part with improving judicial-congressional relations.⁵ Much to my amazement, he joined our efforts and played an important role in our activities as Distinguished Fellow—without a secretary, with only a very modest honorarium. We would get together often, meeting in his small carrel in the Library of Congress, where he would do his own typing, his own photocopying. I savored my meetings with him; apart from learning so much from him about Congress, it was always enjoyable to spend time with him. He was a shy man who nonetheless exuded great personal warmth. A project on which we worked together involves the courts of appeals sending to Congress judicial opinions that identify possible problems in

3. Robert W. Kastenmeier & Michael J. Remington, *A Judicial Legislator's Lexicon to the Federal Judiciary*, in *JUDGES AND LEGISLATORS: TOWARD INSTITUTIONAL COMITY* 54 (Robert A. Katzmann ed., 1988).

4. See *Statutory Interpretation and the Uses of Legislative History: Hearing Before Subcomm. on Courts, Intellectual Prop. & the Admin. of Justice of the H. Comm. on the Judiciary*, 101st Cong. 2 (1990).

5. GOVERNANCE INST., <http://www.thegovernanceinstitute.org/> (last visited Sept. 18, 2015).

statutes and continues to this very day.⁶ I well remember his return to Capitol Hill, with his Governance Institute activities, meeting with legislators, and testifying about ways to improve court-Congress understanding.⁷

In the years since I became a judge, it meant a lot to me that we would keep in touch every holiday season. For Robert W. Kastenmeier, public service was a way of life, in formal office or out. I will admire always his wisdom, fairness, modesty, gentle manner, kindness, and firm commitment to and leadership in the causes he championed. What a privilege it was to know him.

6. The project is described in ROBERT A. KATZMANN, *JUDGING STATUTES* 98–102 (2014).

7. See *Interbranch Relations: Hearings Before the J. Comm. on the Org. of Cong.*, 103d Cong. 76, 276 (1993).

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A TRIBUTE TO BOB KASTENMEIER

MATTHEW F. MCHUGH*

Thank you for being here this morning. It is a genuine privilege to join with all of you in paying tribute to Bob Kastenmeier and to Dorothy and their family.

When I first arrived here in 1975, a part of the brash Watergate class, Bob was already a respected member of the House. However, because he was never one to seek the limelight, he was not known to many of us. That soon changed, certainly for me. Since Bob and I had common interests, we were active in many of the same organizations, like DSG and the Arms Control and Foreign Policy Caucus, and worked together on issues we both cared about. I later served with him on the Intelligence Committee, our offices were in close proximity, and, for me, Bob became a mentor and, in time, a close friend.

Despite his low-key, even temperament, Bob never hesitated to take courageous positions. Early in his career, he opposed the witch hunts of the House Un-American Activities Committee and spoke out against the Vietnam War, positions that were not popular at the time, and, in the case of Vietnam, were not appreciated by the President he otherwise supported.

I sat next to Bob for six years on the Intelligence Committee. He was relentless in pursuing the truth, and, in particular, in ferreting out covert activity that we suspected the Reagan Administration was conducting illegally. This was a time when the Boland Amendment prohibited the provision of arms to the contras in Nicaragua. When press reports raised questions about whether the law was being violated, the Administration would deny it, and its allies on the Committee, notably Dick Cheney, would accuse Committee Democrats of trying to undermine the Administration through the press. Bob was

* Matthew F. McHugh served in the U.S. House of Representatives from 1975 to 1993, representing the 27th and 28th Congressional Districts of New York. He was a member of the Committee on Appropriations, the Select Committee on Intelligence, the Agriculture Committee, and the Select Committee on Standards of Official Conduct (Ethics), among others. Prior to serving in Congress, he was a practicing attorney and served as District Attorney of Tompkins County, New York. Following Mr. McHugh's retirement from Congress in 1993, he was Counselor to the President of the World Bank in Washington, D.C. This piece is an edited transcript of remarks delivered by the author at a memorial service held in Washington, D.C., honoring the life and work of Congressman Kastenmeier.

not intimidated and fought the Administration and Cheney to get the truth. Of course, Bob's position was ultimately vindicated.

He was a fighter when that was called for, but he was also able to work effectively across the aisle. He demonstrated that on the Judiciary Committee when he convinced members of both parties to consider the Watergate impeachment counts separately, and he demonstrated it during his many years of leadership on issues like civil rights, federal court reform, copyright law, and intellectual property rights.

Bob's commitment to excellence was reflected in the people he chose to work with. Throughout his career, he was assisted by a competent, professional staff, many of whom are here today, all of whom respected him and were considered friends.

Beyond any particular work or piece of legislation, Bob was recognized for his character and integrity. He never shaded his votes for partisan or personal gain. He never vilified his adversaries. He stated his progressive views forthrightly, but was open to compromise when appropriate. He was a highly effective legislator, but a truly humble man in a profession where that is rare.

For these reasons, I think that one of Bob's greatest contributions was his influence on others—on his colleagues, on his staff, on the media that covered him, on his constituents, and on his friends. Influence is hard to measure, but it is very real. By his quiet, indelible example, Bob had an impact on countless people. In some measure, those who were influenced by Bob emulated him and in turn influenced others. I don't know how to measure that, but I do know that we are all beneficiaries of his example and have had the opportunity to pass his qualities on to others. That is very powerful.

In honoring Bob, we also honor the one who had the most influence on him, Dorothy Kastenmeier. Bob and Dorothy were genuine partners. Dorothy provided love, support, and counsel in every aspect of their lives, public and private. Bob's achievements were hers as well, from his professional success to, most importantly, raising three fine sons and a beautiful family. Some of us will recall that on the occasion of their 50th wedding anniversary, Bob said that he could have done nothing without Dorothy. There was much truth in that.

And so, today, it is a privilege to join with you in honoring two good friends, two exceptional people, Bob and Dorothy Kastenmeier.

REMARKS AT MEMORIAL TRIBUTE TO CONGRESSMAN BOB KASTENMEIER

DAVE OBEY*

Thank you all for coming. All of us wish that we could be somewhere else today, but Bob Kastenmeier was our good friend. We loved him. We admired him. We knew this day was coming, and we simply had to be here. Before we start, thanks are due to all of you who helped put this celebration of Bob's life together. You know who you are.

Thanks also to Dorothy, Bill, Andrew, and Edward for their willingness to override Bob's modesty and have this event. I know it is not easy for the family but they deserve this, and Bob deserves this. After all, they made him possible.

The first time I heard the name *Bob Kastenmeier* was 1958. I had just transferred from the University of Wisconsin–Marathon County to Madison and attended my first meeting of the UW Young Democrats in the student union. A student named Pat Putzi was trying to round up volunteers for literature drops for Gaylord Nelson and Bill Proxmire in the November election. After making a pitch for both of them, he said, “And I also think this young guy, Kastenmeier, has a chance to win the 2nd Congressional seat.”

We peddled literature often that fall. On the first night before the election, I found myself passing out literature to shoppers on the Capitol Square. I noticed a woman about a hundred feet away who was also passing out literature. I did not know her and assumed she was a Republican. After a few minutes she walked over to me and said, “We seem to be hitting the same people. Don't you think it would be a good idea for you to move down the block?” “I know,” I said, “But all is fair in love, war, and politics.” “I know,” she said, “But we're on the same side; I'm Dorothy Kastenmeier.” I felt like an idiot and, properly chagrined, I moved down the block. That was my first meeting with anyone named Kastenmeier.

* Dave Obey was the United States Representative for Wisconsin's 7th Congressional District from 1969 to 2011. Congressman Obey delivered the 2008 Robert W. Kastenmeier Lecture, entitled “Economic Injustice.” This piece is an edited transcript of remarks delivered by the author at a memorial service held in Madison, Wisconsin, honoring the life and work of Congressman Kastenmeier.

I did not meet Bob until the next election in 1960 when I got a phone call from his campaign telling me that Bob was going to be shaking hands with shoppers at Kohl's grocery store on East Washington. As I passed out his literature, I watched him reach out at the last possible second to grab the hands of people going into the store. It was clear he was hugely shy, and I thought to myself, "This guy needs help."

I had no idea that within nine years I would be a colleague of Bob's in Congress along with Prox, Gaylord, Zablocki, and Reuss. When I entered Congress in 1969, Bob and Gaylord were my mentors. They didn't just share the same philosophy. They consistently got to the heart of things, zeroing in on fundamentals.

Whether the issue was war, civil liberties, or economic justice, Bob's demeanor was restrained, but his determination was dogged. He was the conscience of the state's delegation.

Example: As a student, I despised HUAC (the House Un-American Activities Committee). As a graduate student, I had received a National Defense Education Act three-year full-boat fellowship to study Soviet politics. The Act required that I sign a loyalty oath. When I discovered that, I first decided to turn down the fellowship because I thought loyalty oaths were insulting, but Professor Ralph Huitt talked me out of it. "Don't be a damn fool," he said. "Your best revenge is to get a good education."

At the same time, Gaylord, who was then Governor, found himself in the middle of a squabble over HUAC. Republican State Assembly leaders Paul Alfonsi and Curtis McKay were raising hell because Gaylord's secretary, Esther Kaplan, had circulated a petition calling for the abolition of HUAC. They were demanding that Gaylord fire Esther. Gaylord finally held a press conference and told the press that McKay was right. "I should have fired Esther," Gaylord said. "The least she could have done was to bring it to me so that I could have signed it first." I never dreamed that fifteen years later, I would be following the lead of Bob Kastenmeier and Bob Drinan adopting House procedures that put HUAC out of business.

I never expected to see this shy guy play a strategic role in bringing staff like Dick Cates and John Doar to the Judiciary Committee at the heart of the impeachment struggle and insisting that each charge be considered separately to educate the public on exactly why Richard Nixon was being impeached.

I doubt that Lyndon Johnson or anyone else expected this mild-mannered guy to hold the nation's first teach-in on Vietnam.

The most verbally ferocious liberal critic of Richard Nixon was Phil Burton of California. We had many disagreements about strategy

in opposing that war. To win those arguments, Phil often imitated a human bulldozer. The only liberal Phil never tried to push around was Bob. Phil was intimidated by Bob's purity of purpose. Bob also had Phil's number at the poker table. One night Bob won enough from Phil to buy a \$500 TV set.

I will never forget the night he and I and several others met with Yassir Arafat in Jordan. I was the Chair of the Foreign Operations Subcommittee and led a Congressional delegation to the Middle East. Bob was a member of that delegation. So were Tom Petri of Wisconsin and Steny Hoyer, who later became Majority Leader. We met with Arafat about nine o'clock in the evening. I told Arafat that most of us in the delegation were interested in a two-state solution to the Arab-Israeli conflict under the right circumstances and asked him what he was willing to do to get one.

Instead of answering, Arafat droned on for twenty minutes about past insults and injuries. Suddenly, Bob interrupted and said to Arafat, "Sir, we have come one-third of the way around the world to talk about the future and to gauge what can be done to bring peace to the region. If, instead of talking about today's possibilities, you prefer to waste this time talking about a litany of past grievances, that is your prerogative, but I can make better use of time in my hotel room." Arafat looked at Bob, ended his filibuster, and got down to business. Bob has received some criticism from some supporters at home for meeting with Arafat, but if they had seen him that night, they would have been glad he was there.

Whether the issue was HUAC, war, or impeachment, Bob was a huge force for change. Bob Dylan's song "The Times They Are a-Changin'" was almost his theme song. That's why Peter Yarrow and I played it at Bob's Washington memorial last week. But he was not just a crusader for justice and peace. On issues such as copyright law, intellectual property, or agriculture, he was a true legislative craftsman. Through more than fifty-five years, I went from a feeling of awe toward him to a feeling of deep personal friendship. He was a wonderful human being.

From 1958 on, he and Gaylord were on the cutting edge of the movement that returned Wisconsin to its proud progressive LaFollette heritage. He has left a huge legacy. Simply put, there was nobody better.

* * *

ROBERT W. KASTENMEIER: ENDURING IMPRINT ON COPYRIGHT LAW

MARIA A. PALLANTE*

Robert W. Kastenmeier made an indelible imprint in the copyright world, introducing a variety of laws and overseeing hearings to better meet the challenges of the dynamic copyright law. As chairman of the House Judiciary Committee's Subcommittee on Courts, Intellectual Property, and the Administration of Justice¹ from the 1960s through 1991, Kastenmeier authored twenty-one laws amending the Copyright Act, and it is impossible not to be struck by the scale of his legislative influence.

Among these accomplishments, Representative Kastenmeier introduced two copyright laws that truly reshaped American copyright law, the Copyright Revision Act of 1976 and the Berne Convention Implementation Act of 1988. When Kastenmeier was first elected to Congress, he was not known for involvement in copyright matters. But, as fate would have it, he was asked in the early 1960s to chair a series of hearings on possible revisions to the 1909 Copyright Act, which ultimately led to the passage of the 1976 Copyright Act. The revision process had actually begun in 1955, when Congress authorized the Copyright Office to undertake a series of studies on copyright as it stood under the 1909 Copyright Act. When Kastenmeier chaired the

* As United States Register of Copyrights, Maria A. Pallante directs the legal, policy, and business activities of the United States Copyright Office. The Copyright Office administers important provisions of Title 17, including the nation's copyright registration and recordation systems and certain statutory licenses. The Register and her staff lead public discussions in the field of copyright law, act as principle advisors to the Congress on matters of domestic and international copyright policy, and support a variety of intellectual property efforts across the U.S. government, including appellate litigation, trade negotiations, and treaty implementations. Ms. Pallante assumed her duties on June 1, 2011, after serving five months as Acting Register.

1. Today, the Subcommittee goes by the name "Courts, Intellectual Property, and the Internet." During Representative Kastenmeier's tenure as Chairman, the name was changed from "Courts, Civil Liberties, and the Administration of Justice" to "Courts, Intellectual Property, and the Administration of Justice," reflecting, in his own words, "the legislative importance of copyrights, patents, trademarks and semiconductor mask works to our society." Robert W. Kastenmeier, *The 1989 Horace S. Manges Lecture—"Copyright in an Era of Technological Change: A Political Perspective,"* 14 COLUM.-VLA J. L. & ARTS 1, 1 (1989).

first hearings in 1965, he already had a substantial body of material to work from. But attempts at revising the outdated 1909 Copyright Act had failed before, and so when Kastenmeier chaired twenty-two days of hearings in 1965, it was not clear at the time that those hearings would lead to a major piece of legislation. Kastenmeier's leadership did much to facilitate the ultimate passage of the Copyright Act of 1976. Later reflecting on the efforts leading up to the 1976 Act, Kastenmeier noted that "[s]uccessful enactment of the 1976 Act manifested a strong congressional feeling that substantive reforms should be enacted only after hearing and accommodating the views, of all interest groups with a substantial stake in the outcome."² It was largely due to Kastenmeier's abilities as a politician—as a listener, observer, and dealmaker—that the groundwork the Copyright Office laid through its studies ultimately led to the most significant overhaul of the nation's copyright laws in the twentieth century and the passage of the 1976 Copyright Act.

The Berne Convention Implementation Act also highlights Kastenmeier's impact on copyright law. The Berne Convention is the preeminent international copyright treaty, which was first adopted in 1886. Despite being a world leader on the copyright scene, the United States had not joined the treaty even a hundred years later. The cost of inadherence was not lost on Representative Kastenmeier. Opening what was the first House hearing on Berne implementing legislation since 1936, Kastenmeier explained the stakes: most of the industrialized world adhered to the Convention, and with ongoing debates surrounding trade in the background, "U.S. adherence to the Berne Convention is potentially the most important intellectual property issue to be considered by the 100th Congress."³ The goal of adherence was not without its critics, however. Some witnesses at the hearings expressed concerns about changes that might be required in the U.S. Copyright Act. The genius of Kastenmeier's approach to this issue, as then-Register of Copyrights Ralph Oman later explained, was in his minimalist approach. Through two days of foreign consultations with the World Intellectual Property Organization (which oversees the Berne Convention and many other intellectual property treaties), Kastenmeier and the Subcommittee learned that the requirements of membership

2. *Id.* at 7.

3. *Berne Convention Implementation Act of 1987: Hearing on H.R. 1623 Before the Subcomm. on Courts, Civil Liberties & the Admin. of Justice*, 100th Cong. 1 (1987) (statement of Rep. Robert W. Kastenmeier, Chairman, Subcomm. on Courts, Civil Liberties & the Admin. of Justice).

were really fairly low. By pushing only what was truly necessary, Kastenmeier was able to address domestic opposition, which otherwise would have overwhelmed the first effort in over fifty years to bring the United States into the Berne Convention. Thus, in 1988, Congress finally passed a law to implement the treaty in the United States.

Last year, I had the pleasure of communicating with Mr. Kastenmeier briefly, through his trusted friend and former legislative counsel, Mike Remington. I thanked him for his principled leadership as Chairman and for a copyright legacy that is still respected and admired forty years later. Before he died, Mr. Kastenmeier sent me his personal copy of the 1965 Copyright Law Revision hearings, which occupies a prominent place near my desk. As my staff and I support the Congress in its first comprehensive review of our nation's copyright laws in nearly forty years, the gift serves as inspiration. We would do well to follow his example as we consider what the nation needs in a twenty-first century Copyright Act, and how we ought to bring about those changes.

* * *

REMARKS AT KASTENMEIER MEMORIAL EVENT

MARK POCAN*

Dave, thank you. I'm Mark Pocan and I'm representing Bob Kastenmeier's seat in Congress and I'm really honored to be here to pay tribute to someone who has helped to launch so many of our interests and careers in government: Bob Kastenmeier. I came to Madison in the fall of 1982 to be a freshman in college. The first federal race I worked on was that of Bob Kastenmeier as a rank-and-file volunteer, and I also worked on Governor Tony Earl's race. In fact, as young Democrats, we came up with a drinking game we named "Tony Earl" because it was a little easier to say "Tony Earl" before taking a drink than "Bob Kastenmeier."

Bob really made you want to go out and work for him. His views, his values—his liberal values, even at times when the district wasn't as liberal as Bob was—always drove our admiration for him. So often when you support a candidate for public office, you may agree with them on so many issues, and others you sometimes hold your nose up and support the person. Well that was never true of Bob Kastenmeier. You knew he didn't take a poll every time he took a position, he didn't put his finger in the air to find out what he thought, but his values were at his core and that's what made so many of us respect him so very much. And it was those views over the years, whether it be his opposition to the Vietnam War or for that matter to almost any war, and his general liberal views mixed with his very pragmatic approach and expertise on some not-so-sexy issues, things like intellectual property and copyright law, federal courts, and more.

You know, after I graduated college I opened a business shortly thereafter here in Madison, and I was twenty-three years old, and I remember a fundraiser for Bob where they had an auction and they had a giant Ms. Pac-Man game, and I remember winning that auction, and I had that in my apartment for a number of years where I had fundraisers for a number of progressive candidates. To this day when I see a Ms. Pac-Man game I think of Bob. Maybe it's the military-industrial

* Mark Pocan was sworn in as the United States Representative for Wisconsin's 2nd Congressional District in 2013 following fourteen years in the Wisconsin State Assembly. This piece is an edited transcript of remarks delivered by the author at a memorial service held in Madison, Wisconsin, honoring the life and work of Congressman Kastenmeier.

complex eating up those tax dollars or something but it still reminds me of that campaign.

After he served and left office he continued his passion for the law and for politics when the UW Law School started a series of lectures on issues that were important to Bob and to the nation. And I remember attending several of them, one specifically on criminal justice reform. And if you think about it, had we listened to what Bob was trying to do at the time with criminal justice reform we probably wouldn't be where we are as a nation with incarceration and the societal problems that surround incarceration issues. In fact, today we're finally raising the issues that Bob had brought up so many years ago.

This week on the Congressional floor I was able to enter some comments onto the Congressional Record to help honor this man we all respect so much. If I could just read one paragraph of that, it said:

Bob was a leading voice for civil rights and civil liberties, an advocate for peace, and a leader in Congress during his 32 years as a U.S. Representative. He will always be remembered as one of Wisconsin's greatest legislators—among the likes of Bob LaFollette, Gaylord Nelson, and William Proxmire.¹

I'm just proud to have had the chance to get to know him a little through the campaigns at that time, his work, and his legacy. I think the same would be true of Senator Baldwin who today his legacy still lives on, in many ways the work that we do; always cognizant that the seat we hold was once held by a liberal stalwart like Bob Kastenmeier. And listening to Dave Obey when he talked about the poker games, I can also assure you we've kept some other aspects of Bob's life in place. Although these days it's strictly for matchsticks. That sound credible enough? Alright, good. So to his family and close friends, we thank you so much for sharing him with all of us and please know his work continues in many of us who still represent him in other ways. Thank you.

1. 114 CONG. REC. E604 (daily ed. Apr. 28, 2015) (statement of Hon. Pocan).

**ROBERT W. (BOB) KASTENMEIER: PUBLIC SERVANT,
CONSCIENCE OF CONGRESS, FRIEND OF THE
COURTS, INTELLECTUAL PROPERTY SPECIALIST**

MICHAEL J. REMINGTON*

Writing a tribute to Bob Kastenmeier is a labor of love. Bob was my Congressman in Madison, Wisconsin, where I grew up in the shadow of the University of Wisconsin–Madison and its eminent Law School, where my father taught for almost four decades. During Bob’s Congressional service and thereafter, Bob and his wonderful wife, Dorothy, were my neighbors in Arlington, Virginia. In my capacity as a counsel to the House Committee on the Judiciary, I had the good fortune to learn under his patient tutelage for almost fourteen years. He was my boss and mentor. Most importantly, we became family.

Bob served with distinction in the U.S. House of Representatives for thirty-two uninterrupted years (1959–91). For most of his tenure, he chaired a Judiciary Committee subcommittee, which had expansive jurisdiction over courts, the administration of justice, civil liberties, corrections, and intellectual property (patents, copyrights, and trademarks).

Bob was a public servant his entire working life. Even in retirement, he devoted himself to numerous justice-system causes without remuneration. He could have parlayed his position of power and knowledge base into a lucrative government affairs (lobbying) practice or become a paid consultant. He had something to sell. Instead, he bristled at the thought.

When Bob talked, people listened. Bob was an uncommon politician, humble, shy, with a brilliant legal mind totally committed to the rule of law. He believed that when he vocally held forth, he would not learn anything. He was a listener, not a talker. But when he did talk, people listened. Above all, he was modest. He instructed staff not

* Michael J. Remington is a practicing lawyer in the law firm of Drinker Biddle & Reath LLP (Washington, D.C., office). He has served as a member of the Kastenmeier Lecture Fund at the University of Wisconsin Law School since the fund was created in 1991. For twelve years he served as Counsel to the House Judiciary Committee’s Subcommittee on Courts, Civil Liberties, and the Administration of Justice that Kastenmeier chaired, and for two years as Executive Director of a National Commission on Judicial Discipline and Removal created by Congress to study judicial misconduct, also chaired by Kastenmeier.

to brag about his accomplishments and routinely avoided Presidential signing ceremonies for bills that he authored. He even turned down an invitation from President Ronald Reagan to attend a signing ceremony (in Los Angeles), with transportation on an Air Force plane, for one of Bob's important bills—the Berne (Copyright) Convention Implementation Act. When Secretary of State George Schultz later asked Bob to hand-deliver and present the U.S. treaty ratification papers to the World Intellectual Property Organization in Geneva, Switzerland, Bob turned down the invitation. Bob bestowed an honor by asking me to participate in the deliverance of the treaty with the Honorable Hamilton Fish, the then-ranking Republican member of the House Judiciary Committee. Bob was bipartisan on these matters.

Bob was dedicated to the rule of law and the role of courts. After graduating from the University of Wisconsin Law School in 1952, Bob practiced law in Watertown, Wisconsin. He was elected Justice of the Peace for Jefferson and Dodge counties in 1955 and served until 1959 when he was elected to the House.

Bob never forgot his early judicial experiences of dispensing justice to ordinary people. He understood the role of the judge and empathized with litigants, especially those who lacked access to justice or were mistreated. He sponsored (and saw enacted into law) a broad array of judicial reforms that promoted the effective administration of the federal courts. In the apt words of the Honorable Barbara Crabb, Bob “did as much as anyone in Congress has ever done to help the courts function effectively.”¹ Bob not only supported the “independence of the judiciary, he worked to make it accountable to its constitutional responsibilities.”² Bob earned the respect of both the federal and state courts. He enjoyed a mutual admiration with both Chief Justice William H. Rehnquist and Chief Justice Warren E. Burger. Bob was the proud, albeit modest, recipient of the Warren E. Burger Award, and Chief Justice Rehnquist gave the inaugural Kastenmeier Lecture at the Law School.³ As native sons of Wisconsin, Rehnquist and Kastenmeier played tennis together and discussed the best country roads to take their mothers on weekend drives.

1. Barbara B. Crabb, *Bridging the Divide Between Congress and the Courts*, 2012 WIS. L. REV. 871, 872. Judge Crabb delivered the Robert W. Kastenmeier Lecture on September 16, 2011. *See id.*

2. *Id.*

3. *See* Chief Justice William H. Rehnquist, *Seen in a Glass Darkly: The Future of the Federal Courts*, 1993 WIS. L. REV. 1. Chief Justice Rehnquist delivered the Robert W. Kastenmeier Lecture on September 15, 1992. *See id.*

Bob's legislative accomplishments span civil and human rights to national security to big business interests. Make no mistake about it: Bob Kastenmeier was a civil libertarian and a strong proponent of civil and human rights. He required his counsels to visit (go within the walls) of correctional facilities, including the country's most notorious prisons: Atlanta, Leavenworth, McNeil Island, Marion. Our young hearts pounded as we signed waiver forms to walk among the inmate population. Law school had not prepared many of us to lunch in the prison mess and for the numerous letters that reached our desks from prisoners upon our return to the halls of Congress.⁴ Bob molded us into better public servants.

It was not lost on Bob that the legislative branch is the First Branch of government. He took seriously the lesson of eminent legal historian and UW Law Professor Willard Hurst, who taught that the role of law is to re-channel societal changes that arise outside of the law. Bob understood and embraced the Wisconsin Idea and law in action.

Bob Kastenmeier's legislative interests and accomplishments are too long to enumerate. They span improvements to the administration of justice; civil liberties and human rights; intellectual property; criminal justice; privacy; national security wiretapping; freedom of the press; corrections, probation, and parole; legal services for the poor; public defenders; international peace, anti-war, and international treaty negotiations; technological change and the law; and accountability of public officials, including the impeachments of President Richard M. Nixon and Judge Harry Claiborne.

Bob Kastenmeier's style was deliberate, evenhanded, and merciful. Yet, instructive as are express compliments and palpable accomplishments, they still fail to reveal the essence of a man. In my view, what distinguishes Bob Kastenmeier was his commitment to several core principles—balance, thoughtfulness, and fairness—which, in combination, contributed to the effectuation of a solid substantive work-product.

Democracy is a matter of principles, not just procedures and rules. Bob had a great deal of empathy for the downtrodden, oppressed, and disenfranchised. He opposed the death penalty, worked to promote legal services for the poor, was a pacifist at heart, and had grave doubts about the national security apparatus. He thought that the Presidential pardon power should be exercised more effectively. He believed in

4. The Frank J. Remington Center (named after my father) did not exist at the time.

justice. During his entire life, Bob recognized that “we all need mercy, we all need justice, and—perhaps—we all need some measure of unmerited grace.”⁵

Bob Kastenmeier leaves no greater legacy than his example. I personally have nothing but deep gratitude and affection for Bob. I commend the *Wisconsin Law Review* for enshrining his legacy and the University of Wisconsin Law School for its effective administration of the Kastenmeier Lecture series.

5. BRYAN STEVENSON, *JUST MERCY: A STORY OF JUSTICE AND REDEMPTION* 18 (2014). Bryan Stevenson gave the 2014 Kastenmeier Lecture on October 31, 2014.

A TRIBUTE TO MY GOOD FRIEND, BOB KASTENMEIER

FRED A. RISSER*

Bob Kastenmeier has to be one of the finest persons Wisconsin has ever sent to Congress. He was vehemently opposed to the Vietnam War and made outstanding contributions to civil rights.

Some of my fondest memories of Bob Kastenmeier are memories of campaigning with him. We started our political careers together back in 1956. It was Bob's first campaign for Congress and my first campaign for the Wisconsin State Assembly. Campaigning was a little different back then. There were no PACs and there were no super PACs. There were no computers, internet, cell phones, or social media. I don't remember there being any billionaires then either. Television was nowhere as significant as it is now and those who had sets could only get black-and-white images with often-uncertain reception. Radio was the principal medium. The candidates and their wives would knock on doors, shake hands, and meet as many people on a one-to-one basis as possible, and early mornings were often spent at factory gates greeting workers.

Bob lost his first campaign for Congress in 1956. At that time, the Second Congressional District was a solid Republican district and it had been for the past fifty years. Nineteen fifty-six turned out to be a Republican election year. Eisenhower was re-elected President, Republican Vernon Thompson was elected Governor, and the state re-elected Senator McCarthy as United States Senator. Bob lost his first election, but I won.

In 1958, I had no opposition for re-election, and I was the chairman of Bob's campaign committee for Congress. The political pendulum swung back and Democrat Gaylord Nelson won as Governor. The Wisconsin Assembly became democratic for the first time in many years, and Bob and I both won our elections. Bob won his next sixteen elections to Congress—for a total tenure of thirty-two years—and in the process converted what had been a solid Republican congressional district into a Democratic one.

* State Senator from the State of Wisconsin and longest-serving state legislator in the United States. This piece is an edited transcript of remarks delivered by the author at a memorial service held in Madison, Wisconsin, honoring the life and work of Congressman Kastenmeier.

In our 1962 elections things were not looking well for our campaigns. In the primaries the Republicans outpolled the Democrats four-to-one in Bob's Congressional district, and I was outpolled almost two-to-one in my campaign for the State Senate.

Bob and I were worried about those results, so we decided to reserve television time for the night before the election. We had no idea what to do on television, so we asked our wives to come along with us. Bob's wife, Dorothy, and my wife, Betty, joined us and, as the cameras started to roll, Bob and I started talking about good government. And the women talked about their good husbands. It worked. And we were both successful.

Bob was an early champion of civil rights. In 1964, Bob and I were both Democratic delegates to the National Democratic Convention. That year Bob was appointed to the Credentials Committee—the committee that looks over the credentials of disputed delegations and decides which delegations sit. President Johnson wanted the Mississippi delegation—which contained a group of segregationists—to be seated, but Bob, as a member of the Credentials Committee, led the fight against the segregationist delegation and they walked out of the convention. Bob fought for civil rights from the beginning and his civil rights record was outstanding.

I have fond memories of working with Bob and his campaigns. Bob was an excellent public servant and a wonderful friend. He's going to be greatly missed.

**REMARKS AT THE KASTENMEIER TRIBUTE IN
WASHINGTON, D.C., ON APRIL 29, 2015**

FRANK TUERKHEIMER*

Good morning. First, Barbara and I extend our condolences to Dorothy and the Kastenmeier family. We, too, are saddened by your loss but also appreciate how fortunate you were to share these many years with such a wonderful man.

While I have had much contact with Bob these last many years, mainly in connection with the Kastenmeier Lecture and our joint service on the National Commission on Judicial Discipline and Removal, I would like to talk about my first contact with him, now well over fifty years ago, because it sheds so much light on the kind of legislator he was.

It was the summer of 1963. I had just graduated from law school, taken the New York bar exam, and in the interval between the bar exam and the beginning of a judicial clerkship, I came to Washington on behalf of the Student Non-Violent Coordinating Committee, SNCC (pronounced “Snick”) with various assignments.

One of those assignments related to what would ordinarily be the dry subject of appeals from remand orders. When SNCC volunteers came to places in the South to register voters they were immediately hit with frivolous law suits which tied up their funds. Since what SNCC volunteers were doing involved an exercise of their First Amendment rights, their defenses raised federal questions and thus permitted removal from the hostile state courts to the federal judicial system. Unfortunately, federal district court judges in the South were not, as a general rule, receptive to Civil Rights groups as they were, essentially, appointed by Senators who were not sympathetic to the Civil Rights movement.¹ Thus, the judges regularly remanded the cases to the state courts. These remand decisions were not appealable to the far more

* Professor of Law Emeritus, University of Wisconsin Law School. Professor Tuerkheimer serves on the Planning Committee for the Robert W. Kastenmeier Lecture series. He has participated in a colloquium (1999) and delivered a lecture (2004) as part of the series. See Frank Tuerkheimer, *Bob Kastenmeier and 1960s Civil Rights Legislation: Leadership Through Commitment and Foresight*, 2005 WIS. L. REV. 947. This piece is an edited transcript of remarks delivered by the author at a memorial service held in Washington, D.C., honoring Congressman Kastenmeier.

1. Judge Frank Johnson, sitting in the Middle District of Alabama, was a notable exception.

favorable forum of the Fifth Circuit.² My legislative assignment was to try to get that changed.

On getting to Washington, I quickly learned that the best Civil Rights bill on the floor of the House of Representatives had been introduced by Bob Kastenmeier, a young representative from Wisconsin. (Bob was then at the beginning of his third term.) I called his office once I learned this, told the person answering the phone that I represented SNCC, was from New York (not wanting to create the misimpression I was a constituent), and that there was one small way in which the Congressman's bill could be strengthened. I was asked to wait a minute and, while waiting, figured I would get to see an aide to the Congressman in a week, at best. After all, I was representing the most radical of the civil rights groups and was not from Wisconsin. The person I spoke to came back to the phone and asked if I could see the Congressman that afternoon at three o'clock. Of course I said yes and was at his office at three o'clock.

I sat with Bob and one of his staffers and explained the problem SNCC encountered in its voting registration efforts and how those were compounded by the inability to appeal remand decisions. Bob asked me a few questions, I answered them, and then he said he would withdraw his bill and resubmit it with a provision making remand decisions appealable. He also suggested it would be a good idea to have a similar measure on the floor of the Senate and urged me to call the office of Senator Paul Douglas (an Illinois Democrat and one of the leading liberals in the Senate). He said I should wait about an hour.

An hour later I called Senator Douglas' office and was told the Senator would see me at nine o'clock the next morning. I saw him then and explained the problem. He too asked a few questions and then said he would get a bill making remand decisions appealable onto the floor of the Senate very quickly. The measure became law a year or so later. It was significant in facilitating the voter registration effort.

I doubt that anyone writing about the Civil Rights movement in the summer of 1963 would single out Bob Kastenmeier. Yet he was instrumental in obtaining the passage of important legislation to facilitate Black voter registration but without fanfare or self-promotion. As I have learned over the ensuing half century, this was so typical of Bob, succeeding in improving the justice system and thus making this country a better place, but quietly, rarely seeking or getting credit.

2. At the time, the Fifth Circuit embraced all of the Deep South, the present Fifth Circuit as well as the later created Eleventh Circuit (Florida, Georgia, Alabama, Mississippi, Louisiana, and Texas).

The nation is indeed fortunate that he was the Second District Congressman for thirty-two years.