



State of the Court

2003 Address of Chief Judge Kocoras

STATE OF THE COURT ADDRESS – APRIL 3, 2003

Good afternoon to you all. I want to thank Tom McQueen and the other officers of the Federal Bar Association for giving me this opportunity to address you. This State of the Court address is usually given by the Chief Judge sometime shortly after the first of the year, but some health matters intervened which caused this delay. But because of that delay, recent events which, in one way or another, affect the State of the Court, are deserving of my attention.

The first, and most obvious circumstance which did not exist early in the year, is the fact that our nation is at war. The consequences of our involvement, both at present and in the future, are diverse, complicated and, to a great degree, unknown. Irrespective of what opinions may be on the wisdom or propriety of the conduct of the war, I know everyone in this room is grateful for the opportunity to live in America and to enjoy the freedoms we have been blessed with. Patriotism knows no office, including a judicial one. But for judges, whether our wont is to cheer the actions of the other branches of government or to criticize them, it is our special obligation to maintain our neutrality, both actual and perceived, on issues that may come before us.

These are neither new duties nor new concepts just visited upon us, but because they involve actions which wrench our hearts and stir our souls, the necessity to honor the rule of law is all the more. As judges, we must be more vigilant than ever in our decision making endeavors lest the independence we so treasure is tarnished by the emotions of the day.

But it is not only judges who need to be sensitive to the special offices they hold, for lawyers have similar obligations. Sometimes we hear, as a common public refrain, that some who enjoy a middle Eastern ethnicity, or subscribe to the Islamic faith, can no longer secure their rights to fair and impartial justice. For officers of the

court to promulgate that belief, without a scientific or other basis in fact, is to bring discredit upon the Court. One of the geniuses of our justice system, whether criminal or civil, is the involvement of the common citizen in the adjudication of guilt or innocence or the determination of right or wrong. When officers of the Court condemn a jury system that has served us so well, without justification, they ill-serve their offices rather than enhance them. There is enough misinformation in the world without the leaders of our society contributing to it.

Because the Northern District of Illinois, my court, is an indivisible part of all of the federal courts in the United States, we here in Chicago are affected by two topics in Washington which, in reality, touch us all. Both of the subjects are familiar to you, the nomination of Miguel Estrada and the compensation of federal judges. I will not shed new light on either matter, and it is doubtful opinions already formed will be changed by anything I say. But I choose to address them because each is so important to the future of the federal judiciary that they are deserving of our additional attention.

It seemed not so long ago that the criteria believed to be necessary to a lifetime appointment as a United States Judge was intellectual distinction, demonstrated legal skills and achievement, and the personal qualities of fairness and integrity. Because we are a nation of laws and not of men or women, the personal views and philosophies of judicial candidates were not paramount. Rather, the fundamental question was whether the candidate, when their personal and professional life was measured, would be faithful to their office and not given to personal whim in the decision making process.

This is not unlike the issue which confronted John F. Kennedy when he was a candidate for President of the United States. As a devout Catholic, many Americans wondered whether the dictates of his religion would trump the command of his obligation to all American citizens should he be elected. John Kennedy put the religion issue to rest by acknowledging his foremost duty would be to his country.

Today, the religion issue has given way to the philosophy of government issue, and we see new litmus tests which must be passed by otherwise qualified people. We are not the better for it.

Just think of what our country might have lost if a judicial candidate named Frank Johnson, in order to be seated as a United States District Judge in the State of Alabama, had to commit to a philosophy of government that was popular in his state once upon a time. He never would have made it. Instead, the questions were of his integrity, character, legal skills, and whether he would be faithful to the Constitution and other federal laws. Those were the relevant tests, and Frank Johnson passed.

Judge Johnson applied the Constitution as fairly and impartially as can be imagined, and as courageously as any person before or since. His legacy was the validation of the Constitution in ways that uplifted us all and, by so doing, recognized the inherent equality of all people. That, I submit, should be the real test of worthiness to hold judicial office.

It is sometimes said that when you get two or more federal judges in a room, the first thing they want to do is to talk about judicial compensation. Up to now, I have always resisted the urge to add truth to the cliché. But now I have this platform to speak and, as I look around the room and see more than two judicial faces, I have decided to share my thoughts about that topic. I need to tell you right off that I have the best job in the world and, as a personal matter, I do not feel underpaid. I realize I make more money than most Americans do, and I count my blessings every time I cash my check. Honesty also compels me to tell you my wife and I raised and educated our three sons, mostly on our judicial salary, and none of us suffered from deprivation of any kind. So why am I addressing the level of judges' compensation?

Here's why. For better or worse, what we as a society are willing to pay for something is viewed as a measure of value for what we receive. When some practicing lawyers, two or three years out of law school, earn as much or more as federal judges, the judicial office is severely diminished by popular measure.

I am not only a proud member of the federal judiciary, I also happen to think that the commercial development of our nation, the individual freedoms we enjoy, and the general welfare we share has been, in no small measure, facilitated and advanced by federal judges throughout our country's history. Even today other countries send their own judges and court officials to America to meet our people, study our systems and procedures, and see how we do it. That our justice system is so worthy of emulation speaks so eloquently of its contribution to the successful governance of America and its citizens. Anything that diminishes the respect and value accorded to our work will, in the end, make our results less honored and reduce our faith in government. And that, quite simply, is why our salaries should be increased.

Now that I have addressed a major world event, in addition to giving guidance to Washington, D.C. in the conduct of their affairs, you may welcome a return to the more traditional matters treated by these State of the Court addresses. I will treat, more lightly than usual, the statistical analysis of our court's performance. For one thing, a whole bunch of numbers sometimes make my eyes glaze over and for another, I know first-hand our Court is busier than ever.

We do have a hand-out which, for my purposes, covers the most important points of information. One of the most notable tables involves federal criminal filings for the years 1997 through 2002. As the chart discloses, there were 1,483 felony defendants commenced last year. This is the highest total in the history of the Court, marking a criminal workload increase of 28% over calendar year 2001, and 90% more than the comparable statistic for 1997, when 776 felony defendants were commenced.

This substantial increase in criminal cases and defendants has put a strain on the system at many points along the way. We have too many defendants in custody for the space available, with some defendants being housed in outlying Illinois counties and others hundreds of miles away in the State of Wisconsin. Defense counsel will correctly tell you how difficult communication with clients has become,

how time consuming some visitations are, and how complicated the review of evidence can be, especially when language differences exist. The U.S. Marshal has to see to the movement of prisoners along with all of his other duties, including security issues which are now a regular feature of public life. The system is bursting at the seams, but our requests to Washington for people and money must compete with those of others, both within and without the justice system. Because substantial relief appears a long way off, we must operate more efficiently and effectively while taking care not to cheapen the meaning of due process of law.

Everybody's cooperation is vital to our work, and I would like to take a minute to thank those who have given it. The U. S. Marshal and his deputies are doing a great job, as are the Federal Defender panel and staff attorneys. Our Clerk's Office, Pretrial Services and Probation are also entitled to their due, and their efforts are greatly appreciated. I feel so fortunate that we have such good people involved at every level of the process. We are nowhere near close to collapse, but that does not mean we haven't been tested.

The civil caseload is also quite heavy. All told, 10,253 civil cases were filed in the District Court in 2002. This figure, though slightly lower than the 2001 total, remains significantly higher than civil filings during the past several years. When student loans and other U.S. contract cases are left out of the picture, 2002's civil filings mark the highest number of adjusted civil filings in the District Court's history.

Our tradition for closing civil cases much more quickly than the national average continues. The most recent period for which comparative figures are available is the one-year period ended September 30, 2002. The median disposition time for civil cases during this period was 5.5 months. The national average for the period was 8.7 months.

As a result of the civil and criminal workloads, I requested of the Judicial Conference, the federal judicial policy making group, approval to request of Congress

one additional authorized judgeship for our Court. The Judicial Conference agreed that our workload justified an additional judgeship and it will seek the creation of an additional temporary judgeship from Congress.

As you may know, our Court has two vacancies at present. Senator Fitzgerald, with the concurrence of Senator Durbin, recommended to the White House the appointment of Sam Der-Yeghiayan and Mark Filip. Sam has been nominated and is now going through the appointment process. To my knowledge, Mark has not yet been nominated. Both of these men are known to me; they are excellent lawyers and wonderful people, and I applaud their selections.

It was my pleasure last year early in my tenure as Chief Judge to swear in Amy St. Eve. Amy is doing a wonderful job and I know she will become a great judge. The signs are there. I wish to publicly acknowledge and thank both Senator Peter Fitzgerald and Senator Richard Durbin for the attention they give to our vacancies and the mutuality of their efforts in filling them.

One of the ways we have been able to keep up with the increasing workload is with the assistance of our Magistrate Judges. They are a terrific group of judges and I don't know where we would be without them. If I were wearing a cap, I would tip it toward them. Last fall, I appointed Arlander Keys to an additional one year term as Presiding Magistrate Judge because he was doing a wonderful job and I was quite new in my own. Arlander is to be publicly commended for his leadership skills.

We also have a most able Bankruptcy Court under the leadership of Chief Bankruptcy Judge Gene Wedoff. Last summer, Gene was appointed to a four year non-renewable term. We have also enjoyed the recent appointments of three new bankruptcy judges, all of whom were selected by the Seventh Circuit Judicial Council in open competition. Our new judges, whom we welcome enthusiastically, are Pam Hollis, Ben Goldgar, and Jackie Cox.

In late 2002, the District Court began to prepare for the introduction of an electronic filing system that will allow attorneys to file documents with the court electronically over the internet. This system is being introduced in all district and bankruptcy courts. It offers many advantages for the bar, such as instant electronic notification of filings and court activity, the ability to file at any hour, on any day, and remote access to virtually the entire case file in an electronic form.

We plan to begin live operations later this year. Though we are still months away from live use of the new system, you can expect to see a steady flow of information about electronic filing later in the spring and summer.

Our Court continues to be a center for many educational, outreach, and recognition programs of various types throughout the year. Introducing younger people to the workings of the courthouse and the real operation of the law continue to be major initiatives. In many of these we are assisted greatly by your organization, the Federal Bar Association, and I wish to extend my public thank you for that. Whatever our needs or requests, you have always been accommodating and we like to work with you. On behalf of all the judges of the Northern District of Illinois, I thank you for all of your past support and look forward to the future with you.

Thank you very much.