

REMARKS BY SENATOR ROBERT MORGAN

NORTH CAROLINA STATE BAR

PINEHURST, N.C.

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Thank you for inviting me to be with you.

I consider it the highest honor to be asked to visit with what I consider the most prestigious and erudite group in North Carolina.

Today, I'd like to discuss with you the way Washington is changing and perhaps ask for your understanding as the job of representing our state on the Senate grows steadily more difficult.

Don't misunderstand. I like the job and I intend to keep it if I can, but it grows harder for a member of Congress to satisfy his constituents.

Increasingly there are pressure groups which seize upon a single issue and make that issue the yardstick of a Senator's or a Representative's whole performance.

These people can get highly emotional and they do.

Last year I talked to you about the Panama Canal treaties and although the furor over that issue has died down, I still get letters that say I was a

traitor for voting to implement the treaties.

The issue of abortion simply won't go away, and there are threats from both sides that they will defeat a member of Congress at the polls if he doesn't vote the way each side feels is right.

Recently, the Equal Rights Amendment extension was voted on in the Senate and the pressure from both sides of the issue was tremendous.

I voted against extending the time that the states will have to consider ratification of the amendment, because I thought those states which have already

voted should be given a chance to reconsider their actions.

But a reasoned analysis of the question makes little difference to those who are on fire with zeal, and they vocally threaten you with defeat at the polls because of one vote.

The farm lobby, the gun lobby, and many, many others all seem to base their entire judgment of a legislator on how he casts his vote on the one issue that they campaign for.

It creates an almost impossible situation and has led David Broder, one of the nation's most astute political

reporters, to write recently that one-issue groups have become an issue themselves.

I have never personally been able to yield to pressure such as this, and I know of no other way to legislate than to try to become as informed as possible about an issue, weigh it as carefully as possible and then vote for what seems to be in the best interest of the country.

That will not satisfy the one-issue groups, but hopefully it will be endorsed by thinking people such as you who are gathered here for the Bar meeting.

I feel that I have to rely on people like you to help make the public see that one single issue should not determine the

effectiveness of the representation it is receiving.

Certainly I can respect a person's devotion to a cause, but I would also like for others to respect my allegiance to the law and the Constitution which caused me to vote against extension of the ERA without rescission and to understand my feeling that the facts of each issue should be weighed and analyzed before a decision is reached.

I am not complaining. I realize that each public official must stand the scrutiny of the public and every member of the Senate is faced with groups that apply emotional pressure. But I can tell

you that there is a growing concern about this trend in Washington and that a large number of good, effective members of Congress are leaving of their own accord this year.

There are many issues that come before Congress that are more important than the ones which seem to stir emotions and which seem to draw a cult of supporters.

One of my chief concerns is the manner in which the federalist government which our Founding Fathers gave us is being eroded. There is a definite trend toward a nationalist government, with power centered in Washington, and I feel

I don't have to convince most of you lawyers of that.

Thomas Jefferson, in the Kentucky Resolutions, said, "The several states composing the United States of America are not united on the principle of unlimited submission to their general government."

The greater portion of governmental power is explicitly reserved to the states by the Tenth Amendment.

Yet there are many in Washington who seem to want the power centered there and it takes eternal vigilance to prevent this from happening in case after case.

A recent example of this occurred during the closing days of the session of Congress that has just ended.

A bill was introduced to give the Attorney General of the United States the right to bring civil suits in Federal court on behalf of inmates of state institutions.

Under the bill, if the Attorney General felt that the civil or constitutional rights of an inmate of a state prison, a mental institution or, in some cases, of a nursing home were being violated, then he could sue the state.

Now it's hard to oppose a bill that

has as its aims the well being of
unfortunate people.

The American Bar Association must
have felt that way, because it supported
the measure, although I found out later
that very little study had been given it
by the ABA.

I opposed it with all the resources
that I could muster because I felt it was
a giant intrusion on the part of the
Federal Government into something that is
purely a state matter.

What the bill would have done, had
it passed, would have been to give the
Attorney General of the United States
the power to set standards for state

institutions. It could, in effect, let an appointed federal official set state spending priorities, something that is properly reserved to state legislatures.

We have seen the Federal Government recently coming into North Carolina telling the state how it must operate its University System, on the threat of withholding federal funds unless the state complied with federal regulations.

Now comes a bill which would give a federal official power to say how we must operate the prisons, the mental hospitals and even nursing homes, if residents there were being supported by state funds.

Aside from the Constitutional questions involved, why should it be taken for granted by some that those in the Federal government are more concerned with the rights and well being of inmates than the State government?

And why should it be assumed that the Federal government would do a better job of protecting civil or constitutional rights than a state government?

I am happy to report that the bill did not get through the Senate after passing the House, but I suspect another attempt to pass it will be made next year.

A bill that did pass seems to me to

place the Federal government in a place it has no business being.

This is the cigarette bootlegging bill. It might not sound very important but it is a prime example of the federal government being drawn into the state's business.

The stated purpose of the bill is to strike at organized crime, and that is something that is very hard to oppose.

But I have had concerns about the bill, which will soon become law.

As you know, there is a large traffic in smuggling cigarettes from

states which have low taxes on cigarettes, notably North Carolina and Kentucky, and states where cigarettes are highly taxes, such as New York and Connecticut. A state, of course, has the right to tax any commodity sold inside its borders as much as it pleases.

High taxes create a situation of tax avoidance and a situation ripe for organized crime. As much as \$3 to \$4 of the price of a ten-pack carton of cigarettes may be taxes.

The states have created this situation by their taxing powers. Conversely, the states have the responsibility of enforcing their own laws and collecting

their own taxes.

Now in New York it is no crime to possess cigarettes that do not have a state tax stamp attached. The crime comes when you sell cigarettes on which the state tax has not been paid. To me, this makes it an in-state, not an interstate offense. Frankly, the bill bothered me because it seemed more of an effort to have the federal government enforce state tax laws than it did to attack organized crime. I insisted that if we were going to have such a law, that it be declared a federal crime so the FBI could enter the picture. Before that, it was just a misdemeanor, as originally drawn.

There was also the matter of record keeping. In the original bill there was a provision that dealers would have to keep whatever records the Secretary of the Treasury might require. Government paperwork being what it is, I felt that this would impose too heavy a burden on North Carolina merchants and we got some of that done away with.

But I believe the dangerous precedent is the fact that federal agents will be enforcing state tax laws. In the future, one can see states passing any law they want to without providing enforcement. The chief aim could be raising revenue and leaving enforcement to the federal government.

In this case, I believe that there was an awareness that the states had not done all they could -- that to resort to federal law should only come when the efforts of the states had failed -- yet the bill was passed anyway.

These are but two instances of attempts to place the Federal government in places that I feel are reserved for the states.

You and I both know of many other instances and you and I know this is a trend that is growing.

I don't like it and I am trying to stop it.

If there is anything I'd like ask of you today, it is for your understanding.

I hope you realize the pressures that are being brought by groups that have a single issue to promote and are oblivious to all other matters.

I hope you'll understand the concerns of one country lawyer, whom you have sent to the Senate, about the erosion of the principle of state's powers and the emergence of a more national form of government.

As lawyers, as students of the Constitution, your support is extremely valuable to me in defending the practice

of judging issues on their merits, and not on the basis of emotion.

No matter what our political beliefs, Republican or Democrat, liberal, moderate or conservative, I believe we can settle the issue that arise in a calm, deliberate and sensible manner and I hope you agree that this is how government should be run.