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THE WHITE HOUSE

REMARKS OF THE PRESIDENT
AT THE
YALE SESQUICENTENNIAL
CONVOCATION DINNER

YALE LAW SCHOOL

9:57 P.M. EDT

President Brewster, Dean Goldstein, Governor Grasso, Justices Stewart and White, the Secretary of HUD, Carla Hills, the Members of the House of Representatives with whom I served, and others who are now Members, but with whom I did not have that privilege and pleasure, good mayor, fellow alumni, students, and guests of Yale Law School:

Obviously, it is a very great privilege and pleasure to be here at the Yale Law School Sesquicentennial Convocation, and I defy anyone to say that and chew gum at the same time. (Laughter)

Every time I come back to Yale, I find myself almost overwhelmed by nostalgia. It has been so long, and so much has happened since I first got off the train at the New Haven station in 1935.

For the first several years I was an assistant football coach, but during that period, I decided against a career in athletics and set my goal as a degree in law.

At that time, one of the entrance requirements to the Yale Law School was a personal interview with three distinguished members of the faculty. In my case, one of them was Professor Myres McDougal, whom I am delighted to see is with us tonight.

It was wonderful to chat with you, Myres, before dinner.

You might be interested to know that Professor McDougal, in remarks given to the Yale Law School Association in Washington last year, mentioned the fact that he still had his notes from that interview.

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He said that under the appropriate headings there were entries like the following: Good looking, well dressed, plenty of poise, personality excellent. (Laughter)

Then, under another heading: Informational background, not too good. (Laughter)

Professor McDougal, what he doesn't know is that while he was keeping notes on me, I was keeping notes on him. (Laughter) By coincidence, I just happen to have them with me here tonight. (Laughter)

Under the appropriate headings, I find entries like these: Good looking, well dressed, plenty of poise, personality excellent. Then under another heading: Informational background about football, not so good. (Laughter)

As I remember it, the only benchwarmer Professor McDougal took an interest in at that time was Oliver Wendell Holmes. I won't go into any more details about that interview. Suffice it to say that Professor McDougal was extraordinarily impressed with my capabilities and so caught up with my capabilities, and my vision, and my potentialities that in a whirlwind of enthusiasm, he wrote: "I see no reason why we should not take him." (Laughter)

My biggest problem at that time was convincing the school I could continue as a full-time assistant football coach and still carry on a full schedule in the law school.

Fortunately, I was able to convince them, and I have always been very grateful for the help, the encouragement I consistently received from such great educators as Gene Rostow, Thurman Arnold, Jimmy James, and, in particular, Myres McDougal.

Myres, all I can say is may your retirement provide you with the same riches of fulfillment and satisfaction your career has already brought to the students of Yale.

May God go with you.

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Obviously, a lot has happened since I left Yale Law School in 1941. I practiced law. I joined the Navy. I was elected to Congress, became Minority Leader, Vice President, and now President.

But no matter how far I have traveled, something from Yale has always followed with me -- and I am not just referring to those letters from the Alumni Fund (Laughter) -- but something very special, something that adds to character, something that clings to our character, and in time, something that becomes our character.

It is rather hard to put feelings into words, but the motto of our school is, "For God, for country, and for Yale," and I think that says it all.

The 150th anniversary of this great law school -- one of the outstanding institutions of the world for the study of law -- suggests better than I the subject for my remarks this evening. On May 1, we celebrate Law Day. Most of you in this audience have devoted your academic years, and a good part of your lives, to the development and to the promulgation of the law.

Today as President, I sense, and I think the American people sense, that we are facing a basic and a very serious problem of disregard for the law.

I would like to talk with you tonight about law and the spirit of abiding by the law. I ask you to think along with me about the concern of so many Americans about the problem of crime. Let us start with the great Preamble of our Constitution which seeks "to insure domestic tranquility."

Have we achieved on our streets and in our homes that sense of domestic tranquility so essential to the pursuit of happiness? With the launching of our Bicentennial year, it has been argued that the American Revolution was the most successful in history because the principles of the Revolution -- liberty and equality under the law -- became the functioning Constitutional principles of our great Government.

The founding fathers governed well and governed prudently, with restraint and respect for justice and law. There was no reign of terror, no repression, no dictatorship. The institutions they have founded became durable and effective.

Because of all of this, we tend to think of them now as respectable and conservative. But the **fact** is that ours remains the great Revolution of modern history, and we should be proud of it.

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A leading feature of the American Revolution was its devotion to justice under law. Once one gets past those two glorious opening paragraphs, the Declaration of Independence reads very much like a legal brief.

The argument was made that sound government and just laws had to be restored to the land. The theme was that independence was needed to restore a representative government of laws in order to secure liberty.

Our revolutionary leaders heeded John Locke's teaching: "Where there is no law, there is no freedom."

Law makes human society possible. It pledges safety to every member so that the company of fellow human beings can be a blessing instead of a threat. Where law exists and is respected, and is fairly enforced, trust replaces fear.

Do we provide that domestic tranquility which the Constitution seeks? If we take the crime rates as an indication, the answer has to be no.

The number of violent crimes rises steadily and we have recently suffered the national disgrace of lawbreaking in high places. Violent crimes on our streets and in our homes makes fear pervasive. They strike at the very roots of community life. They sever the bonds that link us as fellow citizens. They make citizens fear each other.

Crime in high places, whether in the Federal Government, State government, or in business or in organized labor, sets an example that makes it all the more difficult to foster a law-abiding spirit among ordinary citizens.

When we talk about obeying the law, we think of police and courts and prisons, and the whole apparatus of the law enforcement process. But the truth is that most of us obey the law because we believe that compliance is the right thing to do and not because the police may be watching.

As far as law violations in high places are concerned, let me stress this point: In the present Administration, I have made it a matter of the highest priority to restore to the Executive Branch decency, honesty and adherence to the law at all levels. This has been done, and it will be continued.

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I urge the same effort and the same dedication in State governments where recently there have been too many scandals. I urge the same standards in local governments, also in industry and in labor. There is no way to inculcate in society the spirit of law if society's leaders are not scrupulously law-abiding.

We have seen how law-breaking by officials can be stopped by the proper functioning of our basic institutions -- Executive, Legislative and Judicial Branches.

But America has been far from successful in dealing with the sort of crime that obsesses America day and night -- I mean street crime, crime that invades our neighborhoods and our homes, murders, robberies, rapes, muggings, hold-ups, break-ins -- the kind of brutal violence that makes us fearful of strangers and afraid to go out at night.

In thinking about this problem, I do not vindictive punishment of the criminal, but protection of the innocent victim.

The victims are my primary concern. That is why I do not talk about law and order and why I return to the Constitutional phrase -- insuring domestic tranquility.

The overwhelming majority of Americans obey the law willingly and without coercion, but even the most law-abiding among us are still human, and so it makes ordinary common sense that we promulgate rules and that there be enforcement of the rules to buttress the normal inclination of most people to obey the rules.

As James Madison asked in *The Federalist*, and I quote, "But what is government itself but the greatest of all reflections of human nature? If men were angels," said Madison, "no government would be necessary."

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Since men and women are not angels, we must have the apparatus of law enforcement. Those who prey on others, especially by violence, are very, very few in number. A very small percentage of the whole population accounts for a very large proportion of the vicious crimes committed.

For example, in one study of nearly 10,000 males born in 1945, it was found that only 6 percent of them accounted for two-thirds of all of the violent crimes committed by the entire group.

Most serious crimes are committed by repeaters. These relatively few persistent criminals who cause so much misery and fear are really the core of the problem. The rest of the American people have a right to protection from their violence.

Most of the victims of violent crime are the poor, the old, the young, the disadvantaged minorities, the people who live in the most crowded parts of our cities, the most defenseless.

These victims have a valid claim on the rest of society for the protection and the personal safety that they cannot provide for themselves--in short, for domestic tranquility.

Hardly a day passes when some politician does not call for a massive crackdown on crime, but the problem is infinitely more complex than that. Such an approach has not proven effective in the long haul. It is not the American style.

We need a precise and effective solution. One problem is that our busiest courts are overloaded. They are so overloaded that very few cases are actually tried.

One study showed that in a county in Wisconsin, only 6 percent of the convictions resulted from cases which came to trial. According to another study, over a three-year period in Manhattan, only about 3 percent of the persons indicted were convicted after trial.

I think this audience knows the explanation. It is plea bargaining--in many cases, plea bargaining required by the ever growing pressure of an increased caseload.

The popular notion that trial follows arrest is a misconception in a vast majority of cases, and this audience will also be quick to guess one of the basic reasons.

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The increase in arrests has been much more rapid than the increase in the number of judges, prosecutors and public defenders. The most obvious response to this imbalance has been to accept pleas of guilt in return for short prison terms or sentences, or no sentences at all.

According to a recent authoritative report, half of the persons convicted of felonies in New York received no detention whatsoever. And of the other half, only one-fifth were sentenced to more than one year of imprisonment.

Imprisonment thus too seldom follows conviction for a felony.

In the Sixties, crime rates went higher and higher, but the number of persons in prisons, State and Federal, actually went down. A Rand Corporation report of one major jurisdiction showed that of all convicted robbers with a major prior record, only 27 percent were sent to prison after conviction.

Notice, please, that I am speaking only of convicted felons. I am not chastising our system for determining guilt or innocence. I am urging that virtually all of those convicted of a violent crime should be sent to prison.

This should be done especially if a gun was involved or there was other substantial danger or injury to a person or persons. There certainly should be imprisonment if the convicted person has a prior record of convictions.

Most serious offenders are repeaters. We owe it to their victims--past, present and future--to get them off the streets. This is just everyday common sense, as I see it. The crime rate will go down if persons who habitually commit most of the predatory crimes are kept in prison for a reasonable period, if convicted, because they will then not be free to commit more crimes.

Convicts should be treated humanely in prison. Loss of liberty should be the chief punishment. Improvement in the treatment of and facilities for prisoners is long overdue, but it is essential that there be less delay in bringing arrested persons to trial, less plea bargaining, and more courtroom determination of guilt or innocence, and that all -- or practically all -- of those convicted of predatory crime be sent to prison.

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What can the White House do about this? The Federal role is limited because most violent crimes are matters for State and local authorities. Further, the creation of criminal sanctions and their interpretation are the concerns of the Legislative and Judicial Branches, as well as the Executive Branch.

The principal role of the Federal Government in the area of crime control has centered in providing financial and technical assistance to the several States. However, while we are all aware that the actual control of crime in this country is a matter primarily of State responsibility under the Constitution, there are several areas in which it is the chief responsibility of the Federal Government.

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In many other areas, it is the responsibility of the Federal Government to augment the enforcement efforts of the States when it becomes necessary. What else can we do? The Federal Code can be modified to make more sentences mandatory and, therefore, punishment more certain for those convicted of violent crimes.

We can provide leadership in making funds available to add judges, prosecutors and public defenders to the Federal system. This Federal model should encourage States to adopt similar priorities for the use of their own funds and those provided by the Law Enforcement Assistance Administration.

We can encourage better use of existing prison facilities to minimize detention of persons convicted of minor crimes, thus making more room for the convicted felons to be imprisoned.

There are a number of estimates of how much the crime rate would be reduced if all convicted criminals with major records were sent to prison instead of being set free after conviction, as too many are today.

Although we might expect the certainty of a prison sentence to serve as a deterrent, let us remember that one obvious effect of prison is to separate lawbreakers from the law-abiding society.

In totalitarian states, it is easier to assure law and order. Dictators eliminate freedom of movement, of speech and of choice. They control the news media and the educational system. They conscript the entire society and deprive people of basic civil liberties.

By such methods, crime can be strictly controlled. But, in effect, the entire society becomes one huge prison. This is not a choice we are willing to consider.

Edmund Burke commented appropriately in his Reflections on the French Revolution. Burke said, and I quote, "To make a government requires no great prudence. Settle the seat of power, teach obedience and the work is done. To give freedom is still more easy. It is not necessary to guide, it only requires to let go the rein. But to form a free Government, that is to temper together these opposite elements of liberty and restraint in one consistent work requires much thought, deep reflection, a sagacious, powerful and combining mind."

Since these words were written, the world has changed profoundly. But the old question still remains: Can a free people restrain crime without sacrificing fundamental liberties and a heritage of compassion?

I am confident of the American answer. Let it become a vital element on America's new agenda. Let us show that we can temper together those opposite elements of liberty and restraint into one consistent whole.

Let us set an example for the world of a law-abiding America glorying in its freedom as well as its respect for law. Let us, at last, fulfill the Constitutional promise of domestic tranquility for all of our law-abiding citizens.

Thank you very much.

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(AT 10:25 P.M. EDT)