

Speech by: Robert Morgan

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ON IMPROVING THE CRIMINAL JUSTICE SYSTEM

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During the past ten years crimes of violence have increased in the United States by approximately 131%.

Why? What has precipitated this huge rise in crime? Outstanding criminologists, jurists, attorneys and members of Congress who have studied the problem all agree. A major and ironic factor behind the increase in crime is the unquestionable failure of our system of criminal justice - the tragic failure of our courts.

A swift trial in this day is the exception rather than the rule. Every court docket has old and stale cases on it. Many are six months old, a year old, or even in some cases two or three years old. In these instances, the criminal justice institution is not functioning at all as it was intended. Many times witnesses are dead or have left the jurisdiction. In some instances, the defendant himself will no longer be available. Justice rendered under these circumstances does not serve as deterrence, which is one of the four primary purposes of punishment,

the other three being retribution, detention, and rehabilitation.

United States Supreme Court Justice Warren Burger states: "Many people will be deterred from serious crimes if they believe that justice is swift and sure. Today no one believes that."

Senator Joseph Tydings, a member of the Senate Judiciary Committee and chairman of the subcommittee on Improvements in Judicial Machinery has said, "What is needed in the judicial area to improve our criminal justice system is the elimination of the tremendous delay in bringing cases to trial. The courts ought to modernize their administration."

Now, if punishment really is to work, it does not have to be severe, but it has to be swift. You know from your experience with your own children that if one of them deliberately spills the milk at the breakfast table, unless there is a quick meeting of his derriere with the front of your hand, there is not an understanding of the punishment. You can't wait for a week and administer the punishment - no matter of .

the severity - with the same effectiveness of the immediate action at the breakfast table. The same thing is true at the adult level of society - unless punishment is administered swiftly and surely, it does not have a deterrent effect.

In England, if a man is convicted in Old Bailey today, via a jury of his peers, three weeks later his case is in the British Court of Criminal Appeals and, even more miraculously, a decision is handed down that very day. The punishments that are administered under this system are less severe than those administered here in the United States, but they are administered swiftly, and there is a respect for the court that, I think, is ebbing away here.

Lord Denning, master of the rolls of London's Royal Court of Justice, pointed out in a talk before the California Bar Association that in England everyone arrested is tried within eight weeks and this is in fact the "greatest length between arrest and trial."

What is the reason for the slowness of our criminal justice? It is because our courts are overloaded.

Solicitors are bogged down with the consequence that they cannot adequately prepare their cases.

According to the Governor's Committee on Law and Order, a study conducted of 83 counties from January through April of 1969 indicated that 34% of all criminal cases other than motor vehicle are public and social misconduct. And this category is largely composed of drunkenness and disturbing the peace. Public and social misconduct is the second largest category of all criminal offenses docketed, motor vehicle violations being the first.

These cases require just as much administration by the courts as a full-blown homicide - this includes booking the defendant, issuing a warrant, jailing the defendant, docketing and ultimately trying the defendant.

As an illustration of the countless hours spent in dealing with an individual committing these offenses, I know of a man from Harnett County who has been charged 53 times in the past 15 years with public drunkenness, disturbing the peace, or crimes stemming from

drunkenness. The time and effort expended by the judicial system as exemplified by this common example is readily apparent. Even though this individual was committed approximately one-third of the time, time off for good behavior invariably cut the imposed sentence considerably. To give you some idea of the paper work involved with a person of this type, the Clerk of the Superior Court has one five-drawer file cabinet full of documents pertaining to this individual alone.

In order to help cure this overcrowding of our court dockets and insure swifter justice, I suggest abolition of public drunkenness as a criminal offense. I do this for very practical reasons. With the public drunkenness cases out of the courts, the other criminal cases would move more swiftly, thus ultimately insuring greater justice.

In closing I would just like to add as a point of interest that many states, including North Carolina, have statutes providing that chronic alcoholism is a defense for public drunkenness. The United States Supreme Court has also declared this to be the case.

I mention this to illustrate that our traditional conception of the public drunk is changing. My suggestion of eliminating public drunkenness as a criminal offense is just a continuation of the current realization that there are better and more effective ways of handling individuals with drinking problems than requiring complete criminal judicial proceedings.