

ORIGINAL

1 LECTURE

2 BY

3 HONORABLE GRIFFIN B. BELL,

4 ATTORNEY GENERAL OF THE UNITED STATES

5 BEFORE THE

6 FACULTY AND STUDENTS

7 UNIVERSITY OF KANSAS

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13 THURSDAY, JANUARY 25, 1979

14 UNIVERSITY THEATER

15 MURPHY HALL

16 UNIVERSITY OF KANSAS CAMPUS

17 LAWRENCE, KANSAS

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23 (This transcript was prepared from a tape recording.)

1 MR. : Ladies and gentlemen, it is
2 a pleasure to welcome you this evening to the first J. A.
3 Vickers, Sr. Memorial Lecture for 1979. The Vickers
4 Lecture Series was established at the University of Kansas
5 in 1970 by the Vickers Family of Wichita, in memory of the
6 late Mr. Vickers, a former student of the University of
7 Kansas and founder of the Vickers Petroleum Company.

8 The purpose of this lecture series is to enable
9 the University of Kansas to bring to campus prominent
10 citizens to debate or discuss subjects vital to maintaining
11 a free political and market society.

12 Since its establishment, the Vickers Lecture
13 Series has become one of the most prestigious lecture series
14 in the university and has brought to our campus a wide
15 variety of prominent men and women. We are indebted to
16 the Vickers family and are fortunate this evening to have
17 with us Mr. and Mrs. Robert Vickers, of Wichita.

18 I would like to ask you to join with me in recog-
19 nizing Mr. and Mrs. Vickers and their daughter, Casey, a
20 student at the university. Would you stand, please.

21 (Applause)

22 We are honored this evening to have with us the
23 72nd Attorney General of the United States, the Honorable

1 Griffin Bell.

2 Since receiving his bachelor of law degree with
3 honors from Mercer University in 1948, Judge Bell has had
4 a distinguished career both in public service and in the
5 private practice of the law. Admitted to the Georgia Bar
6 in 1947, he practiced law in Savannah and Rome, Georgia,
7 before joining the firm of King & Spalding, in Atlanta, in
8 1953.

9 On October 6, 1961, he was appointed by the late
10 President John F. Kennedy to the U.S. Court of Appeals and
11 served as a judge of the Firth Circuit Court until March
12 1976 at which time he returned to his partnership in King
13 & Spalding. He practiced law in Atlanta until his nomina-
14 tion by President Carter to the Office of Attorney General
15 in December of 1976.

16 In addition to his private law practice, Judge
17 Bell has held the honorary position as Chief of Staff to
18 Georgia Governor Ernest Vandiver from 1959 to 1961. He has
19 served as Chairman of the Atlanta Commission on Crime and
20 Juvenile Delinquency, has chaired the Committee on
21 Innovation and Development of the Federal Judicial Center,
22 and is a member of the Board of the American Bar Associa-
23 tion's Division of Judicial Administration and of the American

1 Bar Association's Pound Conference Follow-Up Task Force.

2 He is a member of the American Law Institute, the
3 Commission on Standards of Judicial Administration of the
4 American Bar Association, the Board of Directors of the
5 Federal Judicial Center, and the American College of Trial
6 Lawyers. He is also a member of the Visiting Committee of
7 Vanderbilt University Law School, and a Trustee of Mercer
8 University.

9 He has also served for many years as a trusted
10 friend and confidant of President Carter. The University
11 of Kansas is honored this evening to present the Honorable
12 Griffin B. Bell, the 72nd Attorney General of the United
13 States.

14 Judge Bell.

15 (Applause)

16 THE ATTORNEY GENERAL: Chancellor Dyke, Mrs. Dorf,
17 Mr. Robert Vickers, Attorney General and Mrs. Stephen,
18 distinguished guests, fellow students, ladies and gentlemen.
19 It is a great pleasure for me to be in Lawrence, Kansas. I
20 don't see this much snow in the other places I usually am.

21 I went to Salt Lake City last Thursday to make a
22 speech of this kind and it only took me fourteen hours to
23 get there from Dulles Airport, where the plane broke down,

1 and they had to send to Baltimore for a part. We finally
2 left and got over Kansas City and the face mask fell, the
3 pressure had gone off the plane and we finally ended up in
4 Denver -- it was supposed to be a non-stop flight -- and
5 it took fourteen hours to get to Salt Lake City.

6 The next morning, I went over to meet with the
7 Justice Department employees at the post office building.
8 They had the U.S. Attorney there and the marshals, the
9 prison people, DEA's, and I was thinking about speaking at
10 lunch time and I said I wonder what the -- I can't remember
11 the motto of the Post Office Department, and I asked this
12 young man with me to find out what it was, and you recall
13 it was that "neither sleet nor snow nor the dark of night,"
14 or something like that," will discourage our carriers from
15 going on their appointed rounds."

16 So I called five people in the post office and
17 they said they didn't know the motto. I finally got the
18 head person and they said they had dropped the motto out of
19 the manual and no longer used it.

20 (Laughter)

21 It hasn't been that bad today because we took a
22 government plane this time. The government operates a lot
23 better than the airlines sometimes. And we got here in

1 three hours and twenty minutes and we are going to leave in
2 the morning from Topeka. We sent the plane over to put it
3 in a hanger so it wouldn't freeze up on us overnight. I
4 am sure things will be better.

5 Coming to a strange place like this reminds me of
6 -- it is strange for me, somebody from Georgia, the East
7 Coast. I've never been in Lawrence, Kansas, before, but
8 they say the territorial governor of Nevada wrote back to
9 Washington and said this is no place for a Christian and
10 "I did not remain one for long."

11 (Laughter)

12 I don't think you can compare Lawrence to that.
13 We have a lot of unusual things in Washington. I made a
14 speech in Fort Worth, Texas, Baptist Seminary -- I am a
15 Baptist, which means I am a member of a cult.

16 (Laughter)

17 And they gave me a pair of cowboy boots as a
18 present, and they looked pretty expensive to me. I thought
19 they were worth more than \$35, which meant that I couldn't
20 take them, I had to send them to the State Department or
21 to the White House or somewhere. I couldn't keep them.
22 So I took them away and when we got to Dallas Airport and
23 I had some FBI agents with me and they said why don't you

1 try one on. I did and I couldn't get it off. So I had
2 two agents pulling one boot off my foot, with my leg up in
3 the air. I am not one of the great favorites of Jack
4 Anderson and it dawned on me that Anderson might have an
5 agent there in the airport.

6 (Laughter)

7 If you need any cowboy boots, we have them on
8 display at the Justice Department in the press office. We
9 want all the members of the press to see what problems we
10 have in complying with the code of ethics that we are all
11 under now.

12 Well, I found out that I was not supposed to make
13 a speech on the law here in the Vickers Lectures, that the
14 lectures are more into the political system and the free
15 enterprise system, so this is my first speech since I have
16 been Attorney General on something that I have a deep
17 interest in and that is political science and the political
18 system of our country, something that I have been studying
19 since I was a very young person.

20 So I want to talk to you tonight about our
21 political system as I see it from where I am. Benjamin
22 Harvey Hill was a distinguished Georgian who did his best
23 prior to the Civil War to prevent the secession of Georgia

1 from the Union. Having lost, he then joined in the
2 Confederacy. But following the war and the Reconstruction,
3 he became a United States Senator from Georgia. He became
4 quite a famous person in our part of the country, but it was
5 because of something that happened to him during the
6 Reconstruction. He published a series of newspaper columns
7 entitled "Notes on the Situation." I have appropriated
8 that same title for my remarks tonight.

9 What happened to the South during the Reconstruc-
10 tion is a subject of continuing interest to political
11 scientists as well as to historians. It was a period when
12 one part of our country was under occupation by the armed
13 forces of the Nation. It was a period in which the national
14 Congress engaged in a concerted effort to reconstitute the
15 political and economic structure of the conquered territory.

16 We have no occupation as such today, but the
17 entire Nation, not just the South, is presently regulated
18 by a force more pervasive and more powerful than all of the
19 armies of the Reconstruction. That force is the federal
20 bureaucracy which by laws and regulations, by orders and
21 printed forms and by a thousand other unseen methods
22 subjects all of us to some degree of federal scrutiny and
23 federal control.

1 It will be my thesis tonight that if the Republic
2 is to remain viable, we must find ways to reduce government
3 by bureaucracy, we must return to government by directly
4 accountable public officials, whether local, state or
5 federal.

6 The only other alternative is to have an increas-
7 ingly costly and inefficient form of government, removed
8 from democratic control -- and I use the lower case "d" in
9 democratic. When our society is threatened from within and
10 without by such problems as inflation, military aggression,
11 poverty and world famine, this ever-growing bureaucracy is
12 more than a nuisance, it is a prescription for societal
13 suicide.

14 In elaborating on this thesis, I speak to you from
15 the vantage point of a public official who has served in
16 the Federal Judiciary and now serves in the Executive
17 Branch. My observations are not those of a political
18 scientist or historian, but I claim to be an amateur in
19 each field. For the next few minutes, I will be speaking
20 to you as a concerned citizen, schooled in public service,
21 not as a spokesman for the administration. These thoughts
22 are my own, as you will shortly hear.

23 Let me begin by noting my credentials to criticize

1 the federal bureaucracy. As Attorney General, I am in
2 charge of some 55,000 employees within the Justice Depart-
3 ment who are spread over 23 separate component offices and
4 bureaus and divisions. Our budget, which is small by com-
5 parison, will come to about \$2.5 billion in fiscal 1979.

6 I am not alone in concluding that the unchecked
7 growth of the federal bureaucracy may be a mortal threat to
8 our historic forms of government. New York Senator Daniel
9 Patrick Moynihan, the eminent scholar and former Ambassador
10 to India, gave a memorable address last month in New York
11 City in which he spoke of the imperial presidency, the
12 imperial congress, and even the imperial judiciary. He
13 concluded that the inevitable concomitant of imperial
14 government was the spread of bureaucracy from the Executive
15 Branch to the Legislative and Judicial Branches as well.

16 If I may quote from that speech, he said, "The
17 long-run effect will be to create government by submerged
18 horizontal bureaucracies that link the three branches of
19 government, speaking their own private language, staying
20 in place while their constitutional masters come and go."

21 It is in the vein of Senator Moynihan's remarks
22 that I speak to you tonight about our federal government.
23 The restlessness of the American people is now manifesting

1 itself in the notion of calling a constitutional convention
2 through an application from two-thirds of the State legis-
3 latures. The Founding Fathers gave us this alternative
4 way of amending the Constitution, doubtless foreseeing that
5 the people might some day lose control of the federal govern-
6 ment and even of the Congress to the extent that the people
7 might not be able to achieve their will.

8 Now, this state of affairs is worth pondering.
9 Lack of control has a good deal to do with inflation, which
10 is fueled in part by government spending, it has much to do
11 with the present flood of stultifying federal regulations,
12 and it has much to do with citizen frustration which is
13 caused by seeming inability to govern ourselves.

14 A recent Wall Street Journal editorial made the
15 clearest statement about this phenomenon: "There is a
16 clear sense in this country that government has become
17 highly wasteful of resources, too big and internally conten-
18 tious to respond to changing circumstances and needs. The
19 time required to get the necessary government clearances and
20 build a single electric power plant in the United States is
21 now triple the length of time the United States needed to
22 mobilize for and fight World War II."

23 This is from the Wall Street Journal. I don't

1 know if it is true. But if we assume it is, this is cer-
2 tainly a sober observation.

3 Senator Moynihan has provided us with a short and
4 accurate description of the problem, but few have gone
5 beyond rhetorical attacks on that problem. It has been
6 often said that it is better to light one candle than to
7 curse the darkness. As a lawyer, I put it in different
8 terms, stating that one should not rail at the law, and by
9 the same token we should not rail at the government; rather,
10 our approach should be to correct the government, therefore
11 I would like to make a few modest suggestions which hope-
12 fully may assist in turning the tide. These suggestions are
13 in the nature of refurbishment. They in no way undermine
14 or even disparage our system. They are corrective in
15 nature and are asserted under our duty as citizens to seek
16 to improve our system. It is through such duty that we
17 replenish our democracy under our constitutional system.

18 As a first step, I would amend the Constitution
19 to provide one six-year term for the President. This is not
20 a new idea. It was originally proposed in the Congress in
21 1826. It has been reintroduced some 160 times since then.
22 It has been advocated by several Presidents, the last one
23 being President Ford. But it is an idea whose time may have

1 come.

2 Such a change will enable the President to devote
3 a hundred percent of his or her attention to the office and
4 no time would be spent seeking reelection whereas under the
5 present system, the President serves three years and then
6 must spend a substantial part of the fourth year in running
7 for reelection, assuming that a President should decide to
8 seek reelection.

9 Moreover, the current four-year term is actually
10 too short to achieve any of the major changes and improve-
11 ments that a President should accomplish. The funding
12 cycles are so long that it is well into a President's third
13 year before his own program changes take effect. A single
14 six-year term would permit the long-term steady planning
15 and implementation that our government needs, plus saving
16 that fourth year now lost to campaigning.

17 Second, I would propose a complete review and
18 reduction of the regulating and litigating authority of the
19 independent federal agencies. The President has the
20 authority now to curb those departments within the Executive
21 Branch of the government, but to the surprise of most
22 Americans the independent agencies such as the Federal Trade
23 Commission, the Consumer Product Safety Commission, and the

1 Nuclear Regulatory Commission, just as examples, are wholly
2 separate and are not subject to the control of the President.
3 Most have the power to promulgate regulations and rules
4 that affect all of us, and many have the statutory power to
5 litigate in the name of the United States even when the
6 positions being advocated by them are contrary to those
7 taken by the Department of Justice. Their regulations are
8 legion and growing every day.

9 Third, I would place a severe restriction on the
10 staffs allocated to the President, the Congress and even
11 the federal courts. More staff invariably means more time
12 in which to evolve more ideas about how to increase the
13 government control over the lives of the American people.
14 I say this advisedly because as a federal judge I started
15 out with one secretary and one law clerk, and by the time
16 I left I had two secretaries and three law clerks and I
17 could hardly keep up with the work product of my staff. And
18 I notice this is true in many places in the government, and
19 this disparages accountability.

20 Now, while we do that we must at the same time
21 lower our expectations about the government. In large
22 measure, the size of the government has grown because we
23 have all benefited at one time or another from some federal

1 program or programs. The temptation is overwhelming to ask
2 that the federal government pay for this project or to
3 support that program because then the average citizen can-
4 not so easily perceive the linkage between the service that
5 is delivered and the price paid in terms of the incremental
6 federal tax dollars.

7 Local officials and local citizens alike praise
8 the award of federal grants to local communities, but they
9 fail to recognize that such aid builds the federal bureau-
10 cracy, furthers the loss of local government control and
11 responsibility.

12 As a former federal judge and now as Attorney
13 General, in charge of our 3,800 lawyers in the Justice
14 Department -- incidentally, about half of the lawyers in the
15 U.S. Attorneys offices over the country, the other half are
16 in Washington -- I can personally testify to the growth of
17 the federal judiciary and its increased role in our lives.

18 Again, this growth stems mostly from the desires
19 of the American people who now turn to the courts, especially
20 especially the federal courts, at the slightest provocation.
21 The case load in turn fuels the demand for more and more
22 judges, and more and more support staff. The citizenry must
23 reaffirm its commitment to other and more informal dispute

1 resolution devices, where it cannot rightly complain when
2 the judiciary, like its sister branches, continues to in-
3 crease in size in response to cries for more services.

4 Fourth, I would urge the Congress to sharply
5 curtail, if not abolish the so-called rule-making powers
6 of the independent regulatory commissions. To most of you
7 in this audience tonight, the concepts of rule-making
8 might sound as though it was simply a procedural device
9 used to set out the rules under which a particular agency
10 might conduct itself. This is far from what the term means
11 in Washington.

12 In truth, rule-making is a total substitute for
13 all other forms of government, executive, legislative, and
14 even judicial. Its abuse can stymie and frustrate the
15 government of whole states and the operations of entire
16 industries.

17 A classic case was presented to me while I was
18 a circuit judge on the Fifth Circuit Court of Appeals. The
19 State of Texas had, pursuant to federal law, produced a
20 state plan to control smog within the limits set by federal
21 regulations. The Environmental Protection Agency disapproved
22 the Texas plan and issued under its rule-making powers its
23 own plan, which incorporated the Texas controls and a host

1 of other more stringent requirements.

2 To our surprise, we found that EPA has established
3 the standards for Texas on a contractual basis and largely
4 on a study done for the Los Angeles, California, region, and
5 that the study had been performed fifteen years earlier.
6 But for our order to the EPA, the citizens of Texas would
7 today still be paying for a set of air quality controls
8 promulgated by a set of bureaucrats in Washington based on
9 a contracted study from Los Angeles which was out of date.
10 This is rule-making.

11 Of course, once the rule is made by an agency,
12 all interested parties are given the right to comment. But
13 the point is that rule-making has none of the safeguards of
14 the legislative process and is not an adversary proceeding
15 such as you have in an administrative hearing or in a
16 court.

17 Fifth, I would urge strong support for President
18 Carter's plans to reduce the volume, the complexity and
19 the cost of government regulations generally. As a person
20 charged with enforcing the Nation's laws, I have seen much
21 burden cast upon our citizens by the host of federal regu-
22 lations. Federal regulations currently in force cover
23 about 60,000 printed pages, with thousands more in

1 interpretations and guidelines. They are often written in
2 defiance of the English language.

3 (Laughter)

4 Many of these regulations have retarded our real
5 economic growth by impairing our efforts to improve the
6 productivity of labor and capital. The paperwork and
7 compliance burden on the smaller American business is simply
8 impossible, so that the net result has been disobedience
9 which then breeds disrespect for the law generally. If large
10 numbers of our people began to ignore our law -- and all
11 regulations are law -- we will lose that cohesive attitude
12 which is so symbolized our country and which has saved our
13 Republic from anarchy and ruin on countless occasions.

14 For these reasons, the President has ordered the
15 reduction in the number of regulations and a simplification
16 of their reporting requirements. Thus far, the number of
17 reporting hours has been reduced by 85 million hours per
18 year -- that means nothing to you, but it is by about ten
19 percent, the reduction is about ten percent. Ten percent
20 is the equivalent to the work of 50,000 people in one year.

21 The President has also required major new regula-
22 tions to be accompanied by a comprehensive cost-benefit
23 study, so that the social and economic merits can be weighed

1 against the likely cost. That too will reduce the number
2 and complexity of regulations. Necessary and proper regula-
3 tions will be continued but at the least expensive and
4 burdensome level, and this will help in the fight against
5 inflation because each increment of cost added to a product
6 or service by a new and perhaps unnecessary regulation
7 further erodes the buying power of the American dollar.
8 Such a watch over the cost of new regulations might well be
9 termed an inflation impact statement.

10 Six, we need to restore the competence and non-
11 partisan support to some of the fundamental units of the
12 federal government. It is interesting to note that three
13 Cabinet officials were exempt by the President from
14 attending the recent miniconvention of the Democratic
15 Party in Memphis, the Secretary of Defense, the Secretary
16 of State, and the Attorney General. That suggests to me
17 that these officers and their departments have to be seen
18 as non partisan, charged to work on neutral principles of
19 law and policy.

20 There is no room in our federal system for the
21 vagaries and vicissitudes of partisan politics in the con-
22 duct of our national defense or foreign relations. In
23 like fashion, the laws of our land must be enforced without

1 fear or favor as to party affiliation.

2 I mention this last fact not because it relates
3 to my earlier observations about bureaucracy, but because
4 these three arms of the Executive Branch are the guardians
5 of our freedoms. It is through their independence and pro-
6 fessionalism that we American citizens have the liberties
7 and even license to debate and to discuss how our govern-
8 ment is to be run.

9 So in their strength lies the strength of the
10 American people. I can tell you that we at the Justice
11 Department have tried very hard over the last two years to
12 erase the stains of the Watergate era and to create a truly
13 independent professional organization.

14 I am proud that from the FBI to the DEA and to
15 our litigating divisions, we have accomplished that goal.
16 We operate by and fully in accordance with the law on a
17 non partisan basis, as President Carter pledged to do when
18 he took office. That will be the pledge of the Department
19 of Justice from now on.

20 And as I said at the beginning of these remarks,
21 I am speaking as an American citizen, proud of his country's
22 achievements over two centuries and yet fearful for what
23 lies ahead for our Nation. We have come to a cross-road in

1 the history of this land, politically, morally and philo-
2 sophically. Each of us must now decide who if anyone shall
3 be given this enormous power over our lives.

4 I have often said that the wisest use of power
5 is not to use it at all, but if such power must be used,
6 use it sparingly. That is the prescription I would write
7 for our federal government today, for the temptation of
8 great power may otherwise be too great to resist.

9 As Abraham Lincoln so aptly put it in 1837, "I
10 believe it is universally understood and acknowledged that
11 all men will ever act correctly unless they have a motive
12 to do otherwise."

13 President Carter and I share a common conviction
14 that it is time to return the government to the people,
15 means to reallocating the power of the federal govern-
16 ment back to the state and local level. We have been
17 doing that in the Justice Department in the area of prose-
18 cutions. I have met personally with the state attorney
19 generals, I have had the U.S. Attorneys meet with the local
20 prosecutors, and we have actually reallocated the responsi-
21 bility for the prosecution of crime in large measure
22 throughout the United States. If we can do that, others
23 in the government can do it.

1 We believe that the President, the Attorney
2 General, the local government officer has a roving commission
3 to go about going good. Such an attitude of a roving com-
4 mission without regard to law constitutes an abuse of
5 power. Our administration is committed to evolving power
6 back to the people of the country, to save the Nation from
7 its ever-growing level of the federal government.

8 So in closing let me once again refer to
9 Benjamin Harvey Hill, the distinguished Georgian and
10 American that I earlier alluded to, whose statue in the
11 Georgia House bears this inscription: "Who saves his
12 country saves himself, saves all things, and all things
13 saved do bless him. Who lets his country die lets all
14 things die, dies himself ignobly and all things dying curse
15 him."

16 Thank you very much.

17 (Applause)

18 MR. : The Attorney General of the
19 United States, Mr. Griffin Bell, who has just delivered
20 the 1979 J. A. Vickers, Sr. Memorial Lecture here at the
21 University of Kansas.

22 Mr. Bell's most outstanding remark of the evening,
23 perhaps will probably be the most quoted at least from his

1 speech, calling for one-term six-year presidency. That, as
2 Mr. Bell mentioned in his remarks, has been tried before
3 160 times in fact since 1826. And so that will probably
4 be the key note of this address at the University of
5 Kansas tonight.

6 He also called for a number of other changes he
7 would like to see in American society. But as he mentioned
8 in a news conference just before the lecture, what his
9 purpose is here is to spark a debate, is to spark a dis-
10 cussion on these issues. He holds no great expectation
11 that an immediate change or even a movement toward a con-
12 stitutional change of that sort, making the presidency one
13 six-year term, has at this stage at least any viable chance
14 to succeed.

15 And so the crowd in the university theater has
16 started to filter out of the auditorium, as the university
17 officials and others gather on stage to talk with Mr. Bell
18 and to wrap up his lecture series. We are going to wrap
19 it up, too, and return to our normal proceedings.

20 Thank you for joining us tonight

21 - - -