50 recommendations may relate to your own institution.

Before I conclude these remarks, I want to add one more exhortation. In addition to all the specific recommendations I have cited, I must tell you that we what we most need from you is *leadership*. I am sure that all of you, deans and community leaders alike, attained your positions precisely because your colleagues and neighbors recognized your abilities.

Here I want to draw on my own background in Congress and public life generally to say that one of our failures in higher education and in the cultural community more broadly is that we have not always made our voices heard.

In this respect, I call your attention to a recent story in *The Chronicle of Higher Education* about ''the higher education lobby''. The story quotes Rep. John Kasich of Ohio as saying that ''Higher education couldn't organize its way out of a paper bag''.

Although the article paints a slightly better portrait of our efforts, it also underlines how silent so many in the arts and the humanities have been on issues vital to their future.

IMPORTANCE OF COLLEGE AND UNIVERSITIES

You need to speak up, especially on matters, such as student aid, crucial to every college and university. You need to make the case to your elected representatives in Washington and in your state capitals that public support for our institutions of learning and culture is absolutely essential. As I trust I have made clear, education has been a central preoccupation of my life—as student, teacher, legislator and university president.

For all of the problems confronting American higher education, for all the legitimate criticisms directed to it, I would assert as strongly as I can that America's colleges and universities are among the glories of our nation. Indeed, it is not too much to say that the future of the American people and, given the immense power of the United States in the world today, to a significant extent, the future of other peoples, depends on the strength of America's institutions of higher learning.

And surely it is true that indispensable to sustaining and strengthening the arts and the humanities in our country are our colleges and universities.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, AND JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

SPEECH OF

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 5, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4276) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

Mr. McDADE. Mr. Chairman, I rise in unequivocal opposition to the Hutchinson amendment. It unfortunately turns the country toward the darkness of yesterday's night of oppression.

We speak of a time when the king rules by fiat, and could not be questioned, no matter how oppressive or heinous his conduct.

And so it was till that magnificent new beginning in 1215 on the plains at Runnymede, when King John was forced to submit to the rule of law.

So too, at Philadelphia in 1776 when the Founding Fathers penned the Declaration of Independence and began writing the Constitution, all intended to limit governmental power in the quest for liberty.

So it is today when you are called on to vote on the Citizens Protection Act.

For the same question is asked: Should the Department of Justice and its employees be subject to the rule of law in the same fashion as all other citizens of this nation, or should they be given the right to decide, like monarchs of old, when and if the universal law applies to them.

But this executive department has the arrogance to proclaim their right to enact law and to decide as if in a separate government how and if the law shall apply to them.

Listen to this language the Department of Justice wrote and tried to enact (in the 104th Congress, in the other body, in ''crime'' bill S. 3):

Sec. 502. Conduct of Federal Prosecutors

Notwithstanding the ethical rules or the rules of the court of any State, Federal rules of conduct adopted by the Attorney General shall govern the conduct of prosecutions in the courts of the United States.

The Department is so wrong in its thinking that all 50 States, though their chief justices, condemn the department's position, the 8th Circuit Court of Appeals unanimously found against them, the American Bar Association and the leading professional legal organizations join in the unanimous disapproval. And most importantly, 200 members of this body have voiced their disapproval, by co-sponsoring the legislation which is included in this bill as the McDade-Murtha amendment.

Tell the lawyers at DOJ to abide by the same ethics rules which govern all other lawyers. Vote against the Hutchinson amendment.

That's title 1 in the bill . . . not difficult to understand.

Neither is title 2.

Just as we acted to reform the IRS, today we set about reform in the Department of Justice.

Most people at the Department are fine motivated citizens. As is always the case, this legislation is required to protect citizens of our Nation against predatory actions of rogue employees, out of control, and acting inimically towards citizens and therefore the Nation at large.

Where there is injustice to one of us, there is injustice to all of us.

And the power, for good or evil is without peer.

In 1940, then Attorney General and later Supreme Court Justice Robert H. Jackson counseled the 2nd annual conference of U.S. attorneys.

Listen to his words:

The prosecutor has more control over life, liberty and reputation than any other person in America. . . . If the prosecutor is obliged to choose his cases, it follows that he can choose his defendants. Therein is the most dangerous power of the prosecutor: that he will pick people that he thinks he should get, rather than pick cases that need to be prosecuted. With the law books filled with a great assortment of crimes, a prosecutor stands a fair chance of finding at least a technical violation of some act on the part of almost anyone. In such a case, it is not a question of discovering the commission of a crime and then looking for the man who has committed it, it is a question of picking the man and then searching the law books, or putting investigators to work, to pin some offense on him.

To protect the constitutional right to liberty of our citizens, title 2 sets a series of standards, clear, unambiguous and self evident. They set guidelines for DOJ employees which must be met. They are neither controversial nor hostile. Unless, that is, you consider it hostile to be directed not to lie to the court:

Alter evidence;

Influence witnesses to color their testimony;

Fail to release information that would exonerate a person under indictment;

Impede a defendant's right to discovery;

Leak information during an investigation;

Mislead a court as to the guilt to any person; or

In the absence of probable cause seek the indictment of any person.

All of these standards are in fact court decisions which found specific improper conduct by the DOJ.

Let me quote from just one court decision, U.S. v Taylor, in which the court found that employees of the DOJ had convicted citizens of our country on perjured testimony.

We should all be familiar with this case before we vote . . . after the finding of perjury, the judge of course freed the citizens from jail, their lives ruined, reputations destroyed, chewed up by corrupt power.

The employees responsible for the false conviction on tainted testimony were punished, punished by main DOJ with 5 days suspensions, and 6 months probation. A 5-day suspension.

Because of cases like this, section 2 of the bill also sets up a review process to afford a citizen a process which will limit if not eliminate corrupt uses of power, and by limiting government powers, enhance the liberty of every citizen of this country.

And we must do so . . .

I conclude with a statement by Justice Brandeis:

Decency, security and liberty alike demand that government officials should be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperilled if it fails to observe the law scrupulously . . . Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means—to declare that Government may commit crimes in order to secure the conviction of a private criminal—would bring terrible retribution. Against that prenicious doctrine this Court should resolutely set its face. (Olmstead v. U.S., 1928).