

P R O C E E D I N G S

1
2 ATTORNEY GENERAL BELL: Thank you very much, Judge
3 Lively, distinguished jurists, fellow lawyers, ladies and
4 gentlemen.

5 I meet with a lot of people at the Justice Depart-
6 ment -- it's an open place now, and anybody that wants to
7 meet can get a meeting, and I met with some businessmen
8 recently and answered questions for 30 or 40 minutes, and
9 finally, one man in the back of the room said:

10 "What condition do you think the Department
11 of Justice would be in today if President Carter had
12 followed the example of President Kennedy and made his
13 brother Attorney General?"

14 (General laughter)

15 And I said:

16 "The meeting is now adjourned."

17 The Chinese have a calendaring system, which I don't
18 fully understand -- it's used by some of the other countries
19 in the Orient -- where they have the "Year of the Dog," or
20 "Year of the Cow," -- year of this and that, and if I had to
21 say what this year is in the United States, I'd call it the
22 Year of the Lawyer.

23 It started in February, when the Chief Justice made
24 his famous announcement that 50 percent of the trial lawyers
25 were incompetent. We immediately started answering; the

1 Illinois Bar filed a condemnation of the Chief Justice in
2 the House of Delegates of the American Bar. They had some
3 scientific polls made; one showed that only 39 percent of
4 the lawyers were incompetent.

5 I'm having something to say about this because it's
6 what they call in Washington a "hole theory." The deeper you
7 dig, or the harder you try to dig out of the hole, the deeper
8 you get into the hole, and we seem to be -- as lawyers --
9 engaged in that right now.

10 The Illinois Bar, though, in their defense, had two
11 other polls made, and they were better. One showed 22 per-
12 cent of the lawyers were incompetent, and one got it down as
13 low as 7 percent.

14 Our sterling leader of the American Bar came out at
15 the same time and said he disagreed strongly with the Chief
16 Justice; in his judgment, only 20 percent of the lawyers were
17 incompetent.

18 Now we have going on all over the country these sur-
19 veys; I saw two in the Washington paper just a few days ago.
20 Maryland says that in their State the bar is in fairly good
21 shape -- only ten percent of the lawyers are incompetent. Some
22 other places, it's about the same range.

23 I believe something I first heard Adlai Stevenson
24 say -- I don't know who else has said it, but I'm sure others
25 have said it -- that it's better to light a candle than it is

1 to curse the darkness. So I'm going to do something to answer
2 the Chief Justice: we're going to create the largest Trial
3 Advocacy Institute in America, right at the Department of
4 Justice.

5 We have a Trial Advocacy Institute now, but it's --
6 it can't handle as many people as we should train, and the
7 Institute course is not long enough. I want to have some-
8 thing at least the equivalent of the National Institute of
9 Trial Advocacy course. I'm looking for someone to come in
10 now to run that, so we will have an answer for the Chief
11 Justice; at least the lawyers in the Department of Justice,
12 and in the U. S. Attorneys' offices over the nation will be
13 as adequately trained as trial advocates.

14 The next stage in the Year of the Lawyer now was
15 the President's speech last week in California. I want you
16 to know that I've been speaking in the East a lot -- he's
17 working the West and I'm working the East. Wherever I go, I
18 praise lawyers.

19 But the organized bar has risen to the President's
20 challenge. The President of the American Bar spoke in
21 Washington the day before yesterday, and he said it was not
22 true that lawyers' fees are too high, and that you ought to
23 think about what barbers are charging. He said barbers in
24 Atlanta were charging \$3.50 for haircuts, and at one time
25 they wanted 50 cents. I don't know how far back he went; I can

1 remember when they were cheaper than that.

2 He said barbers in Chicago charged even more. It's
3 a sheer logic of some kind that I'm not able to comprehend
4 when we have to defend our own fees by using the barbers'.

5 All this is -- has resulted in some other polls.
6 There is now a poll out, a Gallup Poll, that the lawyers look
7 with favor on -- it said that only 27 percent of the people
8 polled look with favor on lawyers. Lawyers are now in back
9 of journalists; they are just ahead of undertakers, and just
10 ahead of United States Senators.

11 As near as I -- I haven't seen that Gallup Poll, but
12 as near as I can tell, they did not compare lawyers with used
13 car dealers, and we would have lost, if they had, because I
14 heard a Congressman from Kansas City speak the other day in
15 Washington at Clarence Kelly's retirement dinner, and he said
16 that he's very proud to be a used car dealer. That's his
17 profession, he said, and he said that there were 27 lawyers
18 mixed up in the Watergate and not a single car dealer.

19 (General laughter)

20 The point of all this is that I think we're getting
21 a little too irritated about other people criticizing us; people
22 have always criticized us. I said somewhere the other day,
23 the only lawyer the average person likes is his or her own
24 lawyer; it is an adversary process, and you think of other
25 lawyers as the lawyer on the other side.

1 So we have a tough profession, and we ought not to
2 get too excited if somebody exhorts us to do better, and that's
3 about what the President's speech was. I read it in advance,
4 and I have -- I brought a copy with it, and the executive is
5 making copies, so if anyone here wants to read the whole
6 speech, it will be made available by Mr. Higgins.

7 There were some rather strong statements in the
8 speech, but -- it was not anything for us to get into a
9 national debate over, other than the fact that we want to do
10 better as lawyers, we want to be broad-gauge citizens; we
11 want to think about the whole system, rather than favoring
12 our clients.

13 I've seen in my own lifetime, and my own career, how
14 we've gone from being appointed to defend criminal cases
15 as I was when I was a young lawyer and now we have public
16 defenders to do that for us. We had to take legal aid cases
17 -- then our own legal aid, in the law offices, and now we
18 have a Legal Aid Society, the Legal Services Corporation,
19 where we can exhort Congress to put more money in it.

20 We don't do those things much anymore, except in
21 the small towns.

22 So there's a lot about it to think about. I've not
23 had a rose garden with the American Bar Association since I've
24 been Attorney General. I was -- the great headline in the
25 country last year, when the American Bar was meeting in

1 Chicago last year was:

2 "House of Delegates votes Bell down."

3 That was on the grand jury reform.

4 I thought the idea of giving every witness in the
5 Grand Jury -- every witness a lawyer -- was a most ill-con-
6 ceived thing that I'd ever seen in my lifetime. There was no
7 one that thought anything at all about the fact that most all
8 witnesses are indigent; where were we going to get the lawyers
9 to represent all these witnesses that go into the Grand Jury
10 Room.

11 We had gotten off completely on the idea that in
12 white-collar crime, which seems to be the great growth
13 industry now, for lawyers, that we needed to get in there
14 with those corporate presidents and advise them on what to say
15 when they got into the Grand Jury Room, and I was just com-
16 pletely defeated there. I was there arguing for it; I didn't
17 get mad, have a press conference and issue a statement.

18 I went back to Washington and looked for another
19 forum to fight in. I figured I'd find one eventually. That
20 bill is still languishing over there in the House, in
21 Congressman Albeg's Committee.

22 I've now got a committee of the American College of
23 Trial Lawyers that I'm working with; I appointed five, they
24 have, and we're going to make some progress. We are going to
25 bring about the Grand Jury reforms that we need.

1 I've not gone public because the organized bar is
2 fighting our Diversity of Jurisdiction bill in the Senate;
3 it's already passed the House. We have it pending in the
4 Senate, and there is hot opposition to it. But I think that's
5 the proper forum, over there in the Senate, and we'll work
6 that out. I think we'll probably come out with a diversity
7 bill where we remove the diversity jurisdiction from the
8 Federal courts for the resident -- for the resident.

9 The National Association of State Chief Justices
10 favors that. They think it's a disparagement of the State
11 courts system that a resident of a State had rather have an
12 option to go to the Federal court than to use their own
13 courts. I think it will make the State court system better,
14 and I think it's fair.

15 But I've gone to the House of Delegates in New
16 Orleans, and lost that. I didn't debate it because I didn't
17 want to have another headline.

18 But I'm not a -- I have some rules: I don't rail --
19 I don't rail at the press, I don't rail at anybody else that
20 happens to disagree with me. I think we can reason things out
21 together, and whoever has the most meritorious position ought
22 to prevail.

23 And that's my -- that's all I have to say. I'm
24 proud to be a lawyer, I'm proud of the American lawyers, and
25 I don't, though, think that we are completely perfect. And I,

1 for one, am always ready to talk or act to improve our pro-
2 fession.

3 There are a lot of lawyers in my family -- my son is
4 a lawyer; I'm proud of the fact that he is a lawyer, and he's
5 a trial lawyer, lives in Savannah, Georgia and has the same
6 view about our profession, the traditions of the profession,
7 that I do, which are very, very high indeed.

8 Now, what I want to talk to you about bears very
9 heavily on that -- what we're doing at the Justice Department
10 to try to improve the administration and the delivery of
11 justice in this country -- something that, on 98 percent of
12 the things that we're doing, we have the complete backing of
13 the organized bar, whether it be on the Federal level or on
14 the State level.

15 I perceive that the Attorney General has a very high
16 duty to offer leadership on a national scale in the area of
17 justice. 95 percent of all justice is delivered in the State
18 court systems, and in the local court systems. The Federal
19 courts, of course, have limited jurisdiction, but they are
20 very important courts.

21 Somebody has to pull all of this justice system
22 together, and I think the Attorney General ought to take a
23 leadership role. I have tried to do that.

24 I have met with the State Attorneys General a number
25 of times, I've been to conferences with State Chief Justices;

1 I've met with many other groups -- met with the Prosecutors'
2 Association. I work closely with the LEAA on their grant
3 system, so that they can give money where it will improve the
4 State and local court systems.

5 I'm working very hard to get the Criminal Code enacted;
6 we've gotten it through the Senate, we're making great
7 progress in the House.

8 We're working to get the new Federal Judges bill
9 finished, finally; it's in the Conference Committee. The
10 President asked me once if everyone in the country was going
11 to end up being a Federal Judge, and I said:

12 "No. If you'll help me with the Magistrates
13 bill, we'll divide the Federal cases where we'll have two
14 categories; we'll have 'the' Federal case, that we all
15 knew of as young lawyers, the big case, and then we'll
16 have the ordinary case which the Magistrates can handle."

17 That's what we're doing. Professor Metter created
18 this office for improving the administration of justice; he
19 has experts on most anything that you need working there for
20 him.

21 He has people working in the Senate, a team -- work-
22 ing with Senator Kennedy and those other Senators who are
23 really principally responsible -- sponsoring the Criminal
24 Code, and we're doing the same thing in the House. They do
25 the same thing on the Magistrates legislation; they meet with

1 groups, and they finally negotiate and they work out some-
2 thing.

3 You can't do anything in Washington today without
4 negotiating; you're constantly negotiating. Our country seems
5 to be heavily influenced now by interest groups; there are
6 all kinds of interest groups, and you have to meet with them
7 and try to pull views together.

8 We're working hard to do something about putting in
9 an arbitration system; we base that on Chief Justice O'Neil
10 and the Ohio court arbitration system. We have it going on
11 now on an experimental basis on local rule in three Districts:
12 the District of Connecticut; the Eastern District of
13 Pennsylvania, and the Northern District of California. We
14 would welcome others who might want to try an arbitration
15 system under a local rule.

16 It's something the lawyers are doing -- the lawyers
17 are the arbiters; they do it for a token fee, and it's a way
18 the lawyers have of giving something to the legal system. It
19 means that lawyers are Adjunct Judges, and they furnish the
20 courtrooms -- the Adjunct Courtroom -- the lawyers' offices,
21 to handle these matters.

22 As soon as the bill got over to the Congress, they
23 said:

24 "Oh, these fees for the lawyers are too low."

25 And I said:

1 "The lawyers don't want to make fees out of
2 this. What the lawyers want to do is make a contribu-
3 tion to the administration of justice."

4 I have not had one single lawyer now in this country
5 object to the fact that they've had to handle these monstrous
6 cases, some of them, for \$50. That's all you get paid, but
7 it's -- and the lawyers, I think, would just as soon not be
8 paid. But they are going to make a contribution to the
9 administration of justice.

10 That's another response the bar is giving to the
11 fact that we don't have enough interest in the overall sys-
12 tem.

13 Now, we have legislation pending in the House and
14 Senate to -- for arbitration, an arbitration statute, and
15 they are waiting around to get some results from these experi-
16 ments that we're running in those three Districts.

17 I've mentioned diversity. We have a new class action
18 approach which Professor Metters has come up with; it divides
19 -- that's the 23(b)(3) type class action, those that involve
20 money. I won't go into that in detail, it would take too long,
21 but it's very innovative and I think almost brilliant. Judge
22 Tuttle has been on the Class Action Committee a long time,
23 in judicial conference, and he told me Christmas that he
24 thought what Professor Metters had come up with was really
25 brilliant. He said:

1 "I've been on the Committee a long time, and I
2 never could really get in my mind how we'd ever resolve
3 the problems of class action."

4 And Professor Metters' suggestion, I think, was quite
5 good. I've been meeting with some of the lawyer groups --
6 the American College of Trial Lawyers again, and we are -- I
7 think we're making a lot of progress.

8 As you know, there is a great effort going on to do
9 something about the abuses of discovery. The single thing
10 that's run the cost of litigation up more than anything else.
11 It's really not the fault of the lawyers, it's the fault of
12 the people who wrote the rules, so you can abuse the rules.
13 And we are now pulling back, in the sense that we have some
14 very good suggestions -- about requiring discovery as to
15 issues rather than as to matter.

16 That means the District Judges, the trial judges or
17 magistrates -- whoever it may be -- are going to have to take
18 charge of the case at a very early stage, to define the scope
19 of the discovery which will be permitted. There will also
20 be quite a restriction on the number of Interrogatories that
21 can be served, unless, as someone said, we have two sets of
22 rules, one that you can file as many Interrogatories as you
23 want to if you write them out in longhand.

24 I might say that that suggestion came from an Ohio
25 lawyer that you all know, Craig Spangenburg.

1 One last area that we're doing a lot in, that every-
2 body, nearly, at the Justice Department is working on, is a
3 Foreign Intelligence Surveillance Act, so that we can bring
4 a warrant system to wiretaps and various other types of sur-
5 veillance that we are now engaging in foreign intelligence.
6 We do it now under the Constitution and the President's power,
7 and much of that work is delegated to me, and we have passed
8 now, in the Senate, something we call the Foreign Intelligence
9 Surveillance Act.

10 It's very important that we get this done, I think.
11 I testified in the House earlier this week on it -- because
12 we must restore the confidence of the American people in our
13 intelligence systems. We've got to have a strong intelligence
14 system; the CIA and the Counterintelligence Division of the
15 FBI, and the National Security Agency, and to do that, and
16 to maintain the system -- we have a good system now, a good
17 foreign intelligence system -- but to maintain it, we've got
18 to be relieved of the suspicion that seems to be hanging over
19 our country about what we do in foreign intelligence.

20 So -- and the way to relieve that suspicion is to put
21 it under a warrant system so that the judiciary is brought
22 into the process. We now have the Executive in it, handling
23 it, active; we report to these two Intelligence Committees,
24 the Senate and the House, and we need to bring the Judiciary
25 in, and then our whole Government structure -- all three

1 branches -- will be participating in something which is very
2 important, and that is that we have a strong foreign intelli-
3 gence system.

4 Judge Lively, I think I've said enough, and I'll
5 answer questions --

6 One thing I do want to say is, the Sixth Circuit is
7 the only Circuit in the country where each State in the Cir-
8 cuit has a judicial nominating commission for District Judge
9 selection. I wish I could get every Circuit in the country
10 on the same basis.

11 Thank you.

12 (General applause)

13 VOICE: Thank you, Judge Bell.

14 There are two microphones; however, we can try the
15 questions from the floor without the microphones, and if Judge
16 Bell's hearing is acute enough, why, we'll do that. If not,
17 you'll have to come to the microphones.

18 Alright; who wants to lead it off?

19 Well, I'll lead it off, then. I'm surprised at how
20 few people want to cross-examine the Attorney General.

21 MR. POPE: Mister Attorney General, my name is
22 Franklin Pope of Cleveland, of the House of Delegates, and I
23 participated in some of those debates that caused concern.

24 The trial lawyer in my area is somewhat concerned
25 with the trend from Washington to erode the skills of the

1 lawyer in the courtroom. We were very much concerned when
2 preremptory challenges were reduced, we were very much con-
3 cerned when voir dire was eliminated in the Federal courts,
4 and we were much concerned with diversity -- you indicated
5 this morning that you're talking about diversity for the
6 residents. Those of us --

7 Those of us who have tried cases have found that
8 sometimes in North Carolina and South Carolina, even Georgia,
9 we have people come up who weren't getting a fair break in
10 civil rights cases, and they were looking around for reason
11 for diversity.

12 We were also concerned with the trend to eliminate
13 the need for a lawyer in bankruptcy cases.

14 These are the kinds of suggestions we've been
15 getting from Washington that concern the lawyers -- the
16 elimination of the need of a lawyer, the erosion of his
17 skills -- would you care to comment on some of those trends
18 that concern lawyers that try cases?

19 ATTORNEY GENERAL BELL: I'll be glad to.

20 I think the thing that the President said that
21 stirred up more controversy or objection than anything else
22 was when he said something about eliminating title examina-
23 tions. I think that any layman, particularly a person who's
24 an engineer, would think that you could put title records on
25 a computer, and that you could buy a printout and you could

1 read it, and you could get a lawyer if you wanted to -- if
2 you wanted to run that risk, before you'd get a title policy.

3 I think the lay person has a different idea from
4 the law practice from what you and I would have.

5 I think there is probably a mood in the country to
6 take the lawyer out of "non-lawyer" activities. If you don't
7 need a lawyer, why get a lawyer.

8 Then there's another great objection to lawyers now
9 in Washington, and that is that the President and many other
10 people, blame lawyers for writing regulations, and Government
11 regulations have hamstrung the country.

12 There's hardly any areas of American life that are
13 not under some kind of intricate, complicated, complex set
14 of Government regulations.

15 The President's theory is that if you didn't have so
16 many lawyers working for the Government, you wouldn't have
17 so many regulations. Now, that may be a sort of a simple
18 logic, but a lot of people would believe that.

19 Now, I don't know of any move to take lawyers com-
20 pletely out of something. Over the years, we've seen restric-
21 tions and sometimes by statute, where you pay lawyers such a
22 small amount that you might as well say we're not going to
23 have lawyers in this area of Government practice.

24 But we -- we have more than -- half the Cabinet are
25 lawyers, and the President likes to say, at a Cabinet meeting,

1 in a joking way:

2 "You know, I'm not a lawyer, and I'm proud of
3 it."

4 So one day I said:

5 "You know, Mister President, I'm not an engineer,
6 and I'm proud of it."

7 And we are -- there's a lot of laughing about this
8 sort of thing. There's nobody hung up on the idea that
9 lawyers are bad, but he has said, on different occasions,
10 that if we didn't have so many lawyers we wouldn't have so
11 many regulations. And then, when I -- he ordered me once to
12 audit the Government of lawyers, and I was amazed to learn
13 that we only had 3,800 lawyers in the Justice Department,
14 including all of the U. S. Attorneys-offices, but we have
15 almost 12,000 in the Government who are not in the Justice
16 Department.

17 3,800 versus almost 12,000. People have trouble
18 understanding that, and they think the Government is just
19 eaten up with lawyers in some way or another.

20 That hasn't got anything to do with the private
21 sector, but it's all part of the problem.

22 But I think the American lawyer is in the best shape
23 he's ever been in, right now. I heard Justice Powell say,
24 last year, that this is the Golden Age for the lawyer, and I
25 think that myself, and if there is some way I could get back

1 to King and Spaulding today, I would get back there and
2 join that Golden Age. It's certainly not in the Government;
3 the Golden Age doesn't run over into the Government too well.

4 QUESTION: -- I'd like to know if the Justice
5 Department has any program for handling terrorist activities,
6 and if so, what would that be?

7 ATTORNEY GENERAL BELL: We do have; it's run by the
8 FBI and the -- Judge Webster spoke on that at a press confer-
9 ence earlier this week.

10 We also have a program in the military; the military
11 would be set up more for the Somali operation by the West
12 Germans, or the Entebbe operations by the Israelis.

13 We have an FBI set-up where every office -- every FBI
14 office, I think, 58, I believe -- each office has what we
15 call "SWAT" teams, and they would deal with terrorism; and
16 then on top of that we of course have some intelligence
17 sources, so we keep up with something that might become a
18 movement in that direction.

19 So we do have -- now, Judge Webster said that we
20 didn't have a -- that the only thing missing in the whole plan
21 was that we didn't have -- he called it, a "super SWAT team,"
22 or something that would go in between these five present
23 SWAT teams they have in the FBI offices, and the military
24 units. I think they have two of those military units set up.

25 So we are aware of the problem, and we are prepared

1 to confront it, if need be. We hope that there will never be
2 a need.

3 VOICE: Further questions?

4 ATTORNEY GENERAL BELL: Do you have one?

5 VOICE: Judge Bell, how are the nominating commis-
6 sions working out? Are they getting their work done quickly
7 enough to keep the ball rolling when you have a vacancy, or
8 is there some delay through the use of the nominating commis-
9 sions?

10 ATTORNEY GENERAL BELL: I think they're working well.

11 I've learned one thing about Washington, and that is,
12 it takes you longer to do things there than it does in most
13 places. For some reason, everything -- well, you say:

14 "I'll get that done in a month."

15 and that means three months, usually.

16 You have to go through the nominating commission, get
17 the reports in, agree on which person is going to be selected,
18 have the FBI check run, have an American Bar check run by the
19 Federal Committee they have that helps us out. Then we check
20 with the National Bar Association, which is a black bar associ-
21 ation, to see what their view is about the candidate -- all
22 that just takes a little time.

23 I read every file on a judge appointee, and on a
24 U. S. Attorney appointee, but I read them -- I get them out;
25 I don't think I've ever held one more than two or three days.

1 I get them out as fast as I can. That's the last step before
2 they are sent to the President, and the President, of course,
3 sends them over to the Senate.

4 I don't think the use of commissions is any substan-
5 tial delaying factor. The commissions, even the ones that
6 operate on the State level, that the Senators have appointed,
7 are very prompt about it. I'm pleased with the commissions,
8 with one exception -- one problem that seems to surface.

9 Some of the lay people on the commissions seem to
10 not understand -- and this has happened two or three times;
11 we're trying to get this under control -- that you don't ask
12 judges what their views are to the extent that you should
13 them committed about what they're going to decide once they
14 get on the bench.

15 There have been instances in the Congress where that
16 was tried, but I don't know of any person that was ever up
17 for appointment who would give an answer. You just don't
18 ask things like that; that's not part of the process of see-
19 ing what kind of a person you're interviewing.

20 I think we've had that happen in two or three places,
21 and other than that, it's been working out pretty well, and
22 I'm fairly well satisfied with what we're doing. We've
23 learned a good deal; you just don't go full-blown into using
24 the commission process. Either we're constantly changing our
25 instructions, trying to make it better -- I've had Mike Eagan,

1 the Associate Attorney General, handling this from the
2 beginning, and now I've got Professor Metters and his group
3 working on it, too.

4 I've found that Professor Metters' think-tank can
5 add to most anything we have around there; with the slightest
6 problem, I just send in there and tell them to get somebody
7 to study it, and come up with some recommendations on it.

8 By and large, it's working well. I hope that we will
9 soon have a commission in every State, for the District Judge
10 level. We are encouraged that the trend is in that direction;
11 I hope some day that I'll finally make my views into law,
12 and that is that the Attorney General should be allowed to
13 select the U. S. Attorneys.

14 I had something funny I was telling the other day in
15 a press conference; I was in a Western State, and I went by
16 to see the U. S. Attorney, and on his wall -- this was a new
17 one, not a holdover -- he had, not a picture of the President;
18 he didn't have my picture, which would be fine. I don't care
19 about having my picture.

20 But I was surprised to see that he had a picture of
21 the United States Senator that recommended him --

22 (General laughter)

23 VOICE: He was realistic.

24 Yes, sir?

25 QUESTION: I am -- Andrew Jackson -- from Flint,

1 Michigan --

2 ATTORNEY GENERAL BELL: You have a fine name.

3 VOICE: -- Democrat, and a Fellow of Harry Truman's
4 Institute. And I give you that background to ask this ques-
5 tion.

6 Of course, I worked for President Carter in the cam-
7 paign. My point is, with the President going out and taking
8 the lawyers over the coals, I think it's political, and I
9 think, to take this message back to him, that he will be
10 judged by what he does more than what he says.

11 Now, this may be a statement, or it's a question if
12 you want to comment on it.

13 (General laughter)

14 VOICE: -- Chief Justice Burger along with it.

15 ATTORNEY GENERAL BELL: I want to thank you for your
16 statement.

17 VOICE: Any questions about how this man got where
18 he is?

19 Another question? Yes, sir, Charlie?

20 (Inaudible question from floor)

21 ATTORNEY GENERAL BELL: We -- I can't tell you when
22 the Conference Committee will get into agreement. The single
23 issue left is what to do about the division of the Fifth
24 Circuit.

25 I have -- can say that we've set up to expedite the

1 appointment process -- I even have names from some States,
2 from the Senators, of people who've already been picked. Some
3 of the -- even selection commissions have met in advance,
4 although there is no legislation.

5 We hope to get every one of these approximately 150
6 judges appointed and on the bench within six months from the
7 time the President signs the bill. We are tooling up to do
8 that. I would be glad if they would go ahead and finish,
9 because we could move very rapidly on some of these appoint-
10 ments.

11 I have one Senator who's from a State where there is
12 one Democrat and one Republican, and he's already had lawyer
13 groups -- he doesn't use a "straight" commission; he has groups
14 of lawyers in four parts of the State that screen people and
15 make suggestions, and he has a list of nine judges picked out,
16 and ready to go.

17 I've seen the list, and it looks pretty good to me,
18 but we can't do anything about it; we can't -- I can't go out
19 and have the FBI check them now. I could, I guess, but I
20 don't feel like I ought to be checking somebody when there is
21 no law yet in place under which they could be appointed.

22 We'll -- I pledge to you that we will move as rapidly
23 as we possibly can. I know you need the judges, and I know
24 it from hearing judges say it, but I also know it from seeing
25 some of the cases we have that have not been heard, and

1 particularly some of the Appellate Courts -- not the Sixth
2 Circuit, but others where we've had cases -- some there as
3 long as two years, that should be decided.

4 VOICE: Yes, sir?

5 (Inaudible question from floor)

6 ATTORNEY GENERAL BELL: Well, I find that, since I've
7 been in Washington, it's very difficult to take politics out
8 of politics. And there's politics in the commissions, and
9 it depends on who's on the commission.

10 (Inaudible question from floor)

11 ATTORNEY GENERAL BELL: I haven't found that to be
12 true. I've found that, in the South, the -- a woman that I
13 thought would make the cut on the commission didn't make it,
14 but I found -- I inquired to find out why, and I found out
15 the women on the commission voted against her. The men voted
16 for her and the women against her, which was a shock to me,
17 and something that I don't understand.

18 But we have no commission where there aren't black
19 people on the commission, and women -- I don't think you call
20 women in the minority, but they are on the commissions.

21 I don't know of -- we haven't had any trouble along
22 that line; I think they're working fairly, but I thought you
23 meant -- when you said "political" I thought you had reference
24 to political parties.

25 (Inaudible question)

1 ATTORNEY GENERAL BELL: If you hear of anything like
2 that, I'd be glad to know about it.

3 (Inaudible remarks)

4 ATTORNEY GENERAL BELL: Well, I didn't know that. I
5 didn't know that.

6 I think they are working well, and I think that we
7 are aware of the fact that we need to -- as President Carter
8 said in his speech -- we need to have more blacks, Hispanics,
9 and women, on the Federal bench, and we will have. I'm not
10 worried about that.

11 QUESTION: Judge Bell, a former resident of this city,
12 as I understand, went down to New Orleans and said:

13 "Fellows, elevate them guns a little lower."

14 I wanted to ask you whether you think that this dis-
15 tribution of lawyers in the Government, is the Justice
16 Department enough in control of the Federal Government's
17 interests?

18 ATTORNEY GENERAL BELL: We are not. That's the kind
19 of a question Justice Powell asked me when I argued the snail
20 darter case; he said:

21 "I think I'm going to ask you an unfriendly
22 question, because I don't understand why you have two
23 briefs -- one for the Justice Department and one for the
24 Department of the Interior."

25 And I said:

1 "Well, I consider that to be a friendly ques-
2 tion."

3 We have a lot of problems in Washington now with
4 agencies who are trying to get their own litigating capacity;
5 they have long since gotten house counsel. There are more
6 General Counsel in Washington than anyplace on earth.

7 Now, having gotten house counsel, and not now having
8 to come to the Justice Department, all the people -- the only
9 people that have to get a legal opinion from the Office of
10 Legal Counsel today are the President and the Attorney
11 General. Everybody else has got other lawyers.

12 So now, if we lose the litigating capacity, the
13 Government will no longer speak with one voice. I have been
14 fighting that nearly the entire time I've been there, and I
15 have gotten the House Judicial Committee, the Senate Judicial
16 Committee, very interested in it; they are very much opposed
17 to this erosion, and we are hoping to set up something we call
18 "sequential reference."

19 Whenever a bill comes out of a committee, where they
20 have given some agency their own litigating capacity -- and
21 you can understand: every agency in Washington has got some
22 subcommittee somewhere that really takes care of them -- some
23 subcommittee in the Congress -- that bill would immediately be
24 referred to the Judicial Committee, and we have six bills
25 already referred to the Senate Judicial Committee, and on each

1 one of them we were able to have the litigating capacity
2 restored to the Justice Department.

3 But this is a constant struggle, and it's not a good
4 thing for our country. We must keep -- we must not Balkanize
5 the litigation strength of the Federal Government, and that's
6 what has been happening; it's been going on for a long time.

7 I read a Homer Cummings History of the Justice
8 Department, not so long ago, written by Professor McFarland,
9 who's retired now, at the University of Virginia. Cummings
10 was Attorney General, and the whole history of the Justice
11 Department has been that, where you lose a litigating capacity,
12 and then somebody comes along -- when Taft was President, he
13 restored it, Wilson restored it, but he did it under the War
14 Powers Act, and it was lost again after World War 1 ended.

15 Franklin Roosevelt restored it at one time. But it's
16 history repeating itself, and we've got it going pretty strong
17 right now, but we're fighting it.

18 Was it Andy Jackson who said "lower the guns."?

19 QUESTION: It was Jackson.

20 This was the question, really: there's one place you
21 have it within your control to do it, and that is, in your
22 own Justice Department, where you have competing forces --
23 the United States Attorney and the Strike Force -- competing
24 within the same courts, not necessarily with consistent views,
25 and frankly, I find it very divisive.

1 ATTORNEY GENERAL BELL: Well, you've got the same
2 complaint that the previous Administration had when they
3 started doing away with strike forces.

4 Thornberg came in to be the head of Criminal Division,
5 under President Ford; he'd been a U.S. Attorney in Pittsburgh,
6 and there was a widespread dissatisfaction with the use of
7 strike forces, and they started eliminating strike forces.

8 We have been restoring strike forces, but it's a
9 matter of judgment. If we find that there is any conflict
10 between a U. S. Attorney and the head of a strike force, we'll
11 do something about it.

12 If you know of one, I'd be glad to hear about it --
13 not publicly, but I wish you'd tell me about it, write me a
14 note, or tell me when I leave. We do not expect any competi-
15 tion between the two, but we do think there is a need for
16 strike forces, as part of our -- the new approach we've taken
17 to certain types of crime.

18 VOICE: Well, the time for adjournment has come.

19 We are deeply indebted to you, Mister Attorney
20 General; you've honored us with your presence and you've been
21 candid and forthright, as we knew you would be.

22 Thank you so much; come back and see us soon.

23 (Whereupon the address was concluded.)

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