



Department of Justice

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Dallas--Attorney General John N. Mitchell said tonight that the "over-all policy approach" of the Department of Justice has been to balance "the rights of the individual" with the "rights of society."

Speaking before the American Bar Association's annual convention dinner here, the Attorney General said that "some of our new concepts" in the law "have areas of error which ought to be corrected." But he said that "minor adjustments do not imply abandonment of a principle but rather dedication to making that principle work."

Warning against the "dangers of extremism and over-reaction," the Attorney General said that the nation "may be headed for even more tragic times, if reasonable men do not come together now in a sincere attempt to heal our differences and improve our institutions."

Explaining that his philosophy "is a question of balance and moderation in order to solve problems and . . . to ward off more extreme solutions which may be demanded," Mr. Mitchell cited three examples.

WIRETAPPING. He said:

"The basic constitutional and moral controversy stems from the conflict between the individual citizen's right to privacy . . . versus the individual citizen's right to demand that his government properly investigate those persons whose criminal activities pose a substantial danger to the general welfare . . ."

"It is undeniable that organized crime presents a substantial threat to our general welfare." . . .

"Most recognized law enforcement experts have repeatedly stated that wiretapping is our most useful tool (against organized crime) . . ."

"We decided to use Title III (of the Omnibus Crime bill) . . . because we believe that the statutory requirement of probable cause by warrant provides substantial assurance that the privacy of innocent persons will not be unreasonably invaded."

"Furthermore, I also insisted that each application and full supporting papers be personally presented to me for my evaluation."

Mr. Mitchell said that this solution to the wiretap controversy is a "middle-of-the-road position . . . not compatible with either extreme . . ."

PRETRIAL DETENTION: He said:

". . . the nation is well on its way -- and rightfully so -- to eliminating money bail. . . ."

"After four years of bail experiments . . . we have concluded that a prior criminal record, and the type of crime charged, are very relevant as to whether an accused will be law-abiding when released..."

"We have proposed to Congress . . . an amendment to the Federal Bail Act which would establish selected pretrial detention . . . only for those persons who appear to be so 'dangerous' that their release pending trial would probably result in a crime."

"We believe that in the limited number of cases where pretrial detention will be used, the right of the individual member of society to be protected from a crime will be carefully balanced against the right of a presumably innocent accused to be given his freedom pending trial -- a freedom that will only be limited if there is the most overwhelming evidence that he may commit a crime when released."

CIVIL RIGHTS. He said:

"By the time we came into office, 15 years after Brown v. Board of Education, it had become quite clear that those school districts which had not desegregated voluntarily would put up a vigorous battle . . . (which) . . . would have entailed a fund cut-off and a period of financial starvation."

"In most school districts, the children who have suffered the most from a cut-off of federal funds . . . are the Negro children."

"When a school district lacks money and is controlled by segregationist school board members, the first schools to suffer in the money squeeze are the black schools . . ."

". . . we know that in many recalcitrant districts there are responsible school officials who . . . have told us repeatedly that their communities will not voluntarily end discrimination, even under the threat of a federal fund cut-off."

". . . the practical defect with court ordered school cases has been, in the past, that judges and lawyers are not educators."

The Department of Justice-Health, Education and Welfare's joint statement of last July 3 "was calculated to achieve lawful school desegregation as quickly and as effectively as possible."

"It emphasized swift court action when voluntary negotiations failed. It emphasized keeping federal funds rather than starving school districts. It emphasized using educators . . . to plan school desegregation rather than using lawyers."

"This new program is, I believe, a totally responsible, moderate and practical way to achieve great progress in an extremely difficult problem area."