STATE OF THE JUDICIARY ADDRESS 2003

An Uncommon Portion of Fortitude

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Annual meeting of the Wisconsin Judicial Conference

October 15, 2003
Wisconsin Dells, Wisconsin

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Welcome to the Wisconsin Dells and to the 2003 Wisconsin Judicial Conference. Our thanks to the program chair, Judge Mac Davis of Waukesha County Circuit Court, as well as the conference program committee. The chair, the committee and the staff of the Office of Judicial Education have developed what promises to be an excellent conference.

I begin this state of the judiciary address, following tradition, by noting the changes that have occurred within our judicial family since our last conference.

We express our sadness at the passing of the following judges who served the people of the state of Wisconsin long and well:

Marianne "Teddy" Becker, Waukesha County
John Brady, Juneau County
John Buchen, Sheboygan County
William Moser, Court of Appeals, District I
Herbert Mueller, Winnebago County
James Rice, Monroe County
James Wilbershide, Racine County
And Ronni Jones, who also served the judicial branch and the people of Wisconsin in the Office of Judicial Education.

While there is sadness in losing colleagues there is also joy in welcoming new ones. In keeping with another tradition the new circuit court judges had breakfast this morning with the Supreme Court Justices. I ask each new judge to stand until all the names of the new judges are read. Our new circuit court judges are:

John Anderson, Bayfield County
James Babler, Barron County
David Borowski, Milwaukee County
Terence Bourke, Sheboygan County
Shelley Gaylord, Dane County
Charles Pollex, Adams County
Paul Reilly, Waukesha County
Dennis Schuh, Juneau County
Linda Van De Water, Waukesha County

In addition, our state's appellate courts welcomed new members. Justice Patience Drake Roggensack joined the Wisconsin Supreme Court, and Judge Paul Higginbotham joined the Court of Appeals in District IV.

Two hundred and sixteen years ago, a group of 55 men gathered in Philadelphia to build a framework for the great American experiment. They looked backward, examining the legacy that had been left them and learning what history had to teach. They looked forward, to the legacy that they hoped to leave. The debates were heated, as each delegate scrutinized every word in the constitution through the prism of his own experiences, interests and beliefs. And while their visions for the new nation were not identical, their shared commitment to a strong and independent nation carried them forward and informed their thinking as they hammered out a practical scheme of government.

Among the delegates was Alexander Hamilton, who was especially interested in establishing an independent judiciary. He was convinced that judges could preserve the constitution and protect the rights of individuals against the will of the government and against the will of the majority only if the judiciary was outside the control of the other two branches of government. He articulated his concern in Federalist #78, writing: "[I]t is easy to see that it would require an uncommon portion of fortitude in the judges to do their duty as faithful guardians of the Constitution, where legislative invasions of it had been instigated by the major voice of the community."

Perhaps because of his background, Hamilton clearly understood that the government would become too weak—or too strong—without a strong, independent judiciary to interpret the laws, decide controversies, and enforce individual rights.

The basic, underlying safeguard for judicial independence is popular support for the concept. We value judicial independence not because it protects lawyers and judges from accountability—which it should not—but because it protects the integrity of the judicial process for all persons—which it must. As individual judges and as an institution we must continue to uphold the enduring value of judicial independence and maintain public trust and confidence in the judicial system and popular support for judicial independence. I have no doubt we shall. Judicial independence is a legacy we shall leave.

Admittedly, to think about a legacy may be difficult at a time when we continue to endure budget reductions—budget reductions that force us to limit reserve judge usage, limit per diem court reporter availability, and hold positions vacant for extended periods of time. These budget reductions are straining an already under-funded judicial system. But it is because of, and not in spite of, these difficulties that I ask you to look ahead with my assurance that the Supreme Court remains committed to preserving the judicial system envisioned by the framers of our constitution without compromising the system's independence or integrity.

Martin Luther King Jr. said that "The ultimate measure of a man is not where he stands in moments of comfort and convenience, but where he stands at times of challenge and controversy." It may seem difficult to do more than just resolve the issues in that stack of cases in our chambers. As judges, we have awesome power over the lives of others as we decide each case. We do not take the cases lightly. Nevertheless we must remember that we are problem solvers, uniquely positioned to envision solutions and to institute change in the legal system where change is needed. Our work presents opportunities—great opportunities—to make a difference.

And there are judges and court staff in this room who are doing just that, every day. Their work is proof that it is indeed possible to make a difference. And the difference that each of us makes will be our legacy to the people of the state.

I have had occasion recently to study the legacies of a number of judges and justices who served in past centuries. As many of you know, our state Supreme Court is celebrating its 150th anniversary as a separate court this year and we have given presentations about our history in communities across the state. In developing these presentations, we look backward, to precedent, to learn from our history and to spot local connections that will add color and meaning. Likely as not, the audience reacts with surprise: even lifelong residents very often have no idea that the state Supreme Court has a connection to their community. And while that makes our speeches delightfully scintillating, it also is somewhat humbling to realize "how soon they forget."

Last month, Justice Ann Walsh Bradley was speaking in her hometown of Wausau, and she talked about another Wausau native: Marvin Rosenberry, who served on the Wisconsin Supreme Court—as a justice and as chief justice—from 1916 to 1950. And, with the exception of a couple of people who had heard of a local bed and breakfast called the Rosenberry Inn, the name did not ring a bell in his own hometown.

I point this out not to depress or antagonize, but to underscore that our legacies grow not from who we are, but from what we do. One-hundred-fifty years from now, very few people will remember any of us by name; just look at how few of us can name all of our nation's former presidents. Chester Arthur, Millard Fillmore, John Tyler, anyone?

Marvin Rosenberry was a man whom the *Wisconsin State Journal* described as "one of the most articulate spokesmen for democracy Wisconsin has ever seen [and] one of the finest examples." Thirty-four years on our state's high court. Twenty-nine years as chief justice, the longest-serving chief in our court's history. He participated in 11,000 cases and his opinions span 91 volumes of the Wisconsin Reports. Yet 45 years after his death, many if not most people in his own hometown had not heard of him. If you do a Google search on him, the computer immediately asks whether you might actually mean "Marvin Rosen*berg*." But let us view Justice Rosenberry from another angle. The name "Marvin Rosenberry" may have fallen off the public's radar screen, but the work that he did for the people of this state lives on in a profound way. It benefits us all. Consider this short list of his accomplishments:

- As president of the State Bar in 1926, he led an effort to provide continuing legal education seminars. Today we take for granted that lawyers—and judges, for that matter—need continuing professional training. But in the 1920s, bar meetings were largely social events.[1]

- As a justice, he authored the opinion that granted women the right to sue their husbands[2] and the opinion that overturned the law banning the sale of margarine in Wisconsin, protecting the nation's interest in commerce from local economic interests.[3] And his opinion in a case that has been called the "last great case of the Progressive Era" empowered administrative agencies to promulgate rules and regulations governing the state's industries.[4]

- He founded the United Way of Dane County and was its first president.

- He was an avid outdoorsman who helped to establish miles of hiking trails in northern Wisconsin.

Marvin Rosenberry is an inspiration. He led the court when the Court of Appeals (now 25 years old) did not exist, and handled a caseload that was more than double what we do now—without a law clerk. He was concerned about delays for the litigants and seldom granted requests for postponements—even though, I do not doubt, he himself could have used the extra time. So Chief Justice Rosenberry did, indeed, leave a legacy through his hard work and dedication to the law, to the Wisconsin people, and to the land. His work made a difference and through it, he lives on.

So where can each of us make a difference? How does each of us want to be remembered? Let us look at a few of the areas that challenge us now, explore some of the innovative solutions being tried around the state, and take a peek at the future—what it might look like and what we hope it will be, and what we can do to bridge the gap between the two. I shall share with you today some stories of hope and hard work and vision.

A Wide Array of Options: The Future of Criminal Justice

Nothing in the job of a judge requires a greater portion of fortitude than criminal sentencing. And Truth-in-Sentencing has made it even more difficult, for we no longer have the safety valve of the Parole Commission. Sentencing presents judges with opportunities to make a profound difference in people's lives and in the community's safety, but these opportunities are missed when a judge does not have the discretion to

[1] Ranney, Joseph: "Practicing Law in the Twentieth Century" *Wisconsin Lawyer*, Vol. 76, No. 4, April 2003
[2] Wait v. Pierce, 191 Wis. 202 (1926).
[3] Jelke v. Emery, 193 Wis. 311 (1927).
[4] State ex rel. Wisconsin Inspection Bureau v. Whitman, 196 Wis. 472 (1928).

craft a sentence that addresses the unique needs of each defendant, that considers the victim and the crime and that appropriately weighs the goals of rehabilitation, retribution, incapacitation, and deterrence. The people of Wisconsin elect us to make those tough calls, and I believe they recognize that judges must have discretion in order to make the best decisions possible in each case.

Consider two recent Milwaukee County cases, both of which came before the same judge, and both of which involved seven-time drunk drivers. In the first case, there was good evidence that the defendant was committed to turning his life around. He was making progress in a 12-step program. The judge determined that he and the community would be best served by probation with a one-year jail term that would afford the defendant a chance to continue his work on recovery.

In the second case, however, the seven-time drunk driver got the maximum prison sentence. Same judge, same charge, vastly different defendants. This defendant had done nothing to acknowledge his alcoholism and it was clear to the judge that the public needed to be protected from him.

Does this mean that any effort to promote uniform and proportional sentences is inappropriate? Of course not. Advisory sentencing guidelines are a valuable tool for judges, for the justice system, and for the public. We must do everything in our power to ensure that sentencing decisions are not influenced by extraneous factors such as race, gender, or the defendant's exercise of constitutional rights.

Wisconsin is filling prisons at an overwhelming pace. The U.S. Bureau of Justice Statistics reports that Wisconsin is exporting more prisoners to out-of-state facilities than most other states. Right now, there are more than 22,000 people behind bars in Wisconsin's prisons. That is double the number who were locked up in 1995,[5] and it includes a disporportionate number of African-American men. Many times, incarceration is needed. But we have seen the value of alternatives such as community based facilities and drug treatment court. The budget includes an earned release program within the Department of Corrections Drug Abuse Correctional Center. This program is designed to be another tool for the judiciary to provide certain offenders an incentive to participate in an intensive alcohol and drug treatment program. It is important that government be creative in establishing a wide array of sentencing options and that judges explore all options.

The new Wisconsin Sentencing Commission should promulgate guidelines that serve the interests of justice without boxing judges in. We worked diligently with the Department of Administration, the Department of Corrections, the legislature and the governor to remove language from the budget that may have moved toward mandatory guidelines.

Because of our efforts and those of others, the Sentencing Commission will have more time to formulate a meaningful report on guidelines, but resources are problematic.

[5] 1995: 10,551 inmates; 9/26/03: 22,100. Source: Wisconsin Dept. of Corrections (September 2002).

We are concerned that the Commission may not have adequate staff and will call upon CCAP for information that could require a substantial amount of work and additional funding.

Truth-in-Sentencing has introduced many new procedures, and we continue to adapt, for while we hold fast to the values that Alexander Hamilton articulated 216 years ago, we need to be comfortable with change.

Nowhere will we encounter change so profound as in the realm of scientific evidence. Seven years ago, the National Institute of Justice issued its watershed study of 28 cases where incarcerated individuals were exonerated through DNA evidence.[6] The publication of that study led then-Attorney General Janet Reno in 1998 to appoint the National Commission on the Future of DNA Evidence, which I have been privileged to chair. As part of its work, the commission has issued recommendations for handling postconviction requests for DNA testing. It is clear that courts will see increasing numbers of these requests as the technology grows more robust and the number of convicted felons in the DNA database expands.

DNA is an invaluable tool in the investigation and adjudication of criminal cases. Just this summer, a man who was convicted of a brutal sexual assault based upon the eyewitness testimony of the victim was released by a circuit court after 18 years of imprisonment. DNA testing on a piece of evidence exonerated him.

The increased use of DNA evidence will, however, present challenges that courts must be ready to face. DNA samples contain much more information about individuals than fingerprints. For example, DNA information left at a crime scene might be able to be used to "profile" a group of suspects for arrest, interrogation, and identification. The mass collection of DNA samples and the potential uses of the information they contain will present troubling legal questions. We as judges need to educate ourselves about the issues of constitutional rights, privacy rights and public safety that DNA presents.

Our judiciary and our society need judges who are willing to study these and the many other issues that arise where science and the law intersect. Very few of us went to law school because of our strong aptitude for math and science, but we must comprehend that science and technology have the potential to change drastically the way we do business—and that those changes may be good or bad. It will indeed take an uncommon portion of fortitude to work toward understanding these changes and to be part of shaping the future of our criminal justice system. A better criminal justice system should be our legacy.

A Better Future for Children and Families

[6] Connors, E. et al., *Convicted by Juries, Exonerated by Science: Case Studies in the Use of DNA Evidence to Establish Innocence After Trial*, National Institute of Justice Report (1996), online at http://www.ojp.usdoj.gov/nij/for96.htm.

For those of you who have the privilege and the immense responsibility of hearing cases involving children in need of protection or services (CHIPS), I am sure that you will agree that there is no more important legacy we can leave than to ensure that a child grows up in a safe and permanent home.

Let me tell you about a youngster who was faced with difficult circumstances as a child. He was born to a single mother on a tiny West Indian island called Nevis, and was just 13 when his mother died and he was left on his own. He went to work and was fortunate enough to work for a man who saw promise in him. The employer helped raise money for him to emigrate to New York with the hope that he would go to medical school and return to the island as a doctor. But that was not to be. The young man dropped out of college, joined the military, and, in his late 40s, was shot to death on a New Jersey street.

Now, he might sound like some of your cases. He might sound like a failure rather than an inspiration. But between his hardscrabble childhood and violent death, Alexander Hamilton changed the course of history by helping to join 13 separate and diverse colonies into a new nation called the United States of America and penning the Federalist papers.

Although children and families is an ever-evolving area of law that is often challenging and heart-breaking, we can never forget the pivotal role we play for the nearly 40,000 children who are reported to be maltreated in our state each year.[7] You, as judges, play a part in writing the history of a child's life by deciding whether it is appropriate for a child to be removed from his or her home and whether parental rights should be terminated.

The federal Adoption and Safe Families Act of 1997 (ASFA) established national standards for how CHIPS cases are handled. While we have always been focused on protecting children and acting in their best interests, the federal law requires that safety, permanence, and child and family well-being be measured to ensure that our good intentions yield positive results.

In November, we shall learn the results of the federal government's review of Wisconsin's performance in delivering child and family services. While our state's child protection system has many strengths, we know that there is room for improvement.

As we look to improve, we shall use as a guide the results of juvenile court improvement efforts in four other states. The federal government identified three factors in those programs that are key to successful reform efforts: (1) the presence of judicial leadership and collaboration among child welfare system participants; (2) the availability of timely information on how the court is currently managing and processing cases; and

[7] *Annual Report to the Governor and Legislature on Wisconsin Child Abuse and Neglect (Reporting Data for Calendar Years 2000 and 2001)*, Wisconsin Department of Health and Family Services, 2002.

(3) the availability of financial resources to initiate and sustain reform.[8] A judge who truly engages all the parties throughout the process and actively manages the movement of the case through the system can make all the difference for the child and the community.

Here is what judicial leadership and collaboration look like in a couple of our counties. In Kenosha County, judges, attorneys, and social services workers are working to increase the number of foster parents and adoptive resources available. They recently established a speakers' bureau that will send a team comprised of a judge, a guardian ad litem, and a current foster or adoptive parent to speak to community organizations, congregations and other groups in an effort to educate citizens about the foster care and adoption process and the community's need to find permanent homes for kids.

In Milwaukee County, Children's Court judges and attorneys developed a series of public service announcements entitled "A Place in Your Heart/A Place in Your Home" to recruit families for children with special needs. Before the first PSA even hit the airwaves, the publicity generated 50 phone calls from interested families. Also, Milwaukee recently was selected as one of 10 cities throughout the country to participate in a project of the Pew Foundation focusing on foster care financing and judicial leadership in child welfare issues and was just chosen to host the 2006 meeting of the National Association of Juvenile and Family Court Judges. There is no more important legacy than giving a child a safe and permanent home. A friend looked after Alexander Hamilton and enabled him to make a difference. The work of the people in Milwaukee and Kenosha will be paying dividends for many years to come.

Our Children's Court Improvement Program, a federal grant to improve state courts' handling of child abuse and neglect cases, has provided more than $1.5 million in federal funds since 1995 to provide training to judges and attorneys, assist locally designed, locally run projects that can be replicated in other jurisdictions, and enhance court operations through updates to standard court forms, the Juvenile Benchbook, and the Juvenile Procedures Manual. The grant has helped us to improve how we handle cases involving abused and neglected children. Our future efforts to improve the courts' handling of CHIPS cases through our Children's Court Improvement Program will be aimed at meeting the safety, permanence and well-being goals set forth in the Adoption and Safe Families Act. We shall continue to look for worthwhile efforts to fund, and so I encourage you to take this opportunity to consider what innovations you might institute to improve how your court serves children and families and to leave a legacy.

Our Changing Population

As we deal with the new challenges presented by changes in the criminal justice system, children and family law, and technology, so, too, will we continue to grapple with the now-familiar changing population.

[8] *Juvenile Courts: Reforms Aim to Better Serve Maltreated Children*, (GOA/HEHS-99-13), U.S. General Accounting Office, Washington, DC, January 1999. Available online at www.gao.gov.

A newly released population map compiled at the UW-Madison[9] tells a compelling story about who we are and where we live, and these demographic changes will be reflected in the work of our courts. Between 1990 and 2000, Wisconsin's fastest-growing counties, in terms of population, were: Calumet, Columbia, Oconto, Oneida, Marquette, Polk, St. Croix, Sauk, and Waushara.

The only county to lose population was Milwaukee, with a net out-migration of 123,000 non-Hispanic Caucasians offset somewhat by a growth in the Hispanic population of 25,000. Brown County experienced a 470 percent increase in its Hispanic population and, overall, Wisconsin saw its Hispanic and Hmong populations double between 1990 and 2000.

The resulting communications issues are, as you know, immense. Knowing that the interpreters themselves are well positioned to see problems and suggest solutions, we asked one court interpreter who regularly works in the Eighth Judicial District what she would like the trial judges to know. Here are a few of her suggestions:

- Try to talk slowly and cut down on the legalese. Less experienced interpreters may be too intimidated to stop you, and they may be missing things.

- Keep an eye out for ethics violations. The Supreme Court has adopted a Code of Ethics for Interpreters.[10] Make sure that you have a copy and share it.

- Make good use of the interpreter's time. The interpreter we spoke with sets up the defendants' AODA assessments with a phone call from the courthouse—a good idea that helps to ensure follow-through.

- And finally, encourage the interpreters who work in your court to go through our training program.

Over the past year, the Wisconsin Court Interpreter Program has trained 352 current and potential court interpreters who speak 17 languages. The court Web site will soon include a roster of trained interpreters who have attended the orientations, with information on their qualifications. We are also gearing up to offer oral certification exams in Spanish and Hmong, which will help ensure a high level of proficiency in our interpreters.

The Supreme Court sought increased funding for interpreter services as part of its state budget request, and the legislature provided a small amount of money for reimbursement to the counties for direct interpreter services for 2003-05. In addition, the court has secured a $250,000 federal grant that will allow the court interpreter program to run at full strength and to hire a full-time coordinator for two years.

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[9] Applied Population Laboratory, UW-Madison. Map distributed with 2003-04 Wisconsin Blue Book.
[10] SCR 63. Adopted July 2002.

Members of the court interpreter committee continue to present education programs to audiences of judges, court commissioners, victim-witness coordinators, district attorneys, defense attorneys, clerks of court, and refugee service providers, and they have worked with the criminal jury instructions and benchbook committees to improve the materials available. In addition, the Director's Office has developed a limited English proficiency (LEP) plan for the state court system in keeping with Title VI of the Civil Rights Act of 1964 and with guidance from the U.S. Department of Justice. The Committee of Chief Judges has reviewed the statewide plan and it will be distributed this month along with a template to help counties begin to assess their own court programs to see whether they are providing adequate language services.

This committee has done an astounding amount of work in its first four years. Certainly, the courts and the public will benefit from the committee's work now and for many years to come. The committee's legacy will be one we all hope to leave—ensuring equal justice for all people. The children of these new immigrants will tell their stories one day with all the hope and pride that I feel when I tell stories of my own immigrant parents who learned English on the streets of New York City and saw firsthand the value of education in evening classes for English as a second language.

Access to Justice

In 1935, when my parents were still adapting to their new country, a radio talk show called The Good Will Court came on the airwaves in New York City. The host was former newspaperman A.L. Alexander. He was about 60 years ahead of Judge Judy. He would hang around the local courts to recruit litigants who did not have lawyers to air their disputes on the show. Real judges listened to them and gave unofficial rulings.[11] It was a runaway sensation and soon families across the nation could tune it in at 8 o'clock on Sunday evenings. The lawyers were outraged. They did not want a radio show promoting self-representation. The American Bar Association and state bars launched a full-scale effort to take The Good Will Court off the air, and soon succeeded. The New York Court of Appeals banned lawyers and judges from appearing on the show, forcing its cancellation.

And so, as we look back at our history, we see that the public's appetite for law-related information and interest in self-representation is not new. For many years, people have come to court without lawyers and have rightfully expected justice.

But the number of self-represented litigants has exploded in the last few years. In 2002, 60 percent of Dane County family court cases were handled without lawyers on either side. That's up from 48 percent in 1999. Just 13 percent of the Dane County family cases in 2002 had lawyers on both sides. So the future is here, and we adapt in order to be able to conduct the business of the courts.

[11] New York judges Jonah J. Goldstein and Pelham St. George Bissell, who was president judge of the New York City Municipal Division, participated in the show. More than 40 judges, participating in pairs, are said to have taken part in *The Good Will Court* during its brief lifespan.

Across the state, much is being done. In the Tenth Judicial District, beginning in January, a set of court forms with plain-English instructions was made available in clerk of courts offices for a minimal fee. Lawyers from the 13 northwestern Wisconsin counties that comprise District Ten collaborated with the judges, court commissioners, clerks, court staff, Wisconsin Judicare, and the Legal Studies Department at the UW-Superior to develop the forms. The next steps include (1) implementation of a major public outreach effort to inform citizens of program services and available resources, and (2) development of standardized rules and procedures to improve the ease of court access for self-represented litigants.

On the other side of the state, Waukesha continues to lead the way in helping self represented litigants navigate the courts. The Waukesha County Family Court Self-Help Web Site, which complements the county's pro se assistance program, was named one of the nation's top ten court-related Web sites for 2003. It was selected from more than 900 contenders.

And in June 2003, we unveiled our new Self-Help Center on our Web site, wicourts.gov. The Center was developed by staff in the State Law Library and the Director of State Courts Office, and it will continue to grow and change to meet the needs of the users.

Judges, staff and lawyers in various counties have established creative programs to assist self-represented litigants. And much of this progress is attributable to the seeds planted by a volunteer committee staffed by John Voelker. These efforts will have an effect for generations to come.

Continuing the Conversation: State, Federal and Tribal Court Relations

When we talk about the past and the future, we often speak of the interaction between Wisconsin's state and tribal courts. We are showing steady progress in continuing the conversation among state, federal and tribal courts. Wisconsin's commitment to respecting Indian law is older than the state itself. The best-known early interaction with the tribal legal system is depicted in one of the four murals that hang in the Supreme Court Hearing Room. It was the trial of Chief Oshkosh of the Menominee tribe in 1830, 18 years before Wisconsin became a state. Chief Oshkosh was accused of killing a Pawnee Indian and was brought to trial before federal territorial judge James Duane Doty. It was the first time a jury was used in the Wisconsin territory. The jury found Chief Oshkosh guilty. Applying choice of law rules, Judge Doty ruled that territorial law would not be applied to the case. Instead, Judge Doty applies tribal law because Chief Oshkosh lived and acted under his people's legal system. Chief Oshkosh was acquitted.

We are working with the curators at Heritage Hill State Park in Green Bay and others to develop a reenactment of the trial with the descendants of Chief Oshkosh and

Judge Doty. It is an exciting project and represents another effort to improve communication between the court systems.

Also this year, the Wisconsin Tribal Judges Association met with judges from the Tenth Judicial District with great success. The Tenth District's protocols for handling cases involving state and tribal courts have become a national model. A grant proposal to fund meetings around the state has been developed, and we are working on a national conference of state, federal and tribal judges that I hope will be held in Wisconsin. It will be important over the next few years to build on the work of our State/Federal/Tribal Court Forum by promoting cooperation, respect, and communication among the tribal and state judges who share jurisdiction in increasing numbers of cases.

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I began by talking about the constitutional convention, Alexander Hamilton, and Marvin Rosenberry. Alexander Hamilton and Marvin Rosenberry became leaders in part because they dared to consider problems from new and different perspectives. They asked questions. They took risks. They knew, as Theodore Roosevelt said, that "the best thing you can do is the right thing, the next best thing is the wrong thing, and the worst thing you can do is [do] nothing."

I want to close with a quick update on my State of the Judiciary speeches. Some of you will recall that, in 1999, my State of the Judiciary address included an idea for a book I was going to write on leadership. The protagonists would be people of great courage, unafraid of hard work and willing to take risks. They would accomplish things that others might see as impossible, and their success would be feted at storied celebrations. I said, "This book may turn out to be a bestseller."

Well, suspiciously enough, soon after I gave that speech, a series of books with those very themes began popping up on bestseller lists across the world. I think anyone who has read the Harry Potter series would have to agree that the author J.K. Rowling has some explaining to do. Harry, Ron, Hermione, and, yes, even Neville Longbottom are thinly disguised Wisconsin judges, and who could miss that the seven professors—Dumbledore, Sprout, Snape, Flitwick, Lupin, Hagrid and McGonagal—are based on a certain appellate court? I am not bitter about her success. I merely wish to thank Ms. Rowling for showcasing, in her own creative way, the Wisconsin judiciary's uncommon portion of fortitude.

And I wish to remind her that I am just a phone call away should she need any suggestions for the next book. I am also available to all of you at (608) 266-1885. I welcome your ideas and your concerns.

Together, we can build on our legacy. We can perform breathtaking feats and everyday miracles—without the benefit of broomsticks and wands. Thank you all for being here. May we have a successful conference.