



Department of Justice

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BY

ATTORNEY GENERAL JOHN N. MITCHELL

BEFORE THE

FORDHAM LAW ALUMNI ASSOCIATION

WALDORF ASTORIA HOTEL
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INTRODUCTION

You will be pleased to know how highly a Fordham man is regarded in the nation's capital. After one month in office, I can report that his opinions are constantly sought by the press and television and radio. His slightest comment is given the most serious analysis. A statement of present policy or future plans is quickly relayed to the public. I would be less than human if I could not enjoy this attention and, very soon now, I am going to ask Vince Lombardi how he manages to get it.

Today, I want to discuss with you the Department of Justice as I find it on beginning the assignment given me by President Nixon and to outline briefly some of my purposes and hopes for the Department's future.

I am the 67th Attorney General who has served under the Judiciary Act of 1789. It established the federal judicial system and the Office of Attorney General. The Act provides for the appointment of a "meet person learned in the law to act as Attorney General of the United States." I feel that Dean Mulligan would perhaps agree that I am a "meet person" but I have considerably less reason to believe that the Dean would consider me anywhere near as "learned in the law" as the first Attorney General, the distinguished Edmund Randolph.

Of course, Congress was thinking in terms of a legal counselor for the government--an official to interpret and expound the common law and the Constitution. In a way, I think I would have liked that concept of the job. It evokes for me a picture of things past, of a simpler life lived at a slower pace. The quilled pen and the standup desk, everything but the powdered wig, would have been congenial. But I must accept the Department as it is today and my responsibilities to it.

THE DEPARTMENT OF JUSTICE: PHYSICAL STRUCTURE

For here is an organization of no less than 208 separate entities. These include five offices--the Office of the Attorney General; the office of his chief assistant, the Deputy Attorney General; the office of the Solicitor General who, in his fine morning coat, presents the government's position to a sometimes receptive, sometimes not, Supreme Court; the Office of Legal Counsel, who is--let me tell you a secret--my private lawyer (and I need one); the Office of Public Information, which is a rather inflated title for my overworked speech writer.

OVER

The legal heart of the Justice Department is the seven law divisions:

The Antitrust Division.

The Civil Division, which represents the United States in most civil proceedings.

The Civil Rights Division.

The Criminal Division.

The Internal Security Division, which, like that other division of the State Department, is rather hush hush.

The Land and Natural Resources Division, which supervises suits relating to real estate claims, waterways and natural resources.

The Tax Division, which, I am sure, you know and I only hope you will never have to know them very well.

There are three very important Bureaus. The FBI, which is the most efficient and most deservedly renowned investigatory body in the world. The Bureau of Prisons, which operates federal correctional institutions. The new Bureau of Narcotics and Dangerous Drugs, for which we have great hopes to finally reverse the tide of addiction in this country.

The Department also has two Services. The Immigration and Naturalization Service which, among its functions, meets you at the airport. The Community Relations Service, which attempts to guide and counsel racially-tense cities so that tragedies may be avoided or at least mitigated.

There are two Boards. The Board of Parole, whose name speaks for itself, and the Board of Immigration Appeals, which hears challenges to deportation orders.

And then, of course, in addition to the other entities which I do not have time to discuss, there are 93 offices of United States Attorneys spread out around the country who represent the Department in most criminal and civil matters at the trial level, and 93 offices of the United States Marshal.

THE DEPARTMENT OF JUSTICE: PHILOSOPHICAL STRUCTURE

In its earlier days the concept of the Department of Justice was viewed primarily as that of a prosecutor or defense counsel in individual cases. In general, we took law violators to court when we found them and we proceeded on a case by case basis. We focused on a particular set of facts and on the rights and obligations which arose in a specific situation.

It is becoming more evident every day, however, that our statutory authority covers considerably more cases than we can effectively handle. The question is how can my 2,000 attorneys in the Department of Justice make a significant contribution to the improvement of life of our 200 million citizens.

The answer to this question is that, with our limited resources, we must select priorities --- and in selecting them acknowledge that we are placing the full weight of federal authority behind the cases we choose.

Our priorities today deal with cases which affect the rights and obligations --- not only of a single individual --- but also of hundreds, thousands, and in some instances, even millions of citizens. It is this concept, of recognizing priorities in view of the massive problems to be solved, that historically and philosophically has placed our Department in an institutional transition.

Our population continues to grow and our economy, continues to expand, I predict that our nation's legal problems may multiply in the next decade even faster than they have in the last. I am sure that, relatively speaking, our legal federal manpower will become smaller and smaller.

Of course I recognize that there will still be those who argue that the most technical violation of federal law should be prosecuted with the same aggressiveness as the most heinous.

They contend that a case involving a single individual's rights is as important as a case which would rectify a wrong for thousands. Morally speaking, I suppose they are right. But as Attorney General, I must consider the national morality and what ends I am trying to achieve with my limited means.

Permit me to give you some examples of three areas in which we find problems all over the nation rapidly outstripping our present resources. These are areas in which the Department of Justice has been forced to select priorities and to consider national goals.

ANTITRUST AND CONSUMER PROTECTION

My first example is the Antitrust Division. The major responsibility of this Division is to assure the free market competition of goods and services. In recent years, the difficulties of enforcement have been compounded. The law has become increasingly complex and the scope of many cases requires the attention of a dozen lawyers and economists when, in past years one or two lawyers would do.

The Antitrust Division itself was not formally established until 1933. At that time, it had a staff of 67 persons. Last year it had a staff of 528 persons and a budget of \$8 million. This growth in personnel and resources, however, has not matched the growth of the gross national product. The gross national product has increased fifteen-fold from 1933 to 1968. But the personnel of the Antitrust Division has increased only half as much. The significance of this disparity need not be belabored.

Under the circumstances, it has become increasingly difficult for the Antitrust Division to keep pace with the demands of our growing nation and to assure a free competitive economy which makes our prosperity possible. To effectively protect the American consumer, the Department of Justice is not only concentrating on traditional price-fixing cases, but is also moving into cases involving marketing structures and especially the structure of pure conglomerates.

The great economic power of such conglomerates and the fact that they operate in many fields of commerce poses a danger to the American consumer. There has been some question as to whether, under existing law, we have the authority to attack the pure conglomerate --- a corporation which acquires another in an apparently unrelated field of business.

My view is that, when in doubt, I will give the benefit to the American consumer by attempting to successfully prosecute pure conglomerates. If the courts defeat our attempt, we will ask for new legislation. It is the American consumer, whose interest in the end, the Antitrust Division is seeking to protect.

Our priority, therefore, is the major economic problems of the day and their relationship to citizens all over the country. Of course, we could spend our time searching around for smaller companies who may be in violation of traditional price-fixing laws. But with our limited resources, we plan to focus our efforts on key issues confronting our competitive economy. We must seek benefits for two-hundred-million consumers rather than fragmenting our efforts on 200 small cases.

SUPPLEMENTARY HELP FROM THE STATES

What is needed, obviously, is help --- the kind of help that the federal government alone cannot provide to protect the consumer. The most obvious source of this help is the states --- some of whom have already enacted consumer protection or antitrust legislation.

Since the beginning of this new Administration, we have maintained that the basic responsibility for the welfare of our citizens lies with the states and their subdivisions. The federal government will lead the way in difficult areas such as the conglomerate merger and in the more traditional areas such as major nationwide price-fixing. For here, the states may not have the manpower, investigative facilities, or the concentration of experienced legal talent to prosecute such difficult cases.

However, we hope that the states will follow our path in consumer protection and in the other areas I will discuss today. For example, we urge that the states make a substantial commitment to the protection of the national economic integrity in insuring free competition in local industry.

The Department of Justice has already started making the states more of a partner in federal law enforcement on all fronts. Three weeks ago, the State Attorneys General met in Washington. We told them that we would cooperate with them and exchange information in a number of areas including, in the antitrust field, the treble damage actions. We assured them that we would work closely with them and would, at every opportunity, give them guidance, and if possible, funding for consumer protection.

You see, I believe it is just as much a crime to deny a poor child an adequate diet because restraints on competition have made his food more expensive than his family can afford, as it is to strike that child with a stick in violation of the traditional criminal law. I urge the states to pass effective consumer protection codes and antitrust legislation if they do not have them; and if they do have such codes, to strengthen them wherever possible. Also I suggest that the states implement this legislation by establishing statewide consumer protection bureaus.

I urge the states to consider whether an empty stomach month after month may not damage a child as much as physical abuse.

CIVIL RIGHTS

The second area which I would like to discuss is civil rights. The Civil Rights Division was founded on September 9, 1957, under Attorney General Brownell. Its founding was a most important commitment by the Department of Justice to negroes and other minority groups. In 1957, it had 30 lawyers and a budget of \$500 thousand. This year, it has 106 lawyers and a budget of \$3 million.

But this question remains. How can a Division with only 106 attorneys effectively enforce all the federal civil rights laws. I know that not a week passes in this nation when our black citizens, be they lawyers or laborers, are not subjected to some aspect of racial discrimination. Much of this discrimination is subtle and may never be reached by the government.

But there remains massive legal discrimination against minorities. They are illegally segregated in schools. They are discriminated against by unions and industry. They are crushed into teeming ghettos and denied the ability to purchase adequate homes.

I have pledged to enforce the civil rights laws and the civil rights protections in the Constitution vigorously. I do this to insure that all Americans can share equally in our prosperous and promising nation.

In the field of civil rights, we have chosen housing, education and employment as the three priorities of our Civil Rights Division. And even within these areas, we must use our resources selectively.

For example, in the education field alone, we are involved with more than 200 school districts in about 150 law suits. If we are to eliminate racial discrimination, we need the help of the states. We urge the states to pass effective civil rights legislation; and if, like New York and Massachusetts, for example, they have such legislation, to strengthen their laws wherever possible. We urge the states to establish statewide civil rights divisions.

The federal government will, as it has in the past, continue to lead the way in new areas of the law and in massive cases of discrimination. But the time has now come for the states to look carefully at their own subdivisions.

They must be aware that there are many impoverished negroes and other minority group citizens who are subject to discrimination which cannot be handled by the federal government. These citizens cannot afford the lengthy litigation of a civil rights case and they may not even be aware of their right to demand equality.

In noting that the government should lead the way, let me mention one area which we are now considering. It is racial fairness in the market place --- especially the money market place. There is ample evidence to indicate that many fields of commercial transactions discriminate against the minority borrower. Here is an area where we also believe state civil rights efforts could be extremely successful.

THE CRIMINAL DIVISION - ORGANIZED CRIME

The last Division I will discuss today is the Criminal Division and I am advised that it is impossible to fix a date for its establishment.

The Criminal Division has today 177 attorneys and a budget of \$4.2 million. It handled, last year, 6700 cases and 6600 evaluations of investigations and other matters.

Given its broad jurisdiction over most of the federal criminal law, it could, on any given day, recommend dozens of prosecutions for petty crime. And yet, five years from today, what impact would misdemeanor prosecutions have on the nation as a whole. On the other hand, I can select a priority, a legal and moral symbol for the nation and employ my resources against crime to the fullest.

During the coming year, there will be two priorities for the Criminal Division. The first is organized crime. I will spare no effort to attack the nationwide organization of racketeers who corrupt our youth with illegal narcotics, who taint our public officials with bribes and corruption, who pervert the outstanding ideals of the labor union movement, who employ murder and torture to collect their debts, and who, in a very real sense, prey mainly on the poor and less educated segments of our population.

To be effective, we must launch a nationwide campaign against organized crime with all the weapons at our disposal. For example, we will engage in wiretapping in order to obtain evidence, which we might otherwise not have, to prosecute these syndicates which reportedly take in more than \$50 billion a year. Another tool at our disposal is the Strike Force which

we are now reorganizing and greatly strengthening. These Strike Forces are a unique concept of governmental law enforcement they are composed of representatives from the FBI, several divisions in the Justice Department, the Internal Revenue Service, the Labor Department, and Customs. This interdepartmental unified approach has proved extremely successful and in one city alone, we have been able to obtain 30 indictments in an attempt to weaken an organized crime syndicate.

But organized crime is probably too widespread to be completely eliminated by the Department of Justice. Indeed, most experts in the field believe that it cannot exist without the cooperation or apathy of local law enforcement officers. It should be a prime local responsibility and we urge the states to pass comprehensive laws against organized gangsters. Also we urge the states to establish statewide organized crime divisions which will have substantial resources to staff their effort.

Similarly, we strongly advise that if the states allow wiretapping, that they will pass laws and regulations which will insure the closest supervision. They must decrease to a minimum any unnecessary invasions of homes and offices.

DEPARTMENT OF JUSTICE - LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
AND STREET CRIME

A second priority in the criminal field is street crime which is, in many ways, the opposite of organized crime. It is disorganized crime, exploding with unpredictable viciousness and frequently without the cool reasoning of an experienced gangster. The latest FBI statistics show that serious crime in the United States increased 17 per cent in 1968 over 1967. This is an area where the federal government has little enforcement power. Here as in no other area we must rely on the states for their cooperation. As Attorney General I can tell you that street crime and the fear of street crime is changing the fabric of our society --- that crime is crushing us. The fear of crime is forcing our citizens to change their traditional living patterns, to staff off the streets at night, to shy away from helping strangers, to be distrustful and insecure in their own neighborhoods.

Our federal leadership in the war against street crime will come from the Law Enforcement Assistance Administration.

It has a 300 million dollar authorization for the next fiscal year, most of which will go to the states in block grants. We hope that a majority of the money available to the states and the communities through LEAA will be used, in one form or another, to attack street crime.

We need more police and they must be better educated and trained. We need, in most cities, better juvenile facilities and education programs to stop our youth from turning to the streets. We need more efficient justice so that those who are arrested will be tried promptly and either convicted or acquitted. We need a complete overhaul of most state prison systems with rehabilitation facilities, psychiatrists and social workers to assure that the prisoners of today will not be - - as 4 out of 10 are expected to be --- the prisoners of the future.

We hope that the states, in attempting to solve our national crime problem, will invite private industry and non-profit organizations to participate under the guidance of government officials and professional organizations. The voluntary sector offers an enormous reservoir of money and manpower to help in non-policed functions such as juvenile programs, narcotic rehabilitation programs and work re-training programs for prisoners.

CONCLUSION

Protection for the consumer, protection for the minority group, protection for the law-abiding citizen from street crime and organized crime --- these are three priorities of my Department and they should be the three priorities for America.

The federal government will lead the way but it cannot succeed without the cooperation and help of the states. With this cooperation we will succeed. Without it, I warn you, we only face the increasing prospect of tragedy. However, I am optimistic that with my 2 thousand lawyers, with help from the states, and with your help, that we will make a significant contribution to the improvement of life for two hundred million Americans during my tenure in Washington.