

ORIGINAL

ADDRESS
BEFORE THE
STATE BAR OF GEORGIA
of
THE HONORABLE GRIFFIN B. BELL
ATTORNEY GENERAL OF THE UNITED STATES

Savannah, Georgia
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MEMBER OF THE PRESS

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P R O C E E D I N G S

ATTORNEY GENERAL BELL: -- ladies and gentlemen:

I want to thank Arthur for the warm introduction.

I've been somewhat in dread for several days over just what he might say, and Arthur, you let me off pretty light.

When I was on the 5th Circuit during the height of the civil rights revolution, when one of the judges was invited somewhere to speak, just for purposes of safety in the introduction we would take another judge to do the introducing.

[Laughter.]

ATTORNEY GENERAL BELL: And it maybe that somebody had that in mind today when they got Arthur to introduce me, one Attorney General introducing another one.

Perhaps the most important thing that Arthur said was the fact that I was born in Americus. I'm sure the geographical connection that I had with President Carter had more to do with my appointment than ability.

Bill Spann made me nervous when he mentioned Watergate.

[Laughter.]

I live at the Watergate.

[Laughter.]

And it raised my publicity a good deal when I moved there. I was sort of going dead, so I told the President I

thought I'd move to Watergate.

[Laughter.]

One of the things I thought about when I learned that Arthur was going to introduce me was not that he's a great attorney general or a great statesman, which he is, but the fact that 28 years ago, here in Savannah, Arthur and I came to the bar meeting together, and we became active in the young lawyer's section of the Georgia Bar. And we've been friends and we've been active in the organized bar since that time, 28 years. I think probably I missed one meeting of the state bar in that time. I've never checked the records, but it seems I can't recall having missed but one.

But Arthur did me a great favor last summer in a conversation that I had with him, about how to organize the state law department, and who makes the decision about what litigation will take place, who renders the opinions to the state, to the various sub-parts of the state. And I've thought about our conversation a lot since I got to Washington, because the Federal law department doesn't operate like the state law department. Two significant things about Washington -- there are a lot of them, I guess -- but two have impressed me. One is that the Federal Government is more in debt than any other government in this land, yet we are constantly giving out money to the states. The states all have balanced budgets, they're in good shape.

And the other one is that it really is a non-law department. If you call the Department of Justice a law department, it's a non-department. Every little agency has a general counsel; they make their own decisions about what they're going to do. In fact, I've located three different people in the Justice Department who are general counsel.

[Laughter.]

And I think there are more.

[Laughter.]

But we're in the throes now of a number of agencies trying to take the litigating right away from the Department of Justice. Just last week five got legislation in the Senate referred to the Judiciary Committee; it's already passed through another Committee; they were going to give me 45 days to decide whatever I wanted to decide about litigating, and after 45 days, they will take over and do whatever they want to do. That's just five agencies in the government, all of whom have a good deal of litigation.

I have already had some trouble with two other agencies since I've been there who were trying to do the same thing. So they not only want to render their own legal opinions, but they now want to do their own litigating.

So we wouldn't have really a national law department if this trend comes to fruition.

Another thing that we don't have is, in the

opinion-rendering process, any central authority. We have an Office of Legal Counsel in the Justice Department responsible for rendering legal opinions to the President and me and to anyone else that wants to get an opinion. And this office just has 16 lawyers in it. They render opinions, rendered over 100 in the first 90 days, rendered some against the President; I'm sorry to say they rendered some against me.

But as I said to the President one day, we're lucky to have some independent lawyers who have the backbone to render opinions against the President or even the person they're working for, the Attorney General. And so long as we have independent lawyers, in a little office back there, who are totally objective, we'll be in good shape.

I think that you ought to have a central office rendering all these legal opinions to the national government. I've been encouraging some of the other Cabinet officers to use our services. They're there and available. And even the Congress now has asked us for several opinions. We can only give them an advisory opinion. But we've been doing that.

The Department of Justice is a monstrous place from the standpoint of size. There are 54,000 employees, but there are 20,000 of those in the FBI; 10,000 in the Immigration and Naturalization Service; 4,000 in the drug agency; so that leaves 20,000 in what I would call the regular part of the Department, but some of those are in prisons,

running the prisons. We have 3,600 lawyers; about half are in the U.S. Attorneys' offices scattered over the nation -- 94 of those -- and about half are in the Department of Justice itself.

The Department has 24 parts, agencies, what have you, 24 different heads that I have to deal with. Five of those are what I call line divisions. They do the litigating for the government. The criminal division; civil division; Antitrust; Tax and Civil Rights. Those divisions are really the last line of defense for the taxpayers, for the people of America. And you'd think that those would be highly efficient divisions; they should be. The fact is that the Justice Department has not been managed for many years -- I don't know how many years ago maybe they had somebody there really worrying about the overall operation of the Justice Department.

Washington is a place where you need to get you about three issues, and just go with the issues. Don't ever worry about the rest of your job. You'll really do well if you'll follow that line.

But the time has come for somebody to refurbish the government, get it reorganized wherever it needs reorganizing. So I have had all these 24 people heading up these parts, I'll call them, I've had all of them prepare a two-year plan. The first part of the plan has to be what they perceive their

mission to be, then what the program is for two years. And I've asked them to come up with four or five ideas on how to improve their operations. And to set dates by which time they expect to accomplish those programs. And we're finding out some amazing things. And I want to read to you what the head of the Civil Division reported. These are not long reports; they're all short reports, just missions, goals, dates.

Under goals, this was what was said.

"Presently, the Civil Division is suffering from years of inattention as to resources. Lawyers are poorly housed, often two to three to a room, in inadequate space, with low-level secretarial and virtually non-existent paraprofessional support. There is no cohesive training or meaningful graduation program for lawyers, nor is there an identifiable career track within the division for either lawyers or other personnel. Although there are excellent lawyers here, the quality is not uniform because of the lack of training and supervision and because many lawyers are working under case load constraints and in conditions which are not conducive to first-rate lawyering."

I think that would adequately describe all five of those divisions. We do have a training program for assistant U.S. Attorneys. We bring them to Washington. We have something

called the Advocacy Institute. We bring in experienced prosecutors and district judges who come voluntarily and give lectures to these Attorneys. We're going to have to put in a good deal of extra training for lawyers. And we're going to have to increase our litigating capacity. Most all the high-grades are held by section chiefs or assistant section chiefs who spend a good deal of the time administering the Department. But we need some career-type, high level trial lawyers. And we're going to start into that.

I've asked for authority to switch some of our appropriations, some projects, over to bringing in some 16, 17, 18-grade trial lawyers. In the meantime, wherever we need trial lawyers, and wherever we're short, we're going to find them and employ them as special employees on a daily basis to try certain type matters.

Now, that's just a general overlook of the Justice Department itself. We are trying to do several things at the same time. It's like having 40 balls in the air. We hope that some of them soon land.

I created a new division called the Office for Improvements in the Administration of Justice; got Professor Meador from the University of Virginia to come to be head over that office. He's really an expert on court instruction and procedure. He's doing a fine job, and we've got several legislative matters already that we introduced

in the Senate and the House simultaneously; for example, the magistrate's bill, where we're going to convert the magistrates in the Federal district courts into a separate level of courts. That was introduced last week in the Senate by Senator DeConcini, who's head of the Subcommittee of the Judiciary Committee on improving the administration of justice. I think we call it, improvements in the judicial machinery.

Chairman Rodino introduced it in the House, and we're going to have hearings next week. So we've moving on that.

There are a number of other bills, I guess. But the one we have not introduced, because we haven't finalized the model, is compulsory arbitration in the district courts, compulsory in the sense that you will be sent out to three lawyers, selected at random for arbitration. It's not compulsory in the sense that if you're dissatisfied, you can't come back. You can come back into the court system. But we're modelling this after the Ohio state system, where 95 percent of the cases become final after the arbitration, which shows that there are a lot of people left in America who like to get one hearing, informally, inexpensively, and within a reasonable time, and they'll be satisfied after that, once they get a fair hearing.

They tried it with one lawyer as the arbitrator in Ohio, and it didn't work. But then they went to three

lawyer system, and it works very well. Also, it saves a lot of money for the taxpayers, because you don't have to build courthouses. The lawyers furnish the courtroom: their office. There are a lot of good things about it. And the lawyers get paid for doing this.

The chief arbitrator of the three, the chairman, gets \$50 for handling three cases. And the other two get \$40 apiece. So it's a real public service that the lawyers render here. We'll be getting into that soon, now. We've got legislation introduced already on foreign intelligence surveillance where, under a court system seven district judges selected by the Chief Justice -- we are supposed to get a court order before we engage in wire-tapping, that sort of intelligence gathering in foreign intelligence. That's something that's very important, too.

We're trying to get a charter -- the statutory authority for the various things that the FBI engages in and does, and that the CIA engages in. We call those charters. We're going into that next.

We're moving out in the anti-trust field, because it's been 25 years since the Brownell Report on anti-trust was rendered. And it's been sort of just a float or a glide in anti-trust law in this country. And the time has come where a lot of the things in the anti-trust must be re-thought.

And we've moving into that area.

I was just before the Senate in a wide-ranging hearing, two and a half hours, where a lot of new subjects were brought up, tossed around. And it's obvious that the time had come where we're getting ready to re-study the anti-trust laws now.

S. 1437, recodification of the criminal laws, that Bill Spann spoke to you about is a very important bill. I mediated between Senator Kennedy and Senator McClellan and Chairman Rodino and got a task force of my own lawyers to re-draft, revise, the old S. 1; got them all in agreement; we had a joint press conference the day we introduced that legislation. And I think we're going to make some progress. I hope to see it enacted into law by next Spring.

Thirty four states have recodified their criminal laws, but the Federal Government never has. It just shows how the states some times can do better than the Federal Government.

The sentencing part that Bill Spann discussed is really exciting, because it brings some uniformity to sentencing. It does allow for appeals if you get below or above the guideline. Which brings up another question which Bill did not allude to, and that is, once we pass that law, will we need a parole board? Or will it not deter crime to

have a system of law where you serve your sentence. The sentence you receive you are going to serve; there won't be a parole board. We very likely in a few days are going to take the position that we may want to do away with the Federal Parole Board and just stay within those sentence guidelines. I think that may be the first step to take in our country toward a program of deterring crime.

Now, there are a lot of other things I could say to you, but I want to close on this note. All these things are good, but are somewhat mechanical, if they're not done within a context of what I call professionalism, lawyers' best conduct, the best traditions of the legal profession. So I have done my best to stop the trial of cases in the newspapers through the leak method, which is a way of life in Washington. I have urged the lawyers to comply with the Federal Rules of Criminal Procedure, and not disclose information that's been before a grand jury.

We have an Office of Professional Responsibility, and if there's a complaint filed against anybody in the Department of Justice, it's referred to that office for investigation. We're insisting on absolute integrity for everything we do. We insisted on a canon of ethics being complied with in every respect. But we're putting even a higher standard in, and that is, what I call the standard of civility. I want people in the Justice Department to be

civil to American people when they come to us to attend to business, to inquire about matters. After all, the Department of Justice does belong to the people, and the least we can do is to be civil.

Also, as has been reported many times, we're endeavoring to have a Department as open as possible. I think it will restore the confidence of the people in their system of justice if they know what's going on there. So to the extent possible, we are open.

I want to give every indication that we're fair, that we treat one person the same as we treat another one. And I'm insisting on restraint. I think that most any public official who has power will abuse it, or is apt to abuse it. And it maybe one of the great problems in our country, how to manage power; we have so much government. My motto is, the best use you can make of power is not to use it, or if it must be used, to use it sparingly.

So with that sort of an atmosphere that we're trying to create, I think we'll make progress. But in the end what I suppose we're doing is we're trying to create a national policy on the delivery of justice. We recognize that the state court systems are important, because they handle 95 percent of all the litigation, all justice in America. So I have met with 10 governors, I have met with Arthur and 22 other states' attorneys general. I going over to

Indianapolis to meet with them again soon. I met with the state prosecutors' association; many other people. And we're trying to put a unitary system together, where each one knows where the other stands, where responsibility is allocated as between the two systems. And once we get that done I believe -- I started out thinking we needed a national policy on the delivery of criminal justice, and I changed, because you can't just have criminal justice, you've got to have civil justice too. The whole thing has to fit together some way.

And while I can't report that we've gotten all of these things done, or that we're on the eve of having them done, I can report that we're making progress, and I'm not discouraged.

Thank you.

[Applause.]

[End of proceedings as recorded.]

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