

SPEECH BY:

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" INDIVIDUAL RIGHTS VERSUS COMMUNITY PROTECTION"

LET ME THANK YOU FOR ALLOWING ME TO BE WITH YOU THIS AFTER-
NOON TO DISCUSS THE QUESTION OF INDIVIDUAL RIGHTS VERSUS COMMUNITY
PROTECTION AS RELATED TO THE PROBLEMS OF PUBLIC HEALTH. THIS IS
A TOPIC WHICH IS PARTICULARLY TIMELY IN VIEW OF THE FACT THAT THE
GENERAL ASSEMBLY IS NOW IN SESSION AND INVOLVED WITH THE CONSIDER-
ATION OF A GREAT NUMBER OF PROPOSED BILLS, WHICH MAY WELL RESULT
IN THE GREATER REGULATION OF OUR DAILY LIVES AND PERSONAL FREEDOM.

THE PUBLIC HEALTH LAWS OF NORTH CAROLINA ARE FOUND PRIMARILY
IN CHAPTER 130 OF THE GENERAL STATUTES AND GIVE TO THE NORTH
CAROLINA STATE BOARD OF HEALTH AND THE LOCAL BOARDS OF HEALTH
THE DUTY AND RESPONSIBILITY TO PROMOTE AND PROTECT THE PUBLIC
HEALTH OF ALL NORTH CAROLINIANS.

HOWEVER, THE VERY LAWS THAT GIVE TO THE RESPECTIVE BOARDS
OF HEALTH THE AUTHORITY TO CARRY OUT THIS RESPONSIBILITY MUST,
BY THEIR VERY NATURE, INFRINGE SOMEWHAT ON OUR PERSONAL FREEDOMS.
THUS, ANY SUCH LEGISLATION THAT IS ALREADY IN EXISTENCE OR IS
PROPOSED FOR THE FUTURE MUST BE CONSTITUTIONALLY PERMISSIBLE,
THAT IS TO SAY, SUCH LAWS MUST PROTECT THE PUBLIC HEALTH, SAFETY

AND WELFARE OF OUR PEOPLE AND DO SO IN A WAY THAT MINIMIZES RESTRICTIONS ON PERSONAL FREEDOM.

THIS AFTERNOON, I WOULD LIKE TO BRIEFLY REVIEW WITH YOU LAWS IN THIS STATE WHICH SEEK TO PROMOTE AND PROTECT COMMUNITY HEALTH, BUT BY SO DOING NECESSARILY RESTRICT TO SOME DEGREE PERSONAL FREEDOMS.

PERHAPS ONE OF THE MOST RECENT SUCH ENACTMENTS IS THAT PORTION OF THE GENERAL STATUTES DEALING WITH MASS GATHERINGS WHICH WAS ENACTED BY THE GENERAL ASSEMBLY IN 1971 MAINLY IN RESPONSE TO PROBLEMS CREATED BY THE THEN NOTORIOUS "ROCK CONCERTS." THIS LAW REQUIRES THAT A PERMIT BE OBTAINED FROM THE STATE BOARD OF HEALTH BEFORE SUCH A GATHERING IS HELD AND DEFINES A MASS GATHERING TO BE ANY ASSEMBLY OF PEOPLE IN WHICH ADMISSION IS CHARGED IN REASONABLE CONTEMPLATION OF PROFIT OF MORE THAN 5,000 PEOPLE IN AN OPEN SPACE FOR A CONTINUOUS PERIOD OF AT LEAST 24 HOURS. SPECIFICALLY, MASS GATHERINGS ARE DETERMINED NOT TO INCLUDE ASSEMBLIES IN PERMANENT BUILDINGS OR PERMANENT STRUCTURES DESIGNED OR INTENDED FOR USE BY LARGE NUMBERS OF PEOPLE. THIS EFFECTIVELY EXCLUDES FROM THE REACH OF THIS LAW SUCH EVENTS AS ORGANIZED RACING AND FOOTBALL AND BASKETBALL GAMES.

BUT THE REQUIREMENT OF A PERMIT FROM A STATE AGENCY BEFORE A LARGE NUMBER OF PEOPLE CAN GATHER CLEARLY RESTRICTS UNDER CERTAIN CIRCUMSTANCES THE INDIVIDUAL RIGHT OF ASSEMBLY. THEREFORE, ANY SUCH RESTRICTION MUST BE FOR THE PROMOTION AND PROTECTION OF THE

PEOPLES' HEALTH, SAFETY AND WELFARE. OTHERWISE, THE LAW WOULD NOT BE CONSTITUTIONALLY VALID.

ADDITIONAL REGULATORY MEASURES ARE FOUND IN ARTICLE 9 OF CHAPTER 130 OF THE GENERAL STATUTES WHICH PROVIDES THAT EVERY CHILD IN NORTH CAROLINA BE IMMUNIZED AGAINST CERTAIN COMMUNICABLE DISEASES. FOR EXAMPLE, DIPHTHERIA, TETANUS, WHOOPING COUGH, AND POLIO SHOTS MUST BE GIVEN TO A CHILD BEFORE HE REACHES THE AGE OF ONE YEAR OLD; A MEASLES SHOT BEFORE THE AGE OF TWO; AND SMALLPOX BEFORE THE AGE OF SIX. IF THIS LAW IS NOT COMPLIED WITH, A CHILD CANNOT LAWFULLY BE ADMITTED TO ANY PUBLIC, PRIVATE OR PAROCHIAL SCHOOL IN NORTH CAROLINA.

HOWEVER, RECOGNIZING THAT CERTAIN RELIGIOUS ORGANIZATIONS DISAPPROVE OF SUCH PRACTICES, CHILDREN OF PARENTS WHO BELONG TO SUCH ORGANIZATIONS ARE EXEMPTED FROM THESE REQUIREMENTS. BY MAKING SUCH AN EXCEPTION, THE GENERAL ASSEMBLY RECOGNIZED, THAT EVEN THOUGH IT WAS SEEKING TO PROTECT COMMUNITY HEALTH, A SERIOUS CONSTITUTIONAL QUESTION MIGHT PRESENT ITSELF IF PERSONS WERE REQUIRED TO SUBMIT TO HEALTH PRACTICES WITH WHICH THEY STRONGLY FELT WERE CONTRARY TO THEIR RELIGIOUS BELIEFS.

IN SIMILAR REGARD, AN INDIVIDUAL GENERALLY HAS THE RIGHT TO DO WITH HIS BODY AS HE CHOOSES. SPEAKING TO THIS SAME POINT, THE LATE JUSTICE CARDOZA STATED THAT "EVERY HUMAN BEING OF ADULT YEARS AND SOUND MIND HAS A RIGHT TO DETERMINE WHAT SHALL BE DONE WITH HIS OWN BODY." HOWEVER, EXCEPTIONS DO EXIST TO THIS GENERAL RULE,

EVEN THOUGH UNDER THE COMMON LAW A PERSON HAD THE RIGHT TO REFUSE MEDICAL TREATMENT WITH THE RESULT THAT A DOCTOR COMMITTED A BATTERY IF HE TREATED THE INDIVIDUAL, NORTH CAROLINA HAS, BY STATUTE, PROVIDED THAT A PATIENT HAS CONSENTED TO TREATMENT BY A DOCTOR IF AN EMERGENCY EXISTS AND THE PATIENT IS NOT ABLE TO EXPRESS HIS OWN WILL. THIS LAW ALSO NOW APPLIES TO MINORS AS WELL.

IN ADDITION, NORTH CAROLINA REQUIRES THAT BEFORE YOU MAY OBTAIN A MARRIAGE LICENSE, ENTER SCHOOL, OR OBTAIN A JOB AS A NURSE OR TEACHER OR AS SOME OTHER WORKER IN FREQUENT CONTACT WITH THE PUBLIC, YOU MUST CONSENT TO UNDERGO A PHYSICAL EXAMINATION.

IF IT IS DETERMINED THAT YOU ARE MENTALLY ILL, AN ALCOHOLIC, OR A DRUG ADDICT, YOUR HOSPITALIZATION, IN CERTAIN SITUATIONS, MAY EVEN BE REQUIRED. AND IF YOU ARE MENTALLY DEFECTIVE, YOU CAN EVEN BE STERILIZED WITHOUT YOUR CONSENT.

FINALLY, PERHAPS ONE OF THE BEST EXAMPLES AS TO HOW YOUR BODY CAN BE INTERFERED WITH IS THE FACT THAT BY DRIVING ON A NORTH CAROLINA HIGHWAY, YOU HAVE, IN FACT, IMPLIED CONSENT TO TAKE A BLOOD-ALCOHOL TEST.

SO I THINK IT CAN BE CLEARLY SAID THAT THE COMMON LAW PRINCIPLE THAT YOU ARE FREE TO DO WITH YOUR BODY AS YOU WISH DOES HAVE QUITE A FEW STATUTORILY IMPOSED EXCEPTIONS WHICH MEET CONSTITUTIONAL REQUIREMENTS.

IN THE AREA OF ENVIRONMENTAL HEALTH LAWS, NORTH CAROLINA HAS ENACTED RESTRICTIONS WHICH CAN BE JUST AS PERSONAL AS THOSE I HAVE JUST MENTIONED. FOR EXAMPLE, IF YOU OWN OR OPERATE A RESTAURANT OR FOOD ESTABLISHMENT OPEN TO THE PUBLIC, IT CAN BE INSPECTED FOR SANITARY CONDITIONS AT ANY TIME, EVEN WITHOUT YOUR CONSENT. THE SAME IS TRUE FOR THE OWNER OF A NURSING HOME, SUMMER CAMP OR AN AMBULANCE.

IF YOU ARE A SUBURBAN HOMEBUILDER, YOU CANNOT INSTALL A SEPTIC TANK SYSTEM WITHOUT HEALTH DEPARTMENT APPROVAL, AND YOU MUST OBSERVE CERTAIN PLUMBING, HEATING AND BUILDING STANDARDS.

CLEARLY THEN, OVER THE COURSE OF YEARS, RESTRICTIONS IN INDIVIDUAL LIBERTIES HAVE RESULTED FROM THE IMPOSITION OF CERTAIN PUBLIC HEALTH LAWS. WHILE ALL OF THESE LAWS WHICH I HAVE MENTIONED WERE NO DOUBT PASSED BY THE GENERAL ASSEMBLY IN THE HOPE OF PROMOTING THE GENERAL WELFARE OF ALL OUR PEOPLE, WE MUST CONTINUALLY BE ON OUR GUARD NOT TO OVERSTEP THE LEGAL BOUNDARY WHEREBY WE INFRINGE UPON PRIVATE RIGHTS WITHOUT A CORRESPONDING HEALTH BENEFIT TO THE GENERAL PUBLIC.

ACCORDINGLY, IF WE ARE GOING TO ENACT STATEWIDE LAWS THAT RESTRICT THE INDIVIDUAL FREEDOMS OF PEOPLE IN THE NAME OF THE PUBLIC'S HEALTH, SAFETY AND GENERAL WELFARE, I BELIEVE WE HAVE A DUTY TO DO ALL THAT WE CAN TO HELP THOSE WHO, FOR SOME REASON OR ANOTHER, HAVE HAD THEIR LIBERTIES JEOPARDIZED DUE TO THE FACT THAT THEY USE DRUGS, ARE ALCOHOLICS OR ARE MENTALLY ILL.

FOR IN THE FINAL ANALYSIS, WHAT WE ARE ALL INTERESTED IN IS GOOD HEALTH FOR ALL OF OUR PEOPLE. THUS, WHEN WE ENACT CRIMINAL PENALTIES FOR THE USE OF DRUGS, WE SHOULD MAKE EVERY EFFORT TO EDUCATE THE YOUNG PEOPLE OF THIS STATE AS TO THE HEALTH HAZARDS THAT ARE INDIGENOUS TO THEIR USE. WE HAVE, IN THE ATTORNEY GENERAL'S OFFICE, PUBLISHED A BOOK ENTITLED YOUTH AND THE LAW, WHICH TELLS OF THE CRIMINAL PENALTIES WHICH YOU CAN INCUR IF YOU ARE INVOLVED IN SOME WAY WITH ILLEGAL DRUGS. BUT A CRIMINAL SENTENCE OR FINE IS ONLY A PART OF THE PENALTY WHICH AN INDIVIDUAL MUST PAY IF HE USES HARD DRUGS. THE GREATER HARM IS THAT WHICH HE DOES TO HIS OWN BODY.

THAT IS WHY WE, IN THE ATTORNEY GENERAL'S OFFICE, REQUESTED THE DEPARTMENT OF MENTAL HEALTH, DURING THE PREVIOUS ADMINISTRATION, TO SEEK THE ESTABLISHMENT OF DRUG ABUSE CENTERS ACROSS NORTH CAROLINA. IT SEEMS TO ME, THAT WITHOUT SUCH CENTERS, WE ARE CONDEMNING MANY OF OUR CITIZENS, PARTICULARLY THE YOUNG, TO A LIFE OF HOPELESSNESS WHICH IS BASED ON DRUGS. WE CAN ONLY HOPE THAT THIS ADMINISTRATION WILL PROVE TO BE MORE PROGRESSIVE IN THIS AREA.

FINALLY, WITH REGARD TO THE PROBLEMS OF THE MENTALLY ILL, WE KNOW, AS I MENTIONED EARLIER, THAT, UNDER CERTAIN CONDITIONS, COMPULSORY HOSPITALIZATION CAN BE REQUIRED FOR THOSE SUFFERING FROM MENTAL ILLNESS. THIS BEING THE CASE, IT SEEMS TO ME THAT EACH OF US HAVE A DUTY AND AN OBLIGATION TO INSURE THAT THEIR RIGHTS AND PRIVILEGES WHICH ARE GUARANTEED TO THEM BY THE

CONSTITUTION ARE IN FACT CARRIED OUT.

MOST PEOPLE, OF COURSE, DO NOT REALLY NEED TO HAVE THEIR RIGHTS AND PRIVILEGES PROTECTED. MOST OF US KNOW WHAT OUR RIGHTS ARE AND WE CAN EMPLOY ATTORNEYS TO PROTECT THEM. EVEN THE CRIMINAL COURTS HAVE PROCEDURES FOR GUARANTEEING THE RIGHTS OF PERSONS WHO ARE ACCUSED OF COMMITTING CRIMES. BUT SOME PEOPLE, BY VIRTUE OF MENTAL ILLNESS, DO NOT KNOW WHAT THEIR RIGHTS ARE, THEY CANNOT PROTECT THESE RIGHTS WITHOUT HELP AND THE CIVIL COURTS MANY TIMES HAVE NOT GENERALLY PROVIDED IT.

WE HAVE USUALLY JUSTIFIED COMMITMENTS OF THE MENTALLY ILL BY SAYING THAT WE ARE PROTECTING THEM AND LOOKING AFTER THEIR WELFARE BY GIVING THEM TREATMENT. BUT IF, IN DOING THIS, WE ARE NOT TO VIOLATE THEIR CONSTITUTIONAL RIGHTS, THE TREATMENT WHICH WE GIVE IN OUR MENTAL INSTITUTIONS MUST GIVE EACH OF THESE INDIVIDUALS A REALISTIC OPPORTUNITY TO BE CURED OR AT LEAST IMPROVE HIS OR HER MENTAL CONDITION. WE MUST CONSIDER THE FACT THAT WE PLACE THESE PEOPLE IN A PENAL OR CUSTODIAL STATUS WITHOUT GIVING THEM THE SAME RIGHTS THAT ARE GUARANTEED TO ACCUSED PERSONS IN OUR CRIMINAL COURTS AND WHICH ARE GUARANTEED TO EACH AND EVERY ONE OF US BY THE FIFTH, FOURTEENTH, AND EIGHTEENTH AMENDMENTS TO THE CONSTITUTION.

UNFORTUNATELY, IT MAY VERY WELL BE THAT WE HAVE BEEN DENYING TOO MANY PERSONS THEIR CONSTITUTIONAL RIGHTS BY USING OUR CIVIL COURTS TO PUT PEOPLE AWAY, OFTEN FOR UNLIMITED PERIODS OF TIME, UNDER THE GUISE OF GIVING THEM TREATMENT FOR MENTAL CONDITIONS

WHICH WE THEN NEVER PROVIDE. IF THIS IS SO, WE HAVE, IN EFFECT, BEEN SENTENCING PEOPLE WHO HAVE COMMITTED NO CRIMES TO LIFE IN PRISON, WITHOUT THE BENEFIT OF PAROLE AND WITHOUT GIVING THEM THE DUE PROCESS OF LAW THAT EACH AND EVERY ONE DESERVES.

IN MY OPINION, DEPRIVING ANY CITIZEN OF HIS OR HER LIBERTY ON THE ALTRUISTIC THEORY THAT THE CONFINEMENT IS FOR HUMANE THERAPEUTIC REASONS AND THEN FAILING TO PROVIDE ADEQUATE TREATMENT VIOLATES THE VERY BASIS OF DUE PROCESS.

AS MANY OF YOU MAY BE AWARE, REPRESENTATIVE HOWARD TWIGGS OF WAKE COUNTY AND OTHERS HAVE INTRODUCED A BILL IN THIS SESSION OF THE GENERAL ASSEMBLY RELATING TO THE CIVIL RIGHTS OF PATIENTS AT TREATMENT FACILITIES FOR THE MENTALLY ILL AND RETARDED. INCLUDED IN THE BILL IS THE DECLARATION THAT IT IS THE POLICY OF THIS STATE TO INSURE TO ALL PATIENTS OF TREATMENT FACILITIES FOR THE MENTALLY ILL AND MENTALLY RETARDED, BASIC HUMAN RIGHTS. ALSO INCLUDED IS A PATIENT'S BASIC RIGHT TO TREATMENT. THUS, WITH THIS IN MIND, IT IS MY HOPE THAT MEMBERS OF THE GENERAL ASSEMBLY WILL GIVE THIS BILL THEIR SERIOUS CONSIDERATION.

NOW WE HAVE LONG RECOGNIZED THAT A MENTALLY ILL PERSON CANNOT BE LEFT TO WANDER FREE IN SOCIETY. EVEN WHEN HE IS NOT CRIMINALLY DANGEROUS, HE IS OFTEN DANGEROUS TO HIMSELF, AND EVEN WHEN HE IS NOT DANGEROUS TO HIMSELF, HE OFTEN CANNOT TAKE CARE OF HIMSELF. SUCH PERSONS MUST BE REMOVED FROM SOCIETY FOR THE BENEFIT OF THEMSELVES AND OTHERS.

BUT WE MUST REMEMBER THAT THE MENTALLY ILL STILL HAVE RIGHTS THAT MUST BE PROTECTED; AND WE MUST RECOGNIZE THAT WE HAVE NO RIGHT TO REMOVE THEM FROM SOCIETY UNLESS WE PROVIDE THEM WITH THE CARE THAT WILL GIVE EACH OF THEM A REALISTIC OPPORTUNITY TO BE CURED SO THAT THEY CAN SOMEDAY RETURN TO SOCIETY AND LIVE NORMAL LIVES. SO WE MUST INSIST THAT OUR MENTAL HOSPITALS BE GIVEN THE MEANS TO DO THE JOBS THEY ARE MEANT TO DO, AND WE MUST INSIST THAT GIVEN THE MEANS, THEY DO THE JOB.

IT HAS, HOWEVER, BECOME INCREASINGLY EVIDENT THAT WE HAVE NOT GIVEN OUR MENTAL HOSPITALS THE MEANS THAT ARE REQUIRED. WE KNOW THAT FACILITIES ARE INADEQUATE, THAT THERE ARE NOT ENOUGH ATTENDANTS WORKING IN THESE HOSPITALS, THAT THE ATTENDANTS ARE NOT ADEQUATELY TRAINED, THAT THE BASIC MEDICAL SERVICES THESE MENTAL HOSPITALS RENDER IS INADEQUATE, THAT TRUE PSYCHIATRIC SERVICES ARE SOMETIMES LACKING ENTIRELY, AND THAT THE PERSONS COMMITTED TO THESE HOSPITALS ARE FORCED TO LIVE IN CONDITIONS AND TO ACT IN WAYS THAT ARE NOT ONLY PERSONALLY DEGRADING BUT ARE ALSO DANGEROUS.

BUT ALTHOUGH THESE POOR CONDITIONS IN OUR MENTAL HOSPITALS HAVE BECOME INCREASINGLY EVIDENT, OVER THE PAST YEARS WE HAVE NOT MADE ANY REAL EFFORT TO IMPROVE THEM. BECAUSE WE HAVE NOT, CONCERNED PERSONS ARE NOW TURNING TO THE FEDERAL COURTS IN ORDER TO HAVE THINGS SET RIGHT. AND THE GENERAL ASSEMBLY, NOW IN SESSION, WILL BE FORCED BY RECENT JUDICIAL DECISIONS TO FACE THIS PROBLEM SQUARELY. TODAY I WANT TO TELL YOU ABOUT AN INTERESTING FEDERAL COURT RULING IN ALABAMA THAT ADDRESSES ITSELF TO THIS

PROBLEM.

ON OCTOBER 23, 1970, A COMPLAINT WAS INITIATED BY CERTAIN EMPLOYEES OF THE ALABAMA MENTAL HEALTH BOARD AND THE GUARDIANS OF SOME PATIENTS WHO WERE CONFINED IN A STATE MENTAL HOSPITAL IN TUSCALOOSA. THE SUIT WAS A SO-CALLED CLASS ACTION INITIATED ON BEHALF OF THE SPECIFIED PATIENTS AND OTHERS IN THE SAME SITUATION. IN IT, THE PLAINTIFFS ALLEGED THAT IN ADDITION TO MANY SPECIFIC COMPLAINTS, THE OPERATION OF THE HOSPITAL DID NOT CONFORM TO THE CONSTITUTIONAL STANDARDS NECESSARY TO GIVE ADEQUATE MENTAL TREATMENT TO ITS PATIENTS.

THE COURT RULED IN FAVOR OF THE PLAINTIFFS. IT HELD THAT THE MANNER THAT THE STATE OF ALABAMA USED IN OPERATING ITS MENTAL INSTITUTIONS DID NOT EVEN CONFORM TO THE MINIMUM CONSTITUTIONAL STANDARDS. THESE INSTITUTIONS WERE FOUND TO BE DEFICIENT IN EACH OF THE THREE REQUISITE CONDITIONS FOR ADEQUATE TREATMENT: THE INSTITUTIONS DID NOT PROVIDE A HUMANE PSYCHOLOGICAL AND PHYSICAL ENVIRONMENT, THEY DID NOT HAVE QUALIFIED STAFF MEMBERS IN SUFFICIENT NUMBERS TO PROVIDE ADEQUATE TREATMENT, AND THEY DID NOT PROVIDE EACH PATIENT WITH AN INDIVIDUALIZED TREATMENT PLAN. THE COURT ORDERED AFFIRMATIVE AND SPECIFIC RELIEF IN FAVOR OF THE PLAINTIFFS AND HELD THAT THE ALABAMA MENTAL HEALTH BOARD MUST SECURE FUNDS TO IMPLEMENT THE DECREE OR THAT THE COURT ITSELF WOULD TAKE OVER ANY STATE FINANCING NECESSARY TO IMPLEMENT ITS ORDER.

AS FAR BACK AS 1966, IN AN ADDRESS I MADE TO THE WINSTON-

SALEM LIONS CLUB, I SAID THAT I BELIEVED THE SUREST AND STRONGEST DEFENSE AGAINST THE TREND TOWARD A STRONG, SOCIALIST, FEDERAL GOVERNMENT IS A RESPONSIBLE LOCAL GOVERNMENT. WE IN NORTH CAROLINA, IF WE ARE TO MAINTAIN OUR RIGHTS AND PREROGATIVES AS A STATE, MUST BEAR OUR RESPONSIBILITIES.

IN OUR SYSTEM OF GOVERNMENT, THE GOVERNMENT DERIVES ITS POWERS FROM THE CONSENT OF THE GOVERNED. GOVERNMENT EXISTS FOR THE SAKE OF THE PEOPLE. AND WE WHO ARE PUBLIC OFFICIALS MUST PERFORM OUR DUTIES AND OBLIGATIONS TO THE PEOPLE, FOR WHENEVER WE DO NOT PROTECT THE LIBERTIES OF OUR PEOPLE, THE PEOPLE WILL TURN ELSEWHERE FOR SATISFACTION AND THE FEDERAL GOVERNMENT USUALLY WILL RESPOND.

THE ALABAMA SITUATION THAT I HAVE JUST DESCRIBED TO YOU IS A PERFECT EXAMPLE OF THIS. BECAUSE IT APPEARED THAT PUBLIC OFFICIALS WERE NOT FULFILLING THEIR DUTIES AND OBLIGATIONS TO THE PEOPLE, THE PEOPLE TURNED TO THE FEDERAL COURTS AND THEY RESPONDED. THE VERY SAME COULD HAPPEN HERE IN NORTH CAROLINA, FOR UNLESS WE PROVIDE THE PEOPLE IN OUR MENTAL INSTITUTIONS WITH CONSTITUTIONALLY ADEQUATE CARE, THE FEDERAL COURTS I'M SURE WILL GLADLY TAKE OVER THE OPERATION OF OUR MENTAL INSTITUTIONS.

WE MUST THEREFORE BRING THE LEVEL OF CARE IN OUR MENTAL INSTITUTIONS UP TO AT LEAST THE CONSTITUTIONALLY REQUIRED MINIMUMS. WE MUST PROVIDE THE PATIENTS IN OUR MENTAL HOSPITALS WITH A HUMANE PHYSICAL AND PSYCHOLOGICAL ENVIRONMENT WHICH MEANS WE

MUST IMPROVE OUR FACILITIES AND THE WAY IN WHICH WE OPERATE THEM. WE MUST SEE THAT OUR MENTAL INSTITUTIONS HAVE ADEQUATE NUMBERS OF QUALIFIED STAFF. WE MUST PROVIDE EACH PATIENT WITH A PLAN OF TREATMENT TAILORED TO HIS NEEDS. IN SHORT, WE MUST STOP THINKING OF OUR MENTAL INSTITUTIONS AS PLACES OF CONFINEMENT AND START THINKING OF THEM AS PLACES OF TREATMENT.

THESE THINGS, WHICH I HAVE SUGGESTED, ARE THE LEAST WE MUST DO. OUR CONSTITUTION DEMANDS IT, AND OUR FEDERAL COURTS WILL ENFORCE IT. BUT WE REALLY SHOULD DO MORE, FOR WE SHOULD DEDICATE OURSELVES TO PROVIDING PHYSICAL CONDITIONS AND PROGRAMS OF TREATMENT THAT SUBSTANTIALLY EXCEED THESE MEDICAL AND CONSTITUTIONAL MINIMUMS. WE MUST REMEMBER THAT THE PROBLEM AFFECTS ALL OF US, FOR IT INVOLVES THE PRESERVATION OF HUMAN LIFE AND HUMAN DIGNITY. NOT ONLY ARE THE LIVES OF THE PATIENTS CURRENTLY CONFINED AT STAKE, THE WELL-BEING AND SECURITY OF EVERY CITIZEN ARE ALSO AT ISSUE, FOR AS IS TRUE OF ANY DISEASE, NO ONE IS IMMUNE FROM THE PERIL OF MENTAL ILLNESS.

HUMAN BEINGS CANNOT DO EVERYTHING. IT IS NOT WITHIN OUR POWER TO ASSURE A PERSON'S SUCCESS IN LIFE. IT IS NOT WITHIN OUR POWER TO INSURE A PERSON'S HAPPINESS; NOR IS IT WITHIN OUR POWER TO ASSURE A PERSON'S GOOD HEALTH. BUT IT IS WITHIN OUR POWER TO SEE THAT EVERY UNFORTUNATE PERSON WHO FALLS VICTIM TO MENTAL ILLNESS GETS THE BEST TREATMENT AVAILABLE. NO MENTALLY ILL PERSON DESERVES LESS, WE SHOULD NOT OFFER LESS AND IN GOOD CONSCIENCE, WE CANNOT GIVE LESS.