

Testimony of Rep. Jim Cooper
Subcommittee on Courts and Competition
Judiciary Committee, U.S. House of Representatives

Sept. 29, 2010

Chairman Johnson, Ranking Member Coble, thank you for the opportunity to discuss how Congress is prioritizing new federal courthouses.

Every weekday federal judges render hundreds of life-altering decisions in federal courthouses all across America. These courtrooms and courthouses are essential to our system of justice. They must be able to handle the caseload, ensure fair trials, protect judges, juries, plaintiffs and defendants, and symbolize to the general public the strength and stability of American law.

Today there are questions as to whether our nation's courtrooms are being planned, built, and run in the best way possible. On one side of the debate, we have some Members of Congress and the Government Accountability Office (GAO) complaining about over-building courthouses, wasting taxpayer dollars, and running courts in an inefficient manner. Some are even suggesting that the federal courthouse construction program be stopped altogether until these perceived problems are resolved.

On the other we have a Federal Judiciary that disputes these findings quite vehemently. The Judiciary tells us that they have a careful, objective procedure by which they determine the needs of our local communities based upon a "rigorous and cost-conscious space planning process." They suggest that the GAO's recommendations were based on bad data. Furthermore, a moratorium on courtroom construction would harm the Judiciary, increase costs in the long run, and significantly impact day-to-day operations in our nation's courtrooms.

I think the Federal Judiciary has the better argument. The Judiciary has made great improvements in planning in recent years and their process is headed in the right direction. To halt all courthouse construction now would be a mistake with widespread repercussions.

Back in the mid-1990s, a new Middle District of Tennessee's Federal Courthouse first appeared on the Federal Judicial Conference's Five Year Plan for courtroom construction. My predecessor was told that the new courthouse would move up the list every year as 2-3 other problematic courthouses were replaced in states with even greater need. Nashville was willing to wait our turn.

Fifteen years later, Nashville should already have its new facility but instead we are still in the old building, the Kefauver Federal Building, a non-descript building built in the early

1950s. To say that the Kefauver Building has problems is an understatement. It is overcrowded, inadequate, unsound and unsafe. The building has serious water leakage and water damage problems: one judge must place towels on his windows every time it rains. The building also has serious heating and air conditioning issues: in the summer the courtrooms are filled with fans and in the winter the jurors wear coats. Of greater concern are the serious security issues that face everyone who uses the courthouse. Holding cells are inadequate and prisoners must be escorted in handcuffs and leg chains through multiple public corridors. This delays litigation and increases court costs. Jurors have sometimes seen these prisoners in the hallways, causing motions for new trials to be filed.

Despite all of these problems Nashville's situation is not the worst. Last year, the Judicial Conference determined that a new courthouse for Nashville was the sixth most pressing priority project. And that's last year, more than fifteen years since Middle Tennessee was first identified as a problem courthouse. Luckily, we are patient people, so we are happy to wait our turn. I only wish I could say the same for others.

Unfortunately, this is partly a legislative problem not a Judicial one, and we, the Congress, deserve plenty of the blame. Despite what the Judicial Conference tells us about communities with the greatest need, we legislators tend to have our own ideas about need. Members of Congress feel the pressure to deliver a new courthouse in their district, whether they really need one or not. That is not good government. In fact, it is government at its pork-barrelling worst.

After watching this same thing happen year after year, several Members decided to do something about it. Congressman Jo Bonner and I started the sixteen-Member Courthouse Caucus whose mission is to restore regularly scheduled funding for the construction of Federal Courthouses on the Judiciary's Five-Year Plan. If Courthouses are going to get funded, let's make sure it is those that are in the communities with greatest need.

The Courthouse Caucus has worked to educate Members about how the courtroom construction process should work, and I am pleased to report to that its efforts have so far made a difference. The omnibus appropriations bill signed into law in December 2009 contained funding for five courthouses that were on the Five-Year Plan. For the first time in over five years, courthouses that were of the most urgent need in their respective communities were awarded their badly needed funding. The Caucus spoke with one voice, and we finally got things right this year. That is good government.

Why halt a program that's finally on the right track? A moratorium is a short-sighted view that will harm the Judiciary and increase costs by delaying necessary construction. Especially at a time when we need more jobs, why not build courthouses where they are needed most?

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