The original documents are located in Box 132, folder "May 3, 1974 - Speech, Dedication of the University of South Carolina Law Building, Columbia, SC" of the Gerald R. Ford Vice Presidential Papers at the Gerald R. Ford Presidential Library.

DEDICATION OF UNIVERSITY OF SOUTH CAROLINA LAW BUILDING, COLUMBIA, SOUTH CAROLINA, FRIDAY, MAY 3, 1974

I AM DELIGHTED TO ADDRESS THE LEGAL COMMUNITY OF SOUTH CAROLINA AND TO PARTICIPATE IN THE DEDICATION OF THE NEW LAW CENTER AT THE UNIVERSITY OF SOUTH CAROLINA.

Dear Foster!

Mr. West - John
Senator Thurmond - Strom
Hollings - Fritz
Ed Young - Corp.
Floyd Spence -
Gene Rostow - great teacher. Dept. of State Sec
Mendell Davis
Bryan Dorn
Jim Mann
Tom Kelly

Thanks

I hope Administration of Justice / Law & Order is not being delayed by my presence.

Bob Bork - Solicitor General

THE LAW CENTER WILL BRING TOGETHER, FOR THE FIRST TIME IN ANY LEGAL INSTITUTION IN THE UNITED STATES, SCHOOLS OF BASIC LEGAL EDUCATION, CONTINUING LEGAL EDUCATION, LAW AND EDUCATION, AND CRIMINAL JUSTICE. THE ECUMENICAL SPIRIT OF THE CENTER MUST BE INFECTIOUS BECAUSE I AM TOLD THAT THIS DEDICATION HAS ALSO BROUGHT TOGETHER, FOR THE FIRST TIME IN THE HISTORY OF SOUTH CAROLINA, YOUR TWO STATE BAR GROUPS.

MY EARLIEST CHILDHOOD AMBITION WAS TO ENTER THE LEGAL PROFESSION. AFTER GRADUATING FROM COLLEGE, I REFUSED SEVERAL OFFERS TO PLAY PROFESSIONAL FOOTBALL IN ORDER TO ATTEND LAW SCHOOL. BUT MY AMBITION IN THE LEGAL PROFESSION WAS NEVER REALIZED, ~~although~~ I DID PRACTICE LAW FOR SEVERAL YEARS IN GRAND RAPIDS, MICHIGAN, BEFORE GOING TO CONGRESS.

I suffered from 4 yrs Light School, later to prove my dedication

I might say parenthetically Detroit Lions + Bronko Nagurski were both products of Yale Law School. I can't vouch for the impact on the football

AS A MEMBER OF CONGRESS, I HELPED MAKE LAW. NOW I ASSIST IN THE EXECUTION OF THOSE LAWS AND ALSO PRESIDE OVER THE SENATE. BUT I STILL YEARN, EVERY NOW AND AGAIN, TO EXERCISE WHAT EDMUND BURKE CALLED "THE COLD NEUTRALITY OF AN IMPARTIAL JUDGE."

NOT BEING BOUND IN MY PRESENT POSITION BY THE DOCTRINE OF JUDICIAL RESTRAINT, LET ME SHARE WITH YOU SOME THOUGHTS REGARDING OUR PROFESSION. NO ONE NEEDS TO TELL US THAT THESE ARE DIFFICULT DAYS FOR THE LEGAL PROFESSION. OUR legal fraternity or INSTITUTIONS, LIKE MANY OTHER AMERICAN INSTITUTIONS TODAY, ARE UNDER UNPRECEDENTED ATTACK.

LAWYERS ARE ACCUSED OF CRIMES. PROSECUTORS AND POLICE ARE ACCUSED OF RUNNING ROUGHSHOD OVER INDIVIDUAL RIGHTS. AND THE COURTS ARE OFTEN CHARGED WITH AGGRAVATING THE CRIME PROBLEM THROUGH LENIENT SENTENCES AND ENDLESS BACKLOGS OF CASES.

WITH INCREASING FREQUENCY THE LEGISLATIVE AND EXECUTIVE BRANCHES OF THE BODY POLITIC SEEK TO HAVE HIGHLY EMOTIONAL ISSUES OF DOMESTIC POLICY SETTLED IN THE COURTS. THIS, TOO, HAS LED TO AN ENORMOUS INCREASE IN THE WORKLOAD OF THE COURTS AND INJECTED THE COURTS INTO AREAS OF SOCIAL POLICY WHICH THEY MAY NOT BE EQUIPPED TO SOLVE.

I AM OPTIMISTIC, HOWEVER, ABOUT THE INTEGRITY OF OUR CRIMINAL AND CIVIL JUSTICE SYSTEM. THAT IS UP TO THE VIGILANCE AND CHARACTER OF EACH AND EVERY ONE OF YOU. I AM MORE CONCERNED THAT WE HAVE A JUDICIAL SYSTEM CAPABLE OF EFFECTIVE PERFORMANCE IN OUR HIGHLY COMPLEX SOCIETY.

FELIX FRANKFURTER, AN ELOQUENT WRITER ON THE APPROPRIATE LIMITS OF JUDICIAL POWER, ONCE STATED IN A CASE SOME YEARS AGO:

"THE COURT'S AUTHORITY--POSSESSED OF NEITHER THE PURSE NOR THE SWORD--ULTIMATELY RESTS ON SUSTAINED PUBLIC CONFIDENCE IN ITS MORAL SANCTION. SUCH FEELING MUST BE NOURISHED BY THE COURT'S COMPLETE DETACHMENT, IN FACT AND IN APPEARANCE, FROM POLITICAL ENTANGLEMENTS AND BY ABSTENTION FROM INJECTING ITSELF INTO THE CLASH OF POLITICAL FORCES IN POLITICAL SETTLEMENTS."

I AGREE. THERE ARE SOME CONTROVERSIES WHICH SIMPLY DO NOT BELONG IN THE COURTS.

IN RECENT YEARS THE COURTS HAVE BECOME INVOLVED IN ADJUDICATING THE MOST EMOTIONAL AND DIFFICULT SOCIAL ISSUES IMAGINABLE. THE COURTS HAVE BEEN PROPELLED HEADLONG INTO SUCH HIGHLY-CHARGED SUBJECTS AS REAPPORTIONMENT, HOUSING, CIVIL RIGHTS, SCHOOL BUSSING, ECONOMIC CONTROLS, AND THE ENVIRONMENT. THIS TREND CONTINUES.

THE COURTS HAVE ALWAYS HAD NEW AND DIFFICULT PROBLEMS, BUT NEVER IN SUCH DIVERSITY AND PROFUSION. COURTS ARE BEING CALLED ON TO INTERPRET, CONSTRUE AND APPLY HUNDREDS OF STATUTES, SOME LOOSELY DRAWN IN TERMS OF DESIRABLE OBJECTIVES BUT WITHOUT THE TRADITIONAL STANDARDS AND GUIDELINES OF EARLIER DAYS.

THESE STATUTES CREATE IMPORTANT CLAIMS AND RIGHTS, AND OFTEN PRESENT GRAVE PROBLEMS AFFECTING THE FUNCTIONING OF STATE AND FEDERAL GOVERNMENTS. JUDGES CANNOT DISPOSE OF SUCH CASES BY DRAWING ON ESTABLISHED PRECEDENTS AND INDIVIDUAL EXPERIENCE. INCREASINGLY, CONSTITUTIONAL CLAIMS ARE ASSERTED THAT WOULD NOT HAVE BEEN CONCEIVED A FEW YEARS AGO.

THE SITUATION HAS BECOME ACUTE. OVER A YEAR AND HALF AGO, CHIEF JUSTICE BURGER SUGGESTED THAT IF WE ARE GOING TO HAVE AN ENVIRONMENTAL IMPACT STATEMENT FOR CONSTRUCTION PROJECTS, WE OUGHT TO REQUIRE A JUDICIAL IMPACT STATEMENT FOR LEGISLATION. MORE THAN PASSING THOUGHT SHOULD BE GIVEN TO SUCH AN IDEA.

ANOTHER CONCEPT WHICH DESERVES MORE SCRUTINY IS THAT OF VOLUNTARY ARBITRATION IN SMALLER CIVIL CASES. A TYPICAL PLAN PROVIDES FOR VOLUNTARY ARBITRATION IN MOST CASES WHERE THE CLAIM FOR DAMAGES IS LESS THAN $10,000. IN PHILADELPHIA, FOR EXAMPLE, APPROXIMATELY 80 PERCENT OF THE CASES FILED ARE DIVERTED TO ARBITRATION PANELS. ONLY 13 PERCENT OF THE ARBITRATION AWARDS ARE APPEALED.

THE NET RESULT IS THAT:

--PHILADELPHIA'S CIVIL CASE LOAD HAS BEEN CUT BY 70 PERCENT.

--THE WAITING TIME FOR ADJUDICATION OF CLAIMS HAS BEEN CUT FROM 44 MONTHS TO 17.

--THE ENTIRE CIVIL CASE LOAD FOR PHILADELPHIA IS NOW HANDLED BY SIX JUDGES AND 2,000 ARBITRATORS, REDUCING THE COST PER CASE FROM $700 TO $100.

IN MY VIEW IT IS THE RESPONSIBILITY OF THE BAR TO POINT OUT HOW WE CAN MAKE MORE INTELLIGENT AND DISCRIMINATING USE OF THE JUDICIAL PROCESS. IT WILL NOT DO FOR LAWYERS TO STAND ON THE SIDELINES AND CHEER FOR THE ADDED LEGAL BUSINESS EVERY TIME A COMPLEX NEW STATUTE IS PASSED. THE BAR MUST LEAD THE WAY IN PRESERVING A JUDICIAL SYSTEM CAPABLE OF MEETING THE ONEROUS DEMANDS PLACED UPON IT IN A FAIR AND HONORABLE WAY.

THE EFFECTIVENESS OF OUR LEGAL INSTITUTIONS IN DEALING WITH THE CRIME PROBLEM SHOULD ALSO BE OF GRAVE CONCERN TO ALL OF US. THE RATE OF SERIOUS REPORTED CRIME INCREASED FOR 17 YEARS IN A ROW UNTIL 1972. THAT YEAR IT DROPPED BY FOUR 4% PERCENT. NOW THE PRELIMINARY STATISTICS FOR 1973 SHOW THAT CRIME ROSE AGAIN, THIS TIME BY FIVE 5% PERCENT. HOWEVER, AS I WILL NOTE LATER, THERE IS SOME DOUBT RAISED BY [redacted] LAW ENFORCEMENT ASSISTANCE ADMINISTRATION STUDIES AS TO THE VALIDITY OF THE FIGURES FOR CRIME REPORTING IN SOME METROPOLITAN AREAS.

THE 1973 FIGURES HAVE SOMBER IMPLICATIONS FOR BOTH OUR SOCIETY AND FOR OUR CRIMINAL JUSTICE SYSTEM. AND IN ONE PARTICULAR AREA--PROSECUTIONS--IT IS READILY APPARENT THAT THERE IS A DIRECT RELATIONSHIP BETWEEN THE RISE IN REPORTED CRIMES AND THE GROWING LOAD OF CRIMINAL CASES.

FOR A MOMENT, I SHOULD LIKE TO DISCUSS TWO DIFFERENT PRE-TRIAL METHODS OF REDUCING THE ENORMOUS BACKLOG OF CASES IN THE CRIMINAL COURTS--PRETRIAL SCREENING AND DIVERSION. SCREENING IS THE DISCRETIONARY DECISION TO STOP, PRIOR TO TRIAL OR PLEA, ALL FORMAL PROCEEDINGS AGAINST A PERSON WHO HAS BECOME INVOLVED IN THE CRIMINAL JUSTICE SYSTEM. DIVERSION, ON THE OTHER HAND, INVOLVES A DECISION TO ENCOURAGE AN INDIVIDUAL TO PARTICIPATE IN SOME SPECIFIC PROGRAM OR ACTIVITY BY EXPRESS OR IMPLIED THREAT OF FURTHER FORMAL CRIMINAL PROSECUTION.

THE OBJECTIVE OF INTENSIVE PROSECUTOR SCREENING IS TO STOP PROCEEDINGS AGAINST PERSONS WHEN FURTHER ACTION ULTIMATELY WOULD BE FRUITLESS BECAUSE OF INSUFFICIENT EVIDENCE TO OBTAIN OR SUSTAIN A CONVICTION. EFFECTIVE ALLOCATION OF RESOURCES DICTATES THAT SCREENING FOR EVIDENCE INSUFFICIENCY BE DONE AS EARLY AND AS ACCURATELY AS POSSIBLE.

A PROSECUTOR'S SCREENING DECISION IS OBVIOUSLY IMPORTANT BECAUSE SOCIETY HAS A CLEAR INTEREST IN HAVING APPROPRIATE INDIVIDUALS SCREENED OUT OF, AS WELL AS INCLUDED IN, THE CRIMINAL JUSTICE SYSTEM. FAIRNESS TO THE INDIVIDUAL ALSO DICTATES THAT AS SOON AS IT IS DETERMINED THAT A PERSON COULD NOT BE CONVICTED, THAT HE BE FREED.

SCREENING IS OCCASIONALLY USED EVEN WHEN IT SEEMS LIKELY THAT A CONVICTION CAN BE OBTAINED. PRESECUTORS MAY WANT TO TRY MORE IMPORTANT CASES AND THUS SCREEN OUT CASES ACCORDING TO THEIR CURRENT CASE PRIORITIES. THIS TYPE OF SCREENING, IN MY VIEW, IS UNDESIRABLE.

IN OTHER CASES, OFFENDERS SHOULD BE DIVERTED INTO NON-CRIMINAL PROGRAMS BEFORE FORMAL TRIAL OR CONVICTION. SUCH DIVERSION IS APPROPRIATE WHEN THERE IS A SUBSTANTIAL LIKELIHOOD THAT CONVICTION COULD BE OBTAINED, AND THE BENEFITS TO SOCIETY FROM CHANNELING AN OFFENDER INTO AN AVAILABLE NON-CRIMINAL DIVERSION PROGRAM OUTWEIGH ANY HARM DONE TO SOCIETY BY ABANDONING CRIMINAL PROSECUTION.

THERE IS YET ANOTHER WAY TO LOOSEN THE LOGJAM IN OUR STATE AND LOCAL CRIMINAL COURTS. THAT IS DECRIMINALIZATION OF CERTAIN ACTIVITIES--THE "VICTIMLESS CRIMES." DRUNKENNESS, VAGRANCY, AND MINOR TRAFFIC VIOLATIONS, FOR EXAMPLE, ARE A CONSTANT SOURCE OF IRRITATION TO THE PUBLIC IN GENERAL AND THE CRIMINAL JUSTICE SYSTEM IN PARTICULAR.

THE CRIMINAL JUSTICE SYSTEM IS ILL-EQUIPPED TO DEAL WITH THESE OFFENSES, AND THEY PLACE A HEAVY BURDEN ON LAW ENFORCEMENT RESOURCES. AS AN ILLUSTRATION, TRAFFIC VIOLATIONS CURRENTLY CONSTITUTE 80 TO 90 PERCENT OF MUNICIPAL CASE LOADS. IN CALIFORNIA 600 OUT OF 1,133 STATE JUDGES HEAR PRINCIPALLY TRAFFIC CASES. THIS WOULD SEEM TO BE A MISALLOCATION OF SCARCE JUDICIAL RESOURCES. ALSO LAWS REGULATING CERTAIN VICTIMLESS CRIMES ARE INCREASINGLY OPEN TO CONSTITIONAL CHALLENGE. STATES COULD READILY DECRIMINALIZE SUCH OFFENSES.

YET ANOTHER METHOD OF SPEEDING UP TRIALS WOULD BE TO USE MODERN TECHNOLOGY IN CRIMINAL TRIALS. ONE EXAMPLE, WHICH I RAISE ONLY FOR PURPOSES OF ILLUSTRATING THE STATE OF THE ART, IS THE RECORDING OF COURT PROCEEDINGS--OTHER THAN THE EMPANELING OF THE JURY, OPENING STATEMENTS, AND CLOSING STATEMENTS--ON VIDEO TAPE. THESE RECORDINGS CAN BE MADE OUTSIDE THE PRESENCE OF THE JURY.

THE TAPE CAN THEN BE EDITED AND ALL INADMISSIBLE EVIDENCE, OBJECTIONS, AND RULINGS ON MATTERS OF LAW CAN BE ELIMINATED. THUS, EACH ATTORNEY MAKES LIVE OPENING AND CLOSING STATEMENTS AND THE JURY IS SHOWN THE TRIAL ON TELEVISION. THE INITIAL TAKING OF THE TESTIMONY CAN REQUIRE AS LITTLE AS ONE DAY. VIEWING THE EDITED TAPE AFTERWARDS TAKES ONLY A FEW HOURS OF THE JURY'S TIME.

OF OVERWHELMING SIGNIFICANCE TO THE EFFECTIVE WORKING OF OUR CRIMINAL JUSTICE SYSTEM IS CITIZEN UNDERSTANDING AND PARTICIPATION IN THAT SYSTEM. A RECENT SURVEY BY L.E.A.A. FOUND THAT ACTUAL CRIME IN SOME CITIES IS TWO TO THREE TIMES AS HIGH AS REPORTED CRIME.

TO MY MIND, THIS SHOWS A MEASURE OF PUBLIC APATHY REGARDING CRIME. MANY CITIZENS DO NOT REPORT CRIME BECAUSE THEY FEEL IT IS TOO MINOR. IT MAY ALSO BE THAT SOME CITIZENS LACK CONFIDENCE IN THE ABILITY OF CRIMINAL JUSTICE AGENCIES TO DO ANYTHING ABOUT IT.

NO CITIZEN SHOULD BE WILLING TO PAY WHAT IS IN EFFECT A DOUBLE TOLL: FIRST, BEING A VICTIM OF CRIME; AND, SECOND, HAVING NOTHING DONE ABOUT IT.

MAYBE THE PUBLIC DOES LACK CONFIDENCE IN THE CRIMINAL JUSTICE SYSTEM. BUT, IT ALSO MAY BE TRUE THAT, FOR A VARIETY OF REASONS, MANY CITIZENS ARE SIMPLY TURNED OFF BY THE SYSTEM.

THE ADMINISTRATION, THROUGH LEAA, HAS UNDERTAKEN A SERIES OF EFFORTS TO REMEDY THIS PROBLEM THROUGH THE CITIZEN INITIATIVES PROGRAM. CRIMINAL JUSTICE AGENCIES WILL BE ASKED--AND EXPECTED--NOT ONLY TO BE MORE EFFECTIVE IN CRIME REDUCTION BUT TO MAKE ALL PARTS OF THEIR OPERATIONS MORE RESPONSIVE TO THE NEEDS OF CITIZENS.

IT MEANS DOING EVERYTHING POSSIBLE TO ASSIST THE CITIZEN--WHETHER HE BE A VICTIM, WITNESS, OR JUROR. FOR EXAMPLE, IT MEANS MAKING IT POSSIBLE FOR A VICTIM TO REPORT A CRIME WITHOUT A LOT OF RED TAPE AND WITHOUT BEING MADE TO FEEL LIKE A CRIMINAL. IT MEANS THAT A WITNESS SHOULD NOT HAVE TO COME REPEATEDLY TO THE PROSECUTOR'S OFFICE OR THE COURTROOM TO DO HIS DUTY. IT MEANS THAT A PROSPECTIVE JUROR SHOULD NOT BE OBLIGED TO SIT ALL DAY IN A BARN-LIKE ROOM WAITING TO BE CALLED. AND IT MEANS ENCOURAGING CITIZENS TO SUPPORT CRIMINAL JUSTICE IMPROVEMENTS.

WE MUST EMPHASIZE THAT FEDERAL, STATE, AND LOCAL CRIMINAL JUSTICE OFFICIALS OPERATE A SERVICE TO THE PEOPLE, TO PROTECT SOCIETY BY MAKING IT SECURE FROM CRIME AND FROM CRIMINALS. THESE OFFICIALS ARE, IN A VERY IMPORTANT SENSE, ENGAGED IN AN EFFORT TO IMPROVE THE DAY-TO-DAY LIFE OF EVERY AMERICAN.

THE QUALITY OF THAT SERVICE, LIKE THE JUSTICE TO WHICH IT CONTRIBUTES, MUST BE FAIR, BALANCED, REASONABLE, AND EFFECTIVE. AND WE MUST ENSURE THAT THE CITIZEN CAN SEE THAT IT IS SO. WE MUST CARRY OUT A HIGH-PRIORITY, NATIONAL CAMPAIGN TO BRING CITIZENS CLOSER TO THE CRIMINAL JUSTICE SYSTEM.

ONLY WITH FULL PARTICIPATION AND COOPERATION FROM THE GRASS ROOTS UP, CAN WE MAKE ADVANCES AGAINST CRIME AND THE CRIMINAL. AND WE WILL HAVE SUCCEEDED ONLY WHEN THE RATES OF CRIME--BOTH REPORTED AND UNREPORTED--FINALLY BEGIN TO DECLINE STEADILY, AND WHEN THAT IN TURN HAS A MAJOR, BENEFICIAL IMPACT ON THE QUALITY OF LIFE FOR ALL AMERICANS.

I WOULD MAKE ONE FINAL POINT. THE HONOR AND TRUST REPOSED IN THE LEGAL PROFESSION IS STILL PROFOUND--WHETHER WE ARE IN GOVERNMENT, IN PRIVATE PRACTICE, IN BUSINESS, OR IN LEGAL AID PROGRAMS FOR THE PUBLIC. HOWEVER, A TRUE EVALUATION OF HOW EFFECTIVELY WE HAVE MET OUR DUTY MUST INVOLVE THE BASIS QUESTION OF WHETHER WE ARE DOING ENOUGH TO CARRY OUT OUR HIGH RESPONSIBILITIES.

HONOR AND TRUST--DOING THE RIGHT THING AT THE RIGHT TIME--MAY SOUND OLD-FASHIONED. BUT THESE POINTS TODAY ARE RAISED MOST OFTEN BY THE YOUNG. THEY ARE THE INHERITORS OF OUR SYSTEM OF JUSTICE. THEY ARE IMPATIENT FOR CHANGE, WHICH IS GOOD, AND YEARN# FOR BETTER TIMES, WHICH IS ESSENTIAL.

THE THEME OF THIS YEAR'S LAW DAY--"YOUNG AMERICA, LEAD THE WAY"--HAS A SPECIAL MEANING. HOW THE YOUNG WILL EVENTUALLY LEAD THIS COUNTRY IS PARTLY UP TO US BUT MOSTLY UP TO THEM. WE CAN, AT MOST, TEACH BY GOOD EXAMPLE.

ABOVE ALL, WE MUST SHOW THE YOUNG THAT OUR SYSTEM OF THE RULE OF LAW NOT ONLY WORKS BUT THAT IT IS FAIR. IF WE CAN CARRY OUT THESE HIGH OBJECTIVES, WE WILL HAVE SERVED OUR COUNTRY WELL.

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REMARKS BY VICE PRESIDENT GERALD R. FORD
DEDICATION OF UNIVERSITY OF SOUTH CAROLINA LAW BUILDING
FRIDAY, MAY 3, 1974, COLUMBIA, SOUTH CAROLINA

FOR RELEASE IN FRIDAY P.M.'S

I am delighted to address the legal community of South Carolina and to participate in the dedication of the new Law Center at the University of South Carolina.

The Law Center will bring together, for the first time in any legal institution in the United States, schools of basic legal education, continuing legal education, law and education, and criminal justice. The ecumenical spirit of the Center must be infectious because I am told that this dedication has also brought together, for the first time in the history of South Carolina, your two state bar groups.

My earliest childhood ambition was to enter the legal profession. After graduating from college, I refused several offers to play professional football in order to attend law school. But my ambition in the legal profession was never realized. I did practice law for several years in Grand Rapids, Michigan, before going to Congress.

As a Member of Congress, I helped make law. Now I assist in the execution of those laws and also preside over the Senate. But I still yearn, every now and again, to exercise what Edmund Burke called "the cold neutrality of an impartial judge."

Not being bound in my present position by the doctrine of judicial restraint, let me share with you some thoughts regarding our profession. No one needs to tell us that these are difficult days for the legal profession. Our institutions, like many other American institutions today, are under unprecedented attack.

Lawyers are accused of crimes. Prosecutors and police are accused of running roughshod over individual rights.

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And the courts are often charged with aggravating the crime problem through lenient sentences and endless backlogs of cases.

With increasing frequency the legislative and executive branches of the body politic seek to have highly emotional issues of domestic policy settled in the courts. This, too, has led to an enormous increase in the workload of the courts and injected the courts into areas of social policy which they may not be equipped to solve.

I am optimistic, however, about the integrity of our criminal and civil justice system. That is up to the vigilance and character of each and every one of you. I am more concerned that we have a judicial system capable of effective performance in our highly complex society.

Felix Frankfurter, an eloquent writer on the appropriate limits of judicial power, once stated in a case some years ago:

"The Court's authority -- possessed of neither the purse not the sword -- ultimately rests on sustained public confidence in its moral sanction. Such feeling must be nourished by the Court's complete detachment, in fact and in appearance, from political entanglements and by abstention from injecting itself into the clash of political forces in political settlements."

I agree. There are some controversies which simply do not belong in the courts.

In recent years the courts have become involved in adjudicating the most emotional and difficult social issues imaginable. The courts have been propelled headlong into such highly-charged subjects as reapportionment, housing, civil rights, school bussing, economic controls, and the environment. This trend continues.

The courts have always had new and difficult problems, but never in such diversity and profusion. Courts are being called on to interpret, construe and apply hundreds of statutes

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some loosely drawn in terms of desirable objectives but without the traditional standards and guidelines of earlier days.

These statutes create important claims and rights, and often present grave problems affecting the functioning of State and Federal governments. Judges cannot dispose of such cases by drawing on established precedents and individual experience. Increasingly, constitutional claims are asserted that would not have been conceived of a few years ago.

The situation has become acute. Over a year and half ago, Chief Justice Burger suggested that if we are going to have an environmental impact statement for construction projects, we ought to require a judicial impact statement for legislation. More than passing thought should be given to such an idea.

I am attracted to a number of proposals for simplifying and reducing the Federal, State, and local civil dockets. State no-fault insurance and no-fault divorce laws deserve serious consideration. Often we spend much of the resources of society trying to pinpoint fault in a particular situation rather than attempting to solve the problem.

Another concept which deserves more scrutiny is that of voluntary arbitration in smaller civil cases. A typical plan provides for voluntary arbitration in most cases where the claim for damages is less than $10,000. In Philadelphia, for example, approximately 80 percent of the cases filed are diverted to arbitration panels. Only 13 percent of the arbitration awards are appealed. The net result is that:

-- Philadelphia's civil case load has been cut by 70 percent.

-- The waiting time for adjudication of claims has been cut from 44 months to 17.

-- The entire civil case load for Philadelphia is now handled by six judges and 2,000 arbitrators reducing the cost per case from $700 to $100.

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In my view it is the responsibility of the bar to point out how we can make more intelligent and discriminating use of the judicial process. It will not do for lawyers to stand on the sidelines and cheer for the added legal business every time a complex new statute is passed. The bar must lead the way in preserving a judicial system capable of meeting the onerous demands placed upon it in a fair and honorable way.

The effectiveness of our legal institutions in dealing with the crime problem should also be of grave concern to all of us. The rate of serious reported crime increased for 17 years in a row until 1972. That year it dropped by four percent. Now the preliminary statistics for 1973 show that crime rose again, this time by five percent. However, as I will note later, there is some doubt raised by Law Enforcement Assistance Administration studies as to the validity of the figures for crime reporting in some metropolitan areas.

The 1973 figures have somber implications for both our society and for our criminal justice system. And in one particular area -- prosecutions -- it is readily apparent that there is a direct relationship between the rise in reported crimes and the growing load of criminal cases.

For a moment, I should like to discuss two different pre-trial methods of reducing the enoromous backlog of cases in the criminal courts -- pretrial screening and diversion. Screening is the discretionary decision to stop, prior to trial or plea, all formal proceedings against a person who has become involved in the criminal justice system. Diversion, on the other hand, involves a decision to encourage an individual to participate in some specific program or activity by express or implied threat of further formal criminal prosecution.

The objective of intensive prosecutor screening is to stop proceedings against persons when further action ultimately would be fruitless because of insufficient

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evidence to obtain or sustain a conviction. Effective allocation of resources dictates that screening for evidence insufficiency be done as early and as accurately as possible. A prosecutor's screening decision is obviously important because society has a clear interest in having appropriate individuals screened out of, as well as included in, the criminal justice system. Fairness to the individual also dictates that as soon as it is determined that a person could not be convicted, that he be freed.

Screening is occasionally used even when it seems likely that a conviction can be obtained. Prosecutors may want to try more important cases and thus screen out cases according to their current case priorities. This type of screening, in my view, is undesirable.

In other cases, offenders should be diverted into non-criminal programs before formal trial or conviction. Such diversion is appropriate when there is a substantial likelihood that conviction could be obtained and the benefits to society from channeling an offender into an available non-criminal diversion program outweigh any harm done to society by abandoning criminal prosecution.

There is yet another way to loosen the logjam in our State and local criminal courts. That is decriminalization of certain activities -- the "victimless crimes." Drunkenness, vagrancy, and minor traffic violations, for example, are a constant source of irritation to the public in general and the criminal justice system in particular.

The criminal justice system is ill-equipped to deal with these offenses, and they place a heavy burden on law enforcement resources. As an illustration, traffic violations currently constitute 80 to 90 per cent of municipal case loads. In California 600 out of 1,133 state judges hear principally traffic cases. This would seem to be a misallocation of scarce judicial resources. Also laws regulating certain victimless crimes are increasingly open

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to constitutional challenge. States could readily decriminalize such offenses.

Yet another method of speeding up trials would be to use modern technology in criminal trials. One example, which I raise only for purposes of illustrating the state of the art, is the recording of court proceedings -- other than the empaneling of the jury, opening statements, and closing statements -- on video tape. These recordings can be made outside the presence of the jury. The tape can then be edited and all inadmissible evidence, objections, and rulings on matters of law can be eliminated. Thus, each attorney makes live opening and closing statements and the jury is shown the trial on television. The initial taking of the testimony can require as little as one day. Viewing the edited tape afterwards takes only a few hours of the jury's time.

Of overwhelming significance to the effective working of our criminal justice system is citizen understanding and participation in that system. A recent survey by L.E.A.A. found that actual crime in some cities is two to three times as high as reported crime.

To my mind, this shows a measure of public apathy regarding crime. Many citizens do not report crime because they feel it is too minor. It may also be that some citizens lack confidence in the ability of criminal justice agencies to do anything about it.

No citizen should be willing to pay what is in effect a double toll: First, being a victim of crime; and, second, having nothing done about it.

Maybe the public does lack confidence in the criminal justice system. But, it also may be true that, for a variety of reasons, many citizens are simply turned off by the system.

The Administration, through LEAA, has undertaken a series of efforts to remedy this problem through the Citizen Initiatives Program. Criminal justice agencies will be asked

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-- and expected --not only to be more effective in crime reduction but to make all parts of their operations more responsive to the needs of citizens.

It means doing everything possible to assist the citizen -- whether he be a victim, witness, or juror. For example, it means making it possible for a victim to report a crime without a lot of red tape and without being made to feel like a criminal. It means that a witness should not have to come repeatedly to the prosecutor's office or the courtroom to do his duty. It means that a prospective juror should not be obliged to sit all day in a barn-like room waiting to be called. And it means encouraging citizens to support criminal justice improvements.

We must emphasize that Federal, State, and local criminal justice officials operate a service to the people, to protect society by making it secure from crime and from criminals. These officials are, in a very important sense, engaged in an effort to improve the day-to-day life of every American.

The quality of that service, like the justice to which it contributes, must be fair, balanced, reasonable, and effective. And we must ensure that the citizen can see that it is so. We must carry out a high-priority, national campaign to bring citizens closer to the criminal justice system.

Only with full participation and cooperation from the grass roots up, can we make advances against crime and the criminal. And we will have succeeded only when the rates of crime -- both reported and unreported -- finally begin to decline steadily, and when that in turn has a major, beneficial impact on the quality of life for all Americans.

I would make one final point. The honor and trust reposed in the legal profession is still profound -- whether we are in Government, in private practice, in business, or in

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legal aid programs for the public. However, a true evaluation of how effectively we have met our duty must involve the basic question of whether we are doing enough to carry out our high responsibilities. Honor and trust -- doing the right thing at the right time -- may sound old-fashioned. But these points today are raised most often by the young. They are the inheritors of our system of justice. They are impatient for change, which is good, and yearn for better times, which is essential.

The theme of this year's Law Day -- Young America, Lead the Way -- has a special meaning. How the young will eventually lead this country is partly up to us but mostly up to them. We can, at most, teach by good example.

Above all, we must show the young that our system of the rule of law not only works but that it is fair. If we can carry out these high objectives, we will have served our country well.

# # #

Remarks by Vice President Gerald R. Ford
Dedication of University of South Carolina Law Building
Friday, May 3, 1974 Columbia, S.C.

FOR RELEASE IN FRIDAY PM'S.

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These are difficult days for the legal profession. Our institutions, like many other American institutions today, are under unprecedented attack.

Lawyers are accused of crimes. Prosecutors and police are accused of running roughshod over individual rights. And the courts are often charged with aggravating the crime problem through lenient sentences and endless backlogs of cases.

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The 1973 figures have somber implications for both our society and for our criminal justice system. And in one particular area--prosecutions--it is readily apparent that there is a direct relationship between the rise in reported crimes and the growing load of criminal cases.

For a moment, I should like to discuss two different pre-trial methods of reducing the enormous backlog of cases in the criminal courts--pretrial screening and diversion. Screening is the discretionary decision to stop, prior to trial or plea, all formal proceedings against a person who has become involved in the criminal justice system. Diversion, on the other hand, involves a decision to encourage an individual to participate in some specific program or activity by express or implied threat of further formal criminal prosecution.

The objective of intensive prosecutor screening is to stop proceedings against persons when further action ultimately would be fruitless because of insufficient evidence to obtain or sustain a conviction. Effective allocation of resources dictates that screening for evidence insufficiency be done as early and as accurately as possible. A prosecutor's screening decision is obviously important because society has a clear interest in having appropriate individuals screened out of, as well as included in, the criminal justice system. Fairness to the individual also dictates that as soon as it is determined that a person could not be convicted, that he be freed.

Screening is occasionally used even when it seems likely that a conviction can be obtained. Prosecutors may want to try more important cases and thus screen out cases according to their current case priorities. This type of screening, in my view, is undesirable.

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There is yet another way to loosen the logjam in our State and local criminal courts. That is decriminalization of certain activities--the "victimless crimes." Drunkenness, vagrancy, and minor traffic violations, for example, are a constant source of irritation to the public in general and the criminal justice system in particular.

The criminal justice system is ill-equipped to deal with these offenses, and they place a heavy burden on law enforcement resources. As an illustration, traffic violations currently constitute 80 ~~percent~~ to 90 percent of municipal case loads. In California 600 out of 1,133 state judges hear

principally traffic cases. This would seem to be a misallocation of scarce judicial resources. Also laws regulating certain victimless crimes are increasingly open to constitutional challenge. States could readily decriminalize such offenses.

Yet another method of speeding up trials would be to use modern technology in criminal trials. One example, which I raise only for purposes of illustrating the state of the art, is the recording of court proceedings--other than the empaneling of the jury, opening statements, and closing statements--on video tape. These recordings can be made outside the presence of the jury. The tape can then be edited and all inadmissible evidence, objections, and rulings on matters of law can be eliminated. Thus, each attorney makes live opening and closing statements and the jury is shown the trial on television. The initial taking of the testimony can require as little as one day. Viewing the edited tape afterwards takes on a few hours of the jury's time.

Of overwhelming significance to the effective working of our criminal justice system is citizen understanding and participation in that system. A recent survey by ~~the Law Enforcement Assistance Administration (LEAA)~~ LEAA found that actual crime in some cities is two to three times as high as reported crime.

To my mind, this shows a measure of public apathy regarding crime. Many citizens do not report crime because they feel it is too minor. It may also be that some citizens lack confidence in the ability of criminal justice agencies to do anything about it.

No citizen should be willing to pay what is in effect a double toll: First, being a victim of crime; and, second, having nothing done about it.

Maybe the public does lack confidence in the criminal justice system. But, it also may be true that, for a variety of reasons, many citizens are simply turned off by the system.

The Administration, through LEAA, has undertaken a series of efforts to remedy this problem through the Citizen Initiatives Program. Criminal justice agencies will be asked--and expected--not only to be more effective in crime reduction but to make all parts of their operations more responsive to the needs of citizens.

It means doing everything possible to assist the citizen--whether he be a victim, witness, or juror. For example, it means making it possible for a victim to report a crime without a lot of red tape and without being made to feel like a criminal. It means that a witness should not have to come repeatedly to the prosecutor's office or the courtroom to do his duty. It means that a prospective juror should not obliged to sit all day in a barn-like room waiting to be called. And it means encouraging citizens to support criminal justice improvements.

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Only with full participation and cooperation from the grass roots up, can we make advances against crime and the criminal. And we will

have succeeded only when the rates of crime--both reported and unreported--finally begin to decline steadily, and when that in turn has a major, beneficial impact on the quality of life for all Americans.

I would make one final point. The honor and trust reposed in the legal profession is still profound--whether we are in Government, in private practice, in business, or in legal aid programs for the public. However, a true evaluation of how effectively we have met our duty must involve the basic question of whether we are doing enough to carry out our high responsibilities. Honor and trust--doing the right thing at the right time--may sound old-fashioned. But these points today are raised most often by the young. They are the inheritors of our system of justice. They are impatient for change, which is good, and yearn for better times, which is essential.

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REMARKS BY VICE PRESIDENT GERALD R. FORD
DEDICATION OF UNIVERSITY OF SOUTH CAROLINA LAW BUILDING
FRIDAY, MAY 3, 1974, COLUMBIA, SOUTH CAROLINA

FOR RELEASE IN FRIDAY P.M.'S

I am delighted to address the legal community of South Carolina and to participate in the dedication of the new Law Center at the University of South Carolina.

The Law Center will bring together, for the first time in any legal institution in the United States, schools of basic legal education, continuing legal education, law and education, and criminal justice. The ecumenical spirit of the Center must be infectious because I am told that this dedication has also brought together, for the first time in the history of South Carolina, your two state bar groups.

My earliest childhood ambition was to enter the legal profession. After graduating from college, I refused several offers to play professional football in order to attend law school. But my ambition in the legal profession was never realized. I did practice law for several years in Grand Rapids, Michigan, before going to Congress.

As a Member of Congress, I helped make law. Now I assist in the execution of those laws and also preside over the Senate. But I still yearn, every now and again, to exercise what Edmund Burke called "the cold neutrality of an impartial judge."

Not being bound in my present position by the doctrine of judicial restraint, let me share with you some thoughts regarding our profession. No one needs to tell us that these are difficult days for the legal profession. Our institutions, like many other American institutions today, are under unprecedented attack.

Lawyers are accused of crimes. Prosecutors and police are accused of running roughshod over individual rights.

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And the courts are often charged with aggravating the crime problem through lenient sentences and endless backlogs of cases.

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