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The Work of the Federal Courts

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Capital Leadership Program
Albany Law School
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The Work of the Federal Courts

I have always felt it to be an unfortunate fact that judges rarely speak outside the courtroom, except to lawyers. It seems to me that judges have a positive duty to communicate with the general citizenry about matters relating to the legal system and the administration of justice. I am therefore grateful for the opportunity to participate in this Capital Leadership Program on the workings of the legal system and to talk to you specifically about the work of the federal courts. You may be surprised by some of the things I am about to say, because there is a great deal of popular misconception regarding the work of the federal courts. My remarks will cover the structure of the courts, the types of cases we handle and some of the current problems we face in the federal court system. I will be happy to answer any questions you may have on these matters at the conclusion of my discussion. Also, any observations or comments you may wish to make at that time will be most welcome.

The principal trial courts in the federal judicial system are the United States District Courts. There are ninety-four district courts in the nation, staffed by five hundred seventy-five district court judges. There are about twice as many state court trial judges in the State of New York alone.

District court judges are appointed by the President with the advice and consent of the Senate and serve for life. After meeting certain age and service requirements, however, they may elect to take senior status, with a reduced caseload, or retire entirely from the federal judiciary. District court judges are called Article III judges based on Article III of the Constitution, which provides for a Supreme Court and such inferior courts as Congress may establish. A system of federal courts was established by the first Congress in 1789.

Here in Albany, we are within the jurisdiction of the United States District Court for the Northern District of New York, which encompasses thirty-two upstate counties reaching to the Canadian border. There are four judges and one senior judge in the Northern District, and they hold court in Syracuse, Binghamton and Auburn as well as in Albany. The senior judge and one active judge have their chambers in this city. There are three other districts in the state: the Western, covering the Rochester-Buffalo area; the Eastern, covering Brooklyn and Long Island; and the Southern, covering the southernmost counties of the state, including New York County. The Southern District is one of the largest in the nation, with twenty-seven active judges. By contrast, the entire State of Montana comprises one district, served by two district judges.

Adjunct to and within the district courts are the bankruptcy courts of the United States, which handle all proceedings related to bankruptcy matters. The Constitution vests in

Congress the exclusive power to enact laws on the subject of bankruptcy, and Congress has created the bankruptcy court to administer those laws. Bankruptcy judges, who are appointed by the courts of appeals, serve fixed terms and are not Article III judges, their tribunals having been established under a different constitutional provision. Also adjunct to the district courts are the United States magistrates, who handle the preliminary phases of certain federal criminal matters and perform other judicial duties delegated to them by the district courts. They serve for fixed terms by appointment of the district court judges and are not Article III judges either. There are two magistrates and two bankruptcy judges in the Northern District of New York.

Although the district courts are the principal trial courts in the federal court system, there are some specialized trial courts created by Congress to deal with specific areas of law. For example the Tax Court handles disputes between taxpayers and the Internal Revenue Service. The Claims Court has nationwide jurisdiction over certain claims against the United States. The Court of International Trade hears cases involving customs duties and conflicts arising under the Tariff Act. The Court of Military Appeals has the final word in court martials conducted by the military services. Of these, only the Court of International Trade has been designated as an Article III court, and its judges therefore hold life tenure.

The federal court system is basically a three-tiered structure, with the district courts on the first level, the

courts of appeal on the second level and the Supreme Court on the third level. The great bulk of federal cases enter at the district court level, and it is the type of cases initially heard on this level that I will be discussing in a little while.

Appeals from the district courts go to the United States Courts of Appeals. The nation is divided into eleven numbered circuits, each consisting of three or more states, and there is a court of appeals for each circuit. I am a member of the United States Court of Appeals for the Second Circuit. My court sits in New York City, where we hear appeals from the decisions of all the district courts in the States of New York, Connecticut and Vermont. We also hear appeals from certain decisions of the Tax Court and from the orders of certain administrative agencies such as the National Labor Relations Board. Judge Anthony Kennedy, the present nominee to the United States Supreme Court, is a member of the Court of Appeals for the Ninth Circuit, whose jurisdiction extends over his native state of California and eight other states in the far west, including Alaska and Hawaii. There are two courts of appeals in addition to those covering the eleven numbered circuits. One is the Court of Appeals for the District of Columbia, which hears appeals from the district courts sitting in Washington, D.C. and appeals from certain administrative agencies as well. Because of its location in the Nation's capital, the D.C. Circuit Court is heavily involved with appeals from government agencies and with cases affecting the operations of government. The Court of Appeals for the Federal

Circuit is a specialized appeals court with nationwide jurisdiction. It sits in Washington, D.C. and hears appeals from decisions of the Claims Court, the Court of International Trade and from District Court decisions in patent cases. In the entire nation there are one hundred sixty-eight of us who are privileged to serve as active judges on the courts of appeals. We are life-tenured by virtue of our appointment by the President and confirmation by the Senate of the United States.

At the apex of the federal court structure stands the United States Supreme Court, the only federal court actually provided for specifically in the Constitution. Despite the constitutional provision, there are many things about the Court that the Framers of the Constitution left to Congress, including the number of members to serve on the Court. Presently, of course, there are nine, but it was not always so. The Constitution provides that the Supreme Court shall have original jurisdiction of disputes between states and in cases involving ambassadors in addition to appellate jurisdiction as assigned by Congress. As a practical matter, and largely as a result of congressional legislation, the great bulk of Supreme Court cases today consists of discretionary appeals. The Supreme Court decides which appeals it wishes to hear. Out of approximately five thousand certiorari petitions or requests to exercise discretionary review, the Court each year accepts about one hundred and fifty cases for full review. These cases come from the circuit courts of appeals in federal cases as well as from the highest state courts, whose decisions on federal

constitutional issues are reviewable by the Supreme Court. Only a very small number of cases decided by my court each year find their way on to the docket of the Supreme Court. For all intents and purposes, the decisions of the United States Courts of Appeals are final in the vast majority of the cases they hear. A persons who vows to pursue a case "all the way to the Supreme Court" faces overwhelming odds against the accomplishment of that purpose. What impels the Supreme Court to grant certiorari and accept a case for review? Only the justices of that Court know for sure, but cases involving important constitutional issues, matters of great public concern, and conflicts in the decisions of the circuit courts are good candidates for consideration by our highest court.

It seems to be the common understanding that all the cases that enter the federal court structure at the district court level involve matters of important constitutional significance. Nothing could be further from the truth. On the civil side, approximately twenty percent of district court caseloads consists of cases based on diversity of citizenship jurisdiction. These cases are governed entirely by state law and could be fully litigated in the state courts. The only reason they find their way into the federal court structure is because the parties are citizens of different states. An ordinary automobile collision case, for example, could be tried in the Federal District Court in Albany if one of the drivers resided in Albany and the other in Boston, Massachusetts. Of course, the case could also be

tried in the New York courts, and sometimes lawsuits arising out of an accident are commenced in both courts. As a district court judge, I once tried a dogbite case. The case was in federal court because the injured person and the dog owner were citizens of different states. The original reason for conferring diversity of citizenship jurisdiction on federal courts was the fear that state courts might be prejudiced in favor of the residents of their own states. I think that the reason no longer exists and that cases involving only issues of state law should be resolved in the states' courts.

Contrary to popular understanding, there are various types of cases involving federal law that can be heard by the state courts. These are cases that can be brought in district court under its federal question jurisdiction but are eligible for consideration in the state court as well. For example, actions to recover damages for the deprivation, under color of state law, of rights, privileges and immunities arising under the United States Constitution can be sued in either court system. There are numerous other instances of concurrent jurisdiction with regard to cases arising under federal law. Actions by railroad workers under the Federal Employers Liability Act; to enforce remedies provided by the Federal Water Pollution Control Act; by the United States to recover money damages or to enjoin activities adversely affecting its interests are just a few examples of lawsuits that can be pursued in either state or federal courts.

Of course, there are some types of cases that can be sued only in the district courts. Bankruptcy and admiralty proceedings, patent infringement cases, suits against the United States, actions under the federal antitrust laws and the National Labor Relations Act are some examples of matters subject to the exclusive jurisdiction of the federal courts. Even where federal legislation vests exclusive jurisdiction in the federal courts, however, a litigant may be able to attain the relief he or she seeks in a state court lawsuit under analogous state statutes. For example, many states have enacted laws that parallel federal law in the areas of employment discrimination, antitrust, and unfair business competition, to name just a few. On the criminal side, there are many, many types of federal offenses prosecuted in the district courts that could be prosecuted under state criminal codes in the states' courts. Federal offenses pertaining to the possession, sale and distribution of drugs, various kinds of criminal fraud, larcenies, bribery and official corruption, racketeering and extortion, among others, all have their counterparts in state law.

In the beginning, the federal courts had a very limited criminal jurisdiction, restricted mainly to offenses directly affecting the functions and operations of the national government. A significant expansion of that jurisdiction to cover crimes traditionally punished under state law began in the reconstruction period following the Civil War and still continues. Each year, Congress seems to exercise its constitutional power to

define offenses by adding more crimes to the Federal Criminal Code. Recently added crimes include damage to energy facilities, counterfeiting credit cards, destroying computer data and theft of livestock. Browsing through the federal criminal laws, I have found a statute making it a crime to capture, kill, steal or detain a carrier pigeon owned by the United States. There is another section making it a crime to issue a check in an amount less than one dollar with the intention to circulate it as money, whatever that means. Clearly, the federal criminal laws are in need of revision. They also are in need of pruning. Criminal prosecutions in the federal courts increased from 31,000+ to 40,000+ in the last four years. The number is still rising, and we are threatened with having the federal court system become one that deals only with criminal cases. Many of these matters could be handled in the state courts without difficulty. Federal criminal jurisdiction should be reserved for matters affecting clearly defined national interests.

The enforcement of federal civil rights by criminal prosecution is one area in which federal court jurisdiction must be maintained. I read to you from a news article in the New York Times of November 18, 1987:

One can only speculate why the district attorney and police force in a modern American city like Denver were unable to turn up the evidence developed by the FBI and United States Attorney. This case, and others like it, however, demonstrate the importance of the availability of the federal courts to protect civil rights when the states have failed. The guarantee of civil rights to all our citizens is the legacy of the constitutional amendments and legislation of the post-Civil War period, and the federal courts are needed just as much now as they were then to fulfill that legacy.