

1       IN THE UNITED STATES DISTRICT COURT  
2               FOR THE DISTRICT OF NEW JERSEY

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6       IN THE MATTER OF THE HISTORICAL       :  
7       SOCIETY OF THE UNITED STATES DISTRICT :  
8       COURT FOR THE DISTRICT OF NEW JERSEY :  
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12               United States Court House

13               and Post Office Building

14               Newark, New Jersey

15               March 5, 2002

16

17       B E F O R E:

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19               HONORABLE JOHN W. BISSELL, Chief Judge

20               HONORABLE RONALD J. HEDGES, Magistrate Judge

21               DONALD A. ROBINSON. Esq.

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24 Reported By Stanley B. Rizman, C.S.R. and Official

25 Court Reporter

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4	Presentation of film narrated by James Waldron	
5	Professor Geoffrey Hazard	
6	Professor Mark Edward Lender	
7	Donald A. Robinson	
8	Michael A. Chagares	
9	Honorable Rosemary Gambardella.	
10	John J. Whipple, Esq.	
11	Honorable James J. Zazzali, Justice of the New Jersey Supreme Court	
12	Honorable John W. Bissell, Chief Judge	
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1           CHIEF JUDGE BISSELL: Good  
2 afternoon, everybody. It is my pleasure to welcome  
3 you here to our Historical Society's gala event.  
4 And without further ado, we are going to start with  
5 the first item on our program which is the  
6 presentation of a movie of the Federal courthouse  
7 or courthouses in Newark.

8           We're indebted to Jim Waldron for  
9 having put this together. We'll move on to other  
10 segments. But this is our opener.

11           Jim, would you go ahead, please.

12           MR. WALDRON: All right, Judge.

13

14           (The videotape is played.)

15

16           (Applause.)

17

18           CHIEF JUDGE BISSELL: Before we move  
19 ahead with the advertised portions of our program,

20 we're going to take a moment for something that is

21 unscheduled and a little bit of a surprise.

22           However, before we do that, as well,

23 if there are those of you in the back -- there are

24 a number of seats down here in the well of the

25 Court.

1           Please take a couple of minutes. Come  
2 down and occupy them. If they were, say, for  
3 anybody else and they're not here, it's too bad.  
4 We got lots of room here. Please take advantage of  
5 it.

6           That includes the seating here in the  
7 well as well.

8           The reinvigoration of our Historical  
9 Society in the last couple of years, which has led  
10 to this program, its predecessor and successors,  
11 I'm certain, is largely the work of Ron Hedges of  
12 our Court. Without him, his ideas, his energy, his  
13 organization and everything else, we just wouldn't  
14 be moving on a path toward the type of programs  
15 that we are able to present today.

16           Accordingly, on behalf of the Board of  
17 the Historical Society of the U.S. District Court  
18 for the District of New Jersey, it is my pleasure  
19 to give to Ron Hedges -- I might add as a total

20 surprise to him -- a small token of our

21 appreciation for your efforts.

22 (Applause.)

23 CHIEF JUDGE BISSELL: Modest as he is,

24 Ron doesn't even want to open it here in public. I

25 don't think it is because he's scared of what it

1 is.

2 I can advise you what it is a globe.

3 Apparently, the collection of globes is among Ron's

4 many talents and hobbies. We felt this would be

5 right down Broadway for him.

6 So, Ron, with all our best wishes,

7 please.

8 He opened it any way.

9 JUDGE HEDGES: Thank you.

10 (Applause.)

11 CHIEF JUDGE BISSELL: At this point

12 I'd like to turn our proceedings over to our master

13 of ceremonies, who needs no introduction. So he

14 won't get one. Don Robinson.

15 (Applause.)

16 MR. ROBINSON: Thank you.

17 Two hundred and 13 years ago President

18 George Washington appointed to this Court our first

19 New Jersey Federal Judge. Judge Greeley. He held

20 the first session of the Court in New Brunswick  
21 when all he did was swear in three lawyers and then  
22 the Clerk entered this very interesting minute.  
23           Quote. No business appearing, court  
24 adjourned.  
25           Business did later appear. And for

1 the past 213 years we've had 71 District Judges,  
2 many Magistrate Judges and --

3 (Cell phone ringing.)

4 CHIEF JUDGE BISSELL: Don, will you  
5 answer that cell phone or what?

6 (Laughter.)

7 CHIEF JUDGE BISSELL: There goes the  
8 21st century.

9 (Laughter.)

10 MR. ROBINSON: So much for history.

11 Business did later appear and for the  
12 past 213 years there have been 71 district judges,  
13 many magistrate judges and bankruptcy judges. All  
14 of whom have handled the busy business of the  
15 second oldest federal court in the country.

16 The mission of your Historical Society  
17 has been described in the memorable words of our  
18 beloved Judge Gerry. His mandate to all of us now  
19 is enshrined on a plaque in the lobby of the Cohen

20 Courthouse at John F. Gerry Plaza in Camden and

21 here's what he said.

22 "As all of those before us, during the

23 proud history of this second oldest District Court

24 in the Nation, we are but temporary custodians of

25 its traditions and authority. And the living

1 institution that is the Court has afforded each of  
2 us that rare privilege most often denied to others,  
3 to reach beyond ourselves in its service."

4           The 22 members of the Historical  
5 Society's Board of Directors and our 12 judicial  
6 advisors are doing our best to carry out Judge  
7 Gerry's mandate.

8           One way has been to set forth some of  
9 that proud history in the new edition of *Nunc Pro*  
10 *Tunc*, which is out there for all of you to have and  
11 thanks to the hard creative work of its Editors,  
12 Kathy Renahan and Robert Bartkus, more of that  
13 proud history is the subject of today's program.  
14 Especially the dedication of the magnificent  
15 Whipple Conference Room for attorneys, honoring  
16 Judge Whipple's 16 years of service.

17           First, though, we will hear from  
18 Professor Geoffrey Hazard about a current topic.  
19 Not a historical topic but a current one that is

20 especially timely during this tense period of

21 terrorism.

22 Professor Hazard is recognized

23 throughout the country as an outstanding legal

24 scholar. He was on the Yale University faculty for

25 23 years. He's been at the University of

1 Pennsylvania Law School since 1993 where he teaches  
2 civil procedure, legal ethics and federal  
3 jurisdiction. His activities include serving as  
4 the long-time Trustee of the Supreme Court  
5 Historical Society. He has received numerous  
6 honorary degrees, written 12 books on various legal  
7 topics and numerous articles.

8           We welcome you, Professor Hazard, and  
9 thank you for joining us.

10           (Applause.)

11           PROFESSOR HAZARD: Judges and  
12 colleagues, it's a welcome opportunity to be with  
13 you on this occasion, which I take it is a  
14 combination of celebration and remembrance.  
15 Celebration of the continuing strength of our legal  
16 system and the protection it affords to all  
17 Americans in their legal rights and, as well, the  
18 service of the Bar about which I will speak briefly

19 today.

20 I've done a paper, which I am pleased

21 to say the Seton Hall Law Review will consider for

22 publication and may decide to publish. (You can

23 never presume with a Law Review.) I will give you

24 a concise rendition of the paper in recognition of

25 this occasion.

1           My topic is representing an alleged  
2 terrorist in the media age. When I suggested the  
3 title, it was called to my attention that I ought  
4 to say an "alleged" terrorist. The theme is the  
5 right of counsel even if the accusation is of a  
6 crime against the very security of our government.

7           In preparing this address I had  
8 occasion to review accounts of the responsibility  
9 and authority of counsel to represent unpopular  
10 defendants. Particularly from an historical point  
11 of view, that goes back as far as the rule of law,  
12 itself. In this country it brings to mind  
13 instances indeed before the Constitution,  
14 representation, for example, of John Peter Zenger.

15           In more modern times we have had  
16 situations, some of which have already been  
17 referred to here, including the bootleggers and rum  
18 runners, despicable people that, nevertheless, were

19 entitled to legal representation, and they got it.

20           Abroad we can bring to mind the famous

21 Dreyfus case, which wracked the French Republic at

22 the turn of the 19th century and finally resulted

23 in exoneration of a person who had been wrongly

24 accused.

25           We can think of the Scottsboro case in

1 this country in the 1930s in Alabama. We can think  
2 of the defense in the prosecution of the Communists  
3 in the 1950s, which excited enormous opposition and  
4 criticism from many circles within this country.  
5 However, the courts and, I'm proud to say in  
6 general, the Bar, rallied to the defense. Even in  
7 that troubled time during the Cold War, it was  
8 essential that the right of counsel be preserved  
9 not only in name but in realization.

10           At all times in these situations there  
11 has been a cacophony in opposition to the accused  
12 and, by extension, in opposition to counsel  
13 representing the accused.

14           Part of the denunciation originates  
15 from the media. The effect of the media, perhaps,  
16 today has become an even more difficult dimension  
17 of the problem because of the intensity of media  
18 attention to newsworthy events which, of course,

19 include criminal prosecution of notorious offenses.

20 We can bring to mind Timothy McVeigh

21 for an example. Another example going back a few

22 years ago was the homicide prosecution of Dr.

23 Shephard which, as you recall, was subsequently

24 transformed into the movie The Fugitive.

25 In both cases the media coverage was

1 intense and prolonged, to the point where many of  
2 us involved with professional ethics and judicial  
3 administration now recognize that dealing with the  
4 media -- some people say "handling the media" -- is  
5 as much a part of the problem of doing justice as  
6 conducting our procedures according to law.

7           Fortunately, I think the media, in  
8 general, have grown to accept a more responsible  
9 attitude toward the problem of guilt. Most members  
10 of the media now come to take the position, "Well,  
11 let's wait and see." Wait and see what the courts  
12 do, what the ultimate verdict is, instead of  
13 rushing to judgment and condemning the accused  
14 before trial.

15           Of course, the media are not uniform  
16 in that self discipline. So the problem of  
17 maintaining a firm commitment to fair trial with  
18 the aid of counsel, of maintaining the professional

19 morale of counsel and their respectability and  
20 esteem in the eyes of brothers and sisters in the  
21 profession, remains a serious problem.

22           As I looked at the literature, the  
23 remarkable thing is that it doesn't make much  
24 difference what the accusation is: Treason, as in  
25 the case of Dreyfus, murder in the case of Dr.

1   Shepherd, less pleasant kinds of cases such as  
2   child abuse, assault -- I've mentioned the  
3   communists -- McVeigh. Whatever the accusation,  
4   the problem remains the same.

5           I invite you to share with me an  
6   appreciation of the contradiction that is involved  
7   in all of these situations. On the one hand we in  
8   the Bar and on the Bench say that one is not guilty  
9   until tried according to law and found as such.

10   And we firmly believe that. In our better moments  
11   we adhere to that principle and proclaim it.

12           But at the same time, in every  
13   prosecution another branch of the government, the  
14   Executive, has proclaimed that the accused is  
15   guilty. That is what a charge is. The authorities

—  
16   would not have brought the charge unless they  
17   thought that it was warranted, that there was  
18   evidence to support it, and that conviction ought

19 to be obtained.

20           The fact of the matter, therefore, is

21 that in all these cases our authorities are

22 speaking in two voices. One, the prosecution, the

23 Executive department -- listen to our President

24 these days -- is saying "these folks are guilty."

25 ("Folks" is a word of art now.) That implies that

1 the suspects should be condemned, indeed in some  
2 cases perhaps killed, before they can even be  
3 brought to the Bar of justice." On the other hand,  
4 we in the legal profession, Bench and Bar, say:  
5 "Wait a bit. Not until we've had opportunity to  
6 examine the facts and the law and to make a  
7 determination according to our relatively leisurely  
8 procedures."

9           We should recognize that there is a  
10 contradiction here. Not one that we should be  
11 ashamed of or disconcerted by, but simply to accept  
12 it as a fact in a Constitutional system based on  
13 the rule of law.

14           On the one hand, we must support our  
15 Executive in carrying out prosecutions that it  
16 feels are warranted, support our Executive in the  
17 foreign activities that our military forces are now  
18 engaged in. On the other hand, we must support our

19 judiciary and particularly support our brothers and  
20 sisters in the profession who come forward to  
21 defend the accused according to law.

22           Thus, it is a fundamental  
23 contradiction of a Constitutional regime. There is  
24 no perfect reconciliation of the two viewpoints.  
25 But, nevertheless, for us, members of the legal

1 profession, we should adhere to our faith in the  
2 rule of law.

3 Thank you.

4 (Applause.)

5 MR. ROBINSON: Does anybody have any  
6 questions of Professor Hazzard on this very topical  
7 topic?

8 Any questions from the audience?

9 (No response.)

10 MR. ROBINSON: Okay, Chief.

11 CHIEF JUDGE BISSELL: At this time I'm  
12 going to turn the mike over to Ron Hedges who will  
13 introduce our next speaker.

14 Ron.

15 JUDGE HEDGES: When the Historical  
16 Society was rejuvenated, if you will, several years  
17 ago, one of my constant comments was: We are a  
18 Historical Society. We should do something

19 historical.

20 I'm happy to say we're doing that  
21 thanks to the generosity of a number of firms and  
22 individual lawyers.

23 We have commissioned the preparation  
24 of a scholarly written history of the Court that we  
25 expect will be available in the fall of this year.

1 Our author is with us today. I believe we're up to  
2 the Civil War, more or less, correct?

3           It is a fascinating history. I'd like  
4 to introduce to you, to give you a short summary of  
5 one part of the book, Dr. Mark Lender.

6           Dr. Lender is a professor of history  
7 and also the Interim Dean of the graduate school at  
8 Kean University and he'll present us a little  
9 discussion of the first unpopular defendants in New  
10 Jersey.

11           Thank you.

12           (Applause.)

13           DR. LENDER: Thank you, Judge Hedges,  
14 judges and guests.

15           Professor Hazard has done some of my  
16 job for me. His history of how we have looked at  
17 and handled unpopular defendants correctly implied  
18 that an unpopular defendant, innocent or guilty, in

19 effect, is a test or a trial of the legal system,

20 itself.

21           When Judge Hedges asked me to look at

22 the issue in conjunction with the Court history, I

23 wondered how soon it would be before I found a case

24 that filled the bill. How quickly or how long did

25 it take the District of New Jersey, which opened

1 for business in 1789, to come up against a case  
2 that took a defendant, or a group of defendants,  
3 who were clearly obnoxious to the powerful or to  
4 the people generally, put them on trial, and then  
5 test itself in this difficult and problematic  
6 situation? It didn't take long.

7           The District of New Jersey was only  
8 two years old when in April of 1791, a Federal  
9 Grand Jury sitting in the Circuit Court for the  
10 District of New Jersey indicted one Amasa Parker  
11 and five other co-defendants for using, in the  
12 indictment's language, "feloniously" -- is there  
13 any other way? -- "counterfeiting the public  
14 securities of the United States of America."

15           Parker faced two indictments and they  
16 were serious. Counterfeiting could be a capital  
17 offense in the 1790s. But the indictments were  
18 even more noteworthy because Parker and the others

19 were not ordinary counterfeiters. In fact, they  
20 were part of a notorious gang called The Crane  
21 Ring, whose operations had made them obnoxious to  
22 federal and state officials over New England and  
23 all of the middle -- I almost said million states.

24           Their hideout was supposedly a  
25 carefully guarded and hidden cave somewhere on the

1 Hudson River that was never discovered, but they  
2 were good enough forgers to pass the securities of  
3 several states and the federal government with  
4 virtual impunity for the first years of the  
5 Washington administration.

6 In 1790 law enforcement officials in  
7 New York City arrested or held for questioning  
8 Francis Crane, the ringleader, and a number of  
9 others but had released them for lack of evidence.  
10 Nevertheless, federal and state officials kept an  
11 eye on The Crane Ring wherever and however they  
12 could.

13 In early 1791 Crane's luck seemingly  
14 ran out. Amasa Parker, one of Crane's lieutenants,  
15 the individual I just mentioned as being indicted  
16 in Trenton, and several of his associates were  
17 recognized in New Jersey, picked up at the order of  
18 the District Attorney for New Jersey, and arrested.

19           Then, even better, there was a  
20 confession. A Dr. Clarkson Freeman, another of  
21 Crane's lieutenants, already in jail in Newark for  
22 counterfeiting New Jersey securities, confessed  
23 completely and implied that he was willing to  
24 testify against Parker and the others.

25           Between the capture of Crane in New

1 York and the arrest of Parker, Freeman and the  
2 others in New Jersey, the doom of the gang seemed  
3 all but assured. The arrests constituted the  
4 culmination of the largest single criminal  
5 investigation in the young history of the Office of  
6 U.S. Attorney for the District of New Jersey.

7           The matter hadn't been easy. Crane  
8 and his confederates were desperate men and had  
9 violently fought arrest. Now, significantly, these  
10 defendants also were highly unpopular among a cadre  
11 of very powerful people. The forgeries of The  
12 Crane Ring, as I noted, were extensive, which put  
13 them high on the list of public enemies of no one  
14 less than Alexander Hamilton, the nation's first  
15 Secretary of the Treasury.

16           The young Republic was struggling to  
17 establish its credit and establish a stable  
18 currency, and Hamilton had identified the Crane

19 Ring as a major threat to the national economy. In  
20 fact, Secretary Hamilton, who had virtually staked  
21 his political reputation on the success of the  
22 Republic's financial system, was furious at the  
23 ability of the Crane Ring to elude prosecution.  
24 Consequently, he had taken the rather extraordinary  
25 step of securing a special federal appropriation to

1 track them down.

2           Now that they were in custody and  
3 under indictment, however, the federal District of  
4 New Jersey faced its first trial in which the  
5 defendants were truly obnoxious. It was also the  
6 first trial in which the federal government had a  
7 direct interest in the outcome of the case. No one  
8 doubted that Hamilton and the Washington  
9 administration generally wanted the Crane Ring out  
10 of business -- and out of business permanently.

11           Under the circumstances the  
12 independence and fairness of the new federal  
13 courts, which had never been tested in the  
14 district, were as much on trial as Amasa Parker.

15           Now, despite the successful roundup of  
16 Parker and the other Crane gang confederates  
17 Abraham Ogden, the U.S. District Attorney for the  
18 District of New Jersey, knew that winning a trial

19 was by no means certain. In fact, he considered  
20 success problematic. That hidden cave in which the  
21 gang printed its currencies had never been found.  
22 There were very few witnesses and just as little  
23 physical evidence to bring into court.

24           So, in what had to have been one of  
25 the first actions taken by any U.S. Attorney -- it

1 was certainly the first time it was tried in the  
2 District of New Jersey -- Ogden broached the  
3 possibility of a plea bargain for Clarkson Freeman,  
4 the man already in jail and who already had  
5 confessed. He would trade a pardon for Freeman if  
6 Freeman agreed to testify against the others.

7           Ogden wrote to no less than Chief  
8 Justice John Jay informing him that a conviction  
9 without Freeman's testimony was going to be chancy,  
10 and what did he think of this idea of trading the  
11 pardon for testimony?

12           Jay liked the idea but didn't want to  
13 do something like this without checking with his  
14 boss, whom he considered no one less than President  
15 George Washington. He referred the matter directly  
16 to the President. The President pondered it.  
17 While the pondering went on, however, the trial  
18 came up without any agreement having been

19 established with Clarkson Freeman.  
20           Worse for Ogden, he was going to face  
21 very able defense counsel. In what was another  
22 first for the District of New Jersey, the Court  
23 took the step of ordering what, in effect, was a  
24 public defender to handle the case on behalf of  
25 Amasa Parker. And the Court didn't just pick any

1 attorneys. They picked individuals with first-rate  
2 reputations: Aaron G. Woodruff and Mr. Richard  
3 Stockton. The choices were significant.

4           If the Justices were trying to assure  
5 the appearance, at least, of fair play, they  
6 succeeded admirably. Woodruff was a highly  
7 regarded New Jersey attorney and Richard Stockton  
8 was in a class by himself. By common consent of  
9 the New Jersey Bar this was the best attorney in  
10 the state of New Jersey. The son of a signer of  
11 the Declaration of Independence, he was the first  
12 U.S. District Attorney for the District of New  
13 Jersey. He had served briefly under Judge David  
14 Brearley. This was a man whose contemporaries  
15 considered virtually without peer at the Bar.

16           The minutes of the Court are silent on  
17 the reasons for his selection. But the fact that  
18 he took the defense gave the case an even higher

19 public profile. The trial took place in Circuit  
20 Court on the 12th of April in 1791 with the Court  
21 sitting in a tavern in the city of Trenton (not  
22 being a federal courthouse yet). At the time,  
23 taverns were public forums as much as courthouses.  
24 Associate Justice James Iredall and  
25 District Judge Robert Morris heard the case. Ogden

1 chose to try Parker on one count of the two  
2 indictments. If it was a test of the strength of  
3 the case to see how it would go before he tried the  
4 other count or the other defendants, he was  
5 disappointed. The government called eight  
6 witnesses including Clarkson Freeman, but Freeman  
7 did not have his plea bargain, and whatever he and  
8 other witnesses had to say -- it wasn't enough to  
9 make Ogden's case. The jury went out. They came  
10 back after only half an hour. And they announced  
11 that "The prisoner at the Bar is not guilty of all  
12 of the charges whereof he stands indicted and so  
13 say we all."

14           At this the government's case  
15 unraveled. Parker himself went back to the  
16 Somerset County Jail where he was going to be tried  
17 on state charges. Among the other defendants,  
18 there were some state convictions on minor

19 indictments, but the federal charges went no

20 further in the District of New Jersey.

21           There was one bizarre aftermath of the

22 story. Clarkson Freeman had been returned to jail

23 in Newark where he was going to serve out his New

24 Jersey sentence. He was not happy sitting in jail

25 in Newark. So he broke jail and fled to Canada.

1           The government remained furious with  
2 him and no less than Secretary of State Thomas  
3 Jefferson contacted Judge Morris in New Jersey to  
4 figure out what they might be able to do about all  
5 of this. Inasmuch as Freeman was in Canada, there  
6 wasn't a great deal. But Ogden remained  
7 persistent. The results of the trial and the  
8 collapse of his case must have rankled him.

9           So as late as 1795, four years later,  
10 he still wanted to reopen the affair. He contacted  
11 the new Secretary of State, Timothy Pickering.  
12 Once again, he offered to trade a pardon for  
13 testimony. Pickering could only ask for  
14 extradition from Canada. When the Canadians tried  
15 to find him, they couldn't. At this Freeman and  
16 his confederates simply disappeared from the  
17 historical record.

18           I think the matter was noteworthy,

19 nevertheless. The Parker case really was an early  
20 test of justice in the District of New Jersey. The  
21 government was clearly concerned with the matter.  
22 Some of the most powerful people in the Washington  
23 administration took a direct interest and had  
24 communicated with the Court about this case.  
25           Ogden did all he could to mount a

1 vigorous prosecution, and yet the courts paid  
2 strict attention to the proper forums of legal  
3 proceedings at virtually every point. There were  
4 no short cuts at trial and, certainly, there was a  
5 concern that Parker and the others receive a proper  
6 defense. The not guilty verdict would indicate a  
7 jury acting on the evidence; not on the notoriety  
8 of the defendants or the well-known desire to put  
9 the Crane Ring out of business.

10 I think it is fair to say that Judge  
11 Morris and Justice Iredall would have very much  
12 liked a guilty verdict in United States versus  
13 Parker. But they did not allow their court to  
14 sacrifice due process in pursuit of such an  
15 outcome. If the verdict was a disappointment,  
16 perhaps there was some understanding, even at the  
17 time, that the Court had made the larger and more  
18 important point. Federal justice in the early

19 Republic could be even-handed even in the face of a  
20 high-profile case involving undeniably unpopular  
21 defendants.

22           In the early years of the republic,  
23 when the federal courts was still something of a  
24 novelty for much of the Republic, it was important  
25 that such a precedent be on the record.

1 Thank you.

2 (Applause.)

3 JUDGE HEDGES: Ladies and gentlemen,

4 moving on with the program, the film you saw made

5 reference to an eagle. The eagle has not landed

6 yet. The framework for it is across the street.

7 If you leave the building today and go back towards

8 the King Building, you'll see in front of the

9 flagpole a base that the eagle will be put on

10 within a week or so.

11 But we have a number of people to

12 thank for the recovery of this. I see David Gross

13 is in the back. The first person who helped us

14 find it after 70-odd years.

15 We also have members of the Davidson

16 family here whom Mike Chagares is going to

17 introduce and we have particularly to thank Mike

18 Chagares of the office of the United States

19 Attorney who really took the laboring oar to

20 recover that for us.

21 So I'm going to turn that over to Mike

22 and I'm going to ask the Chief Judge to go down in

23 front of the easel so Mike could make a

24 presentation.

25 MR. CHAGARES: Thank you, Judge

1 Hedges.

2           As we heard in the film, the eagle,  
3 set on the property of B. Palmer Davidson for over  
4 60 years and today I'm proud and pleased to  
5 recognize Mr. Davidson's grandson, Charles  
6 Davidson, right here in the jury box.

7           (Applause.)

8           MR. CHAGARES: Chief Judge Bissell, on  
9 behalf of the Historical Society of the United  
10 States District Court for the District of New  
11 Jersey, it is my pleasure to return to the Court  
12 the eagle that adorned the U.S. Courthouse from  
13 1898 until 1937.

14           Unfortunately, as Judge Hedges stated,  
15 the eagle hasn't landed yet but it soon will.  
16 Today, though, I'd like to present the Court, on  
17 behalf of the Historical Society, with a plaque  
18 which will be affixed to the pedestal which is

19 currently being built. I'd like to read that  
20 plaque for the assembled group.  
21 It says, "Dedicated to the ideal of  
22 equal justice under law. This magnificent eagle  
23 once adorned the facade of the United States  
24 Courthouse in Newark opened in 1898 and demolished  
25 in 1937.

1           "The eagle has been restored to the  
2 public view through the generosity of the Davidson  
3 family and the efforts of the Board of Directors of  
4 the Historical Society of the United States  
5 District Court for the District of New Jersey.

6           "Dedicated this 5th day of March 2002.

7           (Applause.)

8           CHIEF JUDGE BISSELL: Thank you very  
9 much.

10          Mike, that is very kind of you.

11          I'd like to echo thanks to the  
12 Davidson family.

13          Wouldn't you know that people from my  
14 adopted home of Montclair, where I lived for 30  
15 years, were the proper caretakers of the eagle for  
16 all that time.

17          Thank you very much.

18          (Applause.)

19 CHIEF JUDGE BISSELL: At this time it  
20 is my pleasure, as we move to the next phase of the  
21 program, to introduce to you the son of our beloved  
22 former Chief Judge Lawrence A. Whipple and that  
23 son, John C. Whipple.

24 John Whipple has had a distinguished  
25 career at the Bar in his own right. For over 20

1 years an Assistant Monmouth County Prosecutor and  
2 Assistant Federal Public Defender from 1985 through  
3 1988 who helped teach me what my job was all about.

4 A partner later both in the firm of  
5 Whipple, Ross and Hirsch and now, most recently,  
6 with his own firm where he has the pleasure of  
7 practicing law with his own wife who joins him here  
8 today.

9 John Whipple is our first speaker  
10 honoring his dad, the late Chief Judge Lawrence A.  
11 Whipple, as we begin that portion of our program  
12 which dedicates the Lawrence A. Whipple Attorney  
13 Conference Room.

14 John.

15 (Applause.)

16 MR. WHIPPLE: Thank you very much,  
17 Judge Bissell, for those kind words and the kind  
18 introduction.

19                   Members of the federal family, first I  
20    want to introduce the members of my family that are  
21    present here today. My oldest brother Donald  
22    affectionately known as Doc Whipple, is here with  
23    his wife Lois. My brother Larry; his wife Linda.  
24    My wife Mary. My sister Ginny Whipple Berkner, who  
25    knows more judges and lawyers than I do. Her

1 husband George is here. I understand that my niece  
2 Amy Whipple and her fiancée Ryan Tolan are here.  
3 Also, my nephew Trey Whipple and his wife Molly  
4 Whipple are present.

5 My remarks will be brief. My father  
6 was known to be brief when he presided in this  
7 courthouse. Sometimes brief and to the point. He  
8 was also brief and to the point with his children.  
9 He was not a prolific letter writer when we were  
10 away from home.

11 Every so often I would receive the  
12 following note from my father while I was away at  
13 college. "\$25 check enclosed. Hence, the  
14 brevity."

15 (Laughter.)

16 MR. WHIPPLE: Everyone in this room  
17 who knew my father has a favorite Judge Whipple  
18 story. There are so many -- too many to tell on

19 this occasion. These few will, perhaps, bring a

20 smile to your face.

21           While he was on the State bench he

22 happened to be the Acting Assignment Judge during

23 the Newark riots. The city was under siege.

24 Hundreds of people were detained in custody needing

25 bail set and needing first appearances before

1 judges. There was no Public Defender system. The  
2 Sheriff's Department could not transport prisoners  
3 to the courthouse to be processed.

4 He called the State Bar President who  
5 at that time happened to be John Gibbons. He said,  
6 "John, if you assemble a team of volunteer lawyers,  
7 I will move the Court system to the National Guard  
8 Armory in West Orange."

9 That is exactly what happened. The  
10 lawyers worked around the clock. Sandwiches and  
11 coffee were served to everybody. Everybody had  
12 bail set. Those people who should have been  
13 released to their homes were released. The order  
14 of the Court system was restored.

15 He was very practical; this was one  
16 example. The judges and lawyers here are familiar,  
17 I'm sure, with the evidence treatise "Wigmore on  
18 Evidence." Well, this is an example of Whipple on

19 Evidence.

20           One hot summer day in the early 1970s

21 there was a complicated mail fraud case that was to

22 begin trial before my father and a jury. There

23 were two defendants in the case. My father tried

24 desperately to get the case resolved because nobody

25 wanted to be on trial during this hot summer.

1           When the trial was to begin the  
2 government brought their evidence to the courthouse  
3 here to the third floor. It was a document case  
4 and there were a lot of documents. The government  
5 trial attorneys and the case agents had brought the  
6 carts -- the oversized shopping carts that we've  
7 seen throughout this courthouse for many years --  
8 across from the Federal Building to this building.

9           In this case there were five carts.  
10 My father heard argument from the defense team  
11 which included, "This trial will take forever;  
12 perhaps all summer; it's too hot; nobody should be  
13 on trial during the summer months; the government  
14 is over killing us with all of this; this is a  
15 simple case; this is too much; we just can't deal  
16 with it all" and on and on and on.

17           The government, of course, argued all  
18 of the appropriate reasons why all of the documents

19 were admissible under the Rules of Evidence.

20 Well, "Whipple on Evidence" -- The

21 ruling: "Pick your best two carts and send the

22 other three back to the office."

23 (Laughter.)

24 MR. WHIPPLE: My father will be dead

25 19 years in June. Upon his death he was lauded for

1 his intellect, his wit and his fairness. He was  
2 warm, compassionate, generous and humble. He was a  
3 good man. He was a simple man. He was also an  
4 unwitting matchmaker. He hired a woman by the name  
5 of Mary Gibbons to be his law clerk.

6           At the time I was a first-year law  
7 student at Seton Hall Law School and she was a  
8 second-year student. She introduced herself to me  
9 at the Law School and said, "I've just been hired  
10 by your father to be his law clerk."

11           We were married two and a half years  
12 after that and we'll be married 20 years this  
13 summer.

14           His wit had no bounds, however. On  
15 our wedding day, at the end of the reception he  
16 took my wife aside and said. "Here's \$20 in case  
17 you have to take a cab later."

18           (Laughter.)

19 MR. WHIPPLE: In closing, I just want  
20 to say that my father loved his family. He loved  
21 God and he loved this Court and everyone associated  
22 with it. It didn't matter who you were. Whether  
23 you were a fellow judge, a marshal, a lawyer, a  
24 probation officer, a court clerk or a litigant, you  
25 were treated the same way because you were a human

1 being first. Your status in life didn't matter.

2           On behalf of the Whipple family we  
3 wish to thank everyone associated with this project  
4 for their hard work. We are honored to have this  
5 beautiful room in this great historic courthouse  
6 dedicated in my father's name.

7           Thank you very much.

8           (Applause.)

9           CHIEF JUDGE BISSELL: Thank you very  
10 much, John.

11           Our next speaker also needs no  
12 introduction but he's going to get one. At least,  
13 very briefly. Admitted to the Bar of our state in  
14 1963, James Zazzali served as one of Judge Lawrence  
15 Whipple's first law clerks. He was an active  
16 practitioner in his own firm in Newark, New Jersey  
17 both before and after his service as the Attorney  
18 General of our state.

19            In June 2000 Jim was sworn in as the  
20   thirtieth Associate Justice of the Supreme Court of  
21   New Jersey since its establishment under the 1947  
22   State Constitution.

23            Actually, the Zazzali-Whipple  
24   relationship goes back much further than that.  
25   Over 50 years. During the Korean War Jim's dad was

1 named by President Truman as Director of the Office  
2 of Price Stabilization in charge of price controls.  
3 The Regional Attorney, with whom he worked daily  
4 for three years, was a youngster from Jersey City  
5 named Larry Whipple.

6 Justice Zazzali honors us by appearing  
7 here today also to honor Chief Judge Whipple and to  
8 celebrate the dedication of our new Attorney  
9 Conference Room that bears his name.

10 Justice Zazzali.

11 (Applause.)

12 JUSTICE ZAZZALI: Thank you, your  
13 Honor.

14 Judge Hedges, Chief, what you  
15 neglected to mention, Judge, is that my last  
16 litigated case before I went on the Court was when  
17 I was before you and you decided against me.

18 (Laughter.)

19 CHIEF JUDGE BISSELL: Actually, that

20 is only because you were a witness in the case.

21 (Laughter.)

22 JUSTICE ZAZZALI: No hard feelings,

23 Judge Biss-cell.

24 (Laughter.)

25 JUSTICE ZAZZALI: Judge Bissell, the

1 Whipple family, honored judges of all stripes, all  
2 guests including, in particular, Judge Whipple's  
3 former law clerks.

4           We all have wonderful memories of  
5 Larry Whipple. I will not burden you with my  
6 experiences except to weave them into, briefly, the  
7 judge and his family. I knew the judge back in the  
8 '50s because of dad. In 1959 I was a freshman at  
9 Georgetown Law School and Larry and Virginia  
10 brought Doc down, who was entering Georgetown, and  
11 in that conversation the judge said to me -- he was  
12 then the Hudson County Prosecutor and he said, "You  
13 know, when you get out of law school, come up and  
14 see me and we'll find a clerkship for you."

15           Little did I know. He also said to  
16 me, which I will always remember -- he said, "I  
17 want you to keep an eye on Doc."

18           He was wrong in that respect. What he

19 should have said is I want you to keep an eye on  
20 Larry. Larry at the time was working his plan to  
21 be the first Irish Pope, for those of you who know  
22 the background.

23 I then came to know Virginia, Ginny.

24 A little known fact is that Ginny was a  
25 receptionist at our law firm for a few years. That

1 is where George Schneider, for good reasons,

2 nicknamed her "Tornado."

3           Then I got to know John. John I've

4 always been worried about because he's the one

5 Whipple I came to know who seemed to be so normal.

6           Of course, I knew Nancy and Nancy is

7 not with us. I'm confident that Nancy and Judge

8 Whipple and Virginia are looking down with pride

9 upon all of you here, but especially the law clerks

10 as well as his family.

11           As you know, he had his -- I'm not

12 going to trace Judge Whipple's history. But he was

13 born and bred in the wonderful town or city of

14 Jersey City and I think he's looking down again

15 with pride on all of you in that Jersey City in the

16 sky.

17           That reminds me of a great line many

18 of have heard from Brendan Byrne, Governor Byrne,

19 who said when he died he wanted to be buried in  
20 Jersey City because he wanted to remain active in  
21 politics.

22 (Laughter).

23 JUSTICE ZAZZALI: On a different note  
24 and because time is running short and because Judge  
25 Bissell is so obsessive about deadlines these days

1 (laughter), I have a choice to make. Either I can  
2 talk to you about Judge Whipple and I can give that  
3 to you by way of anecdotes or, alternatively, I can  
4 talk to you about his relationships with people and  
5 institutions.

6 Incidentally, before I do that it  
7 seems absolutely remarkable not that we are having  
8 this wonderful event but I think, more important,  
9 that it is happening almost 20 years after he's  
10 gone. I think that is just an extraordinary  
11 testament to the impact upon all of us.

12 I mean, I went to Trenton and people  
13 forgot me and I'm not even dead yet.

14 (Laughter.)

15 JUSTICE ZAZZALI: There are some  
16 disputes over that.

17 (Laughter.)

18 JUSTICE ZAZZALI: And so the better

19 way to do it, I think, is to talk briefly about

20 what he meant to so many people.

21 To his parents, to his brothers, Jim

22 and John, he was the very best of sons and the best

23 of brothers. I know, personally, that he was

24 always there when they needed him.

25 To Virginia he was always there.

1 Always loving, always living life to the fullest.

2 I can remember -- I think the kids may  
3 recall this when he was Hudson County Prosecutor --  
4 no -- when he was Jersey City Councilman for two  
5 terms.

6 Virginia Whipple told me she was going  
7 to write a book about that experience called Eight  
8 Years Without Love. But the fact is she said in  
9 the same breath that the other 36, whatever the  
10 name may have been -- the other 36 years with Larry  
11 were just absolutely the greatest. And she was  
12 always proud, as we all should be, as the children  
13 and grandchildren should be of that relationship.

14 So on that note I would say, yes,  
15 Virginia, there is a Larry Whipple who will always  
16 be with you and with all of us.

17 To his children he was the best father  
18 that anybody could hope to have. It is true that

19 virtually all of us feel that way about our dads.

20 I think the important thing is that the Whipple

21 children feel that way about him and should

22 continue to keep him that way in their memories.

23           The very best that God could ever give

24 to them.

25           To his grandchildren, very simple.

1 His grandkids are here today. He was always their  
2 beloved Pop Pop.

3 To the Catholic Church and Democratic  
4 Party he was always a loyal son.

5 Think of how those commitments on his  
6 part kind of summed him up. Commitment to God, to  
7 family, to party. Pretty simple stuff. But,  
8 again, not a bad set of priorities.

9 To his colleagues on the Bench, both  
10 State and Federal, he was more than simply  
11 supportive. You all know anecdotally and  
12 substantively the enormous things he did with you  
13 and for you. He was always there. His memory is  
14 so much alive I think to so many people especially  
15 in the Bar and to the lawyers in particular because  
16 years later they remember his practicality, his  
17 extraordinary sense of humor. You had snippets of  
18 it here on the part of John delivering them so

19 eloquently, and the fact, more important than  
20 anything else, that he always remembered that he  
21 was indeed a practicing lawyer.

22 I can recall, when I sat together with  
23 him in one room when we were in the Hall of Records  
24 together -- we shared space. I think some of you  
25 had the same experience.

1           I always wondered why it was that  
2 every once in awhile he would ask me, when he was  
3 going to consult with a lawyer, to step out of the  
4 room. I suspect a few of you may have had that  
5 experience. I'm confident, though I don't know  
6 what was said, that he was there to help that  
7 attorney either settle a case or, equally  
8 important, he was trying to help an attorney in a  
9 professional or personal matter.

10           To his secretary and his staff, the  
11 immediate staff and the entire courthouse staff, as  
12 John mentioned, he was always not just caring but  
13 genuinely loving. He always, with everyone, tried  
14 to make life and the job a little less stressful.  
15 He tried to lighten the mood with a joke.

16           Finally, to his law clerks in  
17 particular, I don't know whether you know it or  
18 not or whether you appreciate it or not, but I

19 don't think I'm overstating it when I suggest that  
20 you, the law clerks of Lawrence A. Whipple, became  
21 among the most prestigious law clerk alumni  
22 association in these United States.

23           But it wasn't just that. It wasn't  
24 just the professional relationship and how I think  
25 it advanced so many of our careers. It was the

1 fact that on a personal level he was more than  
2 simply a father figure. He was, indeed, to so many  
3 a second father.

4           And, in closing, I think back, as we  
5 all have, to Shakespere, to the bard and to Julius  
6 Ceasar. The most famous eulogy and part of that  
7 play is Antony's eulogy for Cesear. But the really  
8 more interesting one which encapsulates Larry is at  
9 the end of the play when Marc Antony eulogizes  
10 Brutus.

11           There were just three simple sentences  
12 or three short phrases which sum up the man we  
13 honor and remember, when Shakespeare said, as we  
14 can say of Larry Whipple, "His life was gentle and  
15 the elements so mixed in him that all of nature  
16 would stand up and say to all of the world -- this  
17 was a man."

18           Thank you.

19 (Applause.)

20 MR. ROBINSON: Thank you, Justice

21 Zazzali.

22 Our final speaker before the closing

23 remarks and a couple of public announcements will

24 be Chief Judge Gambardella. She's been inspired by

25 the exhibit that Judge Hughes and Judge Thompson

1 were able to bring up into Trenton and she's also  
2 been the head of a group that has a beautiful  
3 exhibit in the King Building which she's going to  
4 tell us about.

5 JUDGE GAMBARDELLA: Thank you.

6 Good afternoon, Chief Judge Bissell,  
7 honored judges, Justice Zazzali, honored guests,  
8 the Whipple family and the Davidson family.

9 On behalf of the District Court  
10 Historical Society, today we are unveiling the  
11 first part of the permanent historical exhibit  
12 which will be in Newark at the Martin Luther King  
13 Jr. Federal Building, which is right across the  
14 street.

15 As a result of the fine work of Howard  
16 Landsman, who is really a true artist, you will  
17 have a chance to see hanging in the rotunda of the  
18 King Building an artistic rendering of the statute

19 of Lady Justice and also an artistic rendering from  
20 an actual photograph of the 1898 Federal  
21 Courthouse, the first courthouse in Newark and the  
22 first home of the now returned eagle.

23 I would like to, personally, thank the  
24 District Court Historical Society, its President,  
25 Donald Robinson, Chief Judge Bissell and Judge

1 Hedges particularly for their support of this  
2 project. And I have to also thank our hard-working  
3 committee. So please bear with me because I want  
4 to do that publicly today.

5           Bob Bartkus, Bob Morris, Marianne  
6 Espinosa Murphy and Jim Waldron. I anticipate the  
7 committee anticipates that this will be the first  
8 of many exhibits to be presented here in Newark.  
9 Today you got a sense of being of the rich texture  
10 and history of the Court and we hope that these  
11 exhibits, which will be, in part, permanent and, in  
12 part, rotating will truly reflect that rich  
13 history.

14           I know this has been a busy menu. You  
15 have a lot on your plate today. I hope as you  
16 leave here you take a few minutes to go over to the  
17 King Building or, perhaps, as you return to the  
18 courthouse over the near future and take a look at

19 the exhibit. It is absolutely beautiful. We are  
20 very pleased with it. And I think it is going to  
21 be a beautiful addition to the art of these  
22 courthouses that, again, we saw reflected in the  
23 opening film.

24 Thank you very much.

25 (Applause.)

1           MR. ROBINSON: Just two announcements  
2 before we have the closing remarks by Chief Judge  
3 Bissell. The first thanks to the two professors,  
4 the Newark ICLE credit is available. All you have  
5 to do is sign up out there and we will send you a  
6 certificate if you sign up. And, second, as the  
7 Pennsylvania -- there is a form out there you have  
8 to fill out and you will get Pennsylvania credit.  
9 And, finally, you have seen what the Historical  
10 Society has done. This is the representation of  
11 years of work and we need more members.

12           On the back of Nunc Pro Tunc you have  
13 there the membership application. It only costs  
14 you 50 bucks. Please join up.

15           Thank you.

16           (Applause.)

17           CHIEF JUDGE BISSELL: Taking my cue  
18 from those who have preceded me, I can assure you I

19 will be equally and mercifully brief.

20 Judge Gerry's words about those of us

21 being mere custodians of these positions, I think

22 rings particularly loudly for me as the latest and

23 rather new resident of the position of Chief Judge.

24 And yet I am buoyed and strengthened every day when

25 I take a look at the portraits of my Newark

1 predecessors, which I'm very fortunate to have  
2 hanging right in my courtroom directly over there  
3 at short stop from here, across the hall and to the  
4 left.

5 Chief Judge William Smith, whom I  
6 hardly knew but was an active member of the Court  
7 of Appeals when I first came to this Court as a law  
8 clerk for Arthur Lane in 1965 and Chief Judge  
9 Anthony Augelli. One court appearance before Tony  
10 Augelli is one you would never forget.

11 I had the good fortune, as I look back  
12 on it, although I did not appreciate it at the time  
13 of being able to appear before him weekly as we  
14 tried desperately to protect the interests of the  
15 mortgage bondholders while he proceeded to sell off  
16 rolling stock in order to keep the New Jersey  
17 Central Railroad afloat.

18 That was also the occasion when I

19 first met Bill Tuohey, who was in the good,  
20 fortunate position to represent the Trustee who was  
21 getting the money rather than the one who was  
22 paying it. But that began a friendship, which has  
23 now lasted ever since, well over 25 years in  
24 duration.

25 My favorites, though, flank me on the

1 left and right. Clarkson Fisher, under whom I  
2 served here, and Larry Whipple. Each of them had  
3 just a hint of a smile despite the formality of  
4 those portraits. I take a look at them every day.  
5 And as long as they're still smiling, I see you  
6 know, Jack, maybe you're not doing too badly after  
7 all.

8           But they are a reminder to me of our  
9 Court's history, our Court's heritage and the two  
10 wonderful men who it has been my privilege to know  
11 and, of course, it was your privilege to know them  
12 as well.

13           I want to thank all of the  
14 participants in our program today because  
15 particularly with the remarks of Dr. Lender and  
16 Professor Hazard we got a glimpse of the past  
17 history of this Court almost from its very origins.

18           Through the film presented by Jim

19 Waldron at the outset, a little bit of a picture of  
20 more recent history here in the -- I said "here in  
21 the" 20th century. Isn't that something?

22 I wonder how long it will take us to  
23 get away from that.

24 Once again, here we are in the 21st  
25 century honoring Chief Judge Whipple and dedicating

1 this beautiful room, which I'm going to invite you  
2 in a moment to come and share with us.

3 My thanks, also, at this time to the  
4 people who made this program possible. Helen  
5 McCloskey and Susan Travis from Bill Waldron's  
6 office responsible more than anything else for the  
7 decoration, indeed the design of the Whipple room  
8 as well as the management of our affair here in  
9 this courtroom today. Bill Walsh, of course, and  
10 Jim Waldron ran the clerks of our District and  
11 Bankruptcy Courts for their guiding hand. Gail  
12 DeFabio Rafield. Gail is well known to many for  
13 work she's done. Robinson's faithful secretary.  
14 Once again, there isn't a detail that escapes her  
15 and her contributions today have been wonderful.

16 Madeline Cox Arleo and all members of  
17 the Whipple family who formed a committee not only  
18 to raise money but to secure artifacts and pictures

19 and newspaper articles and all of the many things  
20 that you are going to see in the Whipple Room. Not  
21 only that got them framed and got them up well  
22 ahead of schedule.

23           As well -- I've already mentioned it  
24 before -- the Davidson family because the eagle has  
25 come home and thank you for taking care of it.

1           I'll close now with an invitation --  
2   to invitations to you, one, to a reception and  
3   refreshment here in our great hall just outside the  
4   doors of this courtroom and then, as time goes on  
5   over the next hour or hour and a half or so, we  
6   hope that you will take the opportunity to wander  
7   upstairs either by stair or elevator to the fourth  
8   floor where in the corridor that adjoins my  
9   chambers you will have a chance to visit the new  
10   Lawrence A. Whipple Attorneys Conference Room.

11           Judge Zazzali -- Justice Zazzali, I  
12   might add, we finished 20 minutes ahead of  
13   schedule.

14           With that, thank you very much.

15           (Applause.)

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