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3	ADDRESS OF
4	HONORABLE GRIFFIN B. BELL,
5	ATTORNEY GENERAL OF THE UNITED STATES
6	BEFORE
7	THE LOS ANGELES COUNTY BAR ASSOCIATION
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14	Thursday, December 7, 1978
15	Biltmore Hotel
16	Los Angeles, California
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23	(This transcript was prepared from a tape recording.)
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-1	THE ATTORNEY GENERAL: Thank you, John Taylor,
2	American Bar President Shep_ Tate, State Bar President Dave
3	Levy, bar leaders, ladies and gentlemen. I appreciate Shep
4	Tate being here. I have a lot of trouble with my accent.
5	(Laughter)
6	He led the way.
7	(Laughter)
8	I didn't know Dave was from Selma, Alabama. He has
9	lost his accent.
10	(Laughter)
11	He seems to think he may lose something else, his
12	integrity.
13	(Laughter)
14	Dave, I will give you fair warning. They tell a
15	story around Washington about the man who was sent to Nevada
16	to be the territorial governor. He wrote back and said this
17	is no place for a Christian, and I did not remain one long.
18	(Laughter)
19	President Carter sent me a copy of a speech yester-
20	day and asked me if I would deliver it.
21	(Laughter)
22	It would be entitled "Los Angeles Revisited."
_ ²³	(Laughter)
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I did not respond. I simply left town.

(Laughter)

Between the President and the Chief Justice, they have given me an unusual year.

(Laughter)

I have always known that a person could be a prisoner of events, and they have certainly made me into a prisoner.

Shep referred to the response to the President's speech. I must say, Shep, that the response of the American Bar was of equal vigor.

(Laughter)

I want to say that not only am I not going to repeat the speech, I want to say here and now that I am proud to be a lawyer.

(Applause)

I think lawyers do serve the public interest. I think we all try to. And in defense of the President, I think he was exhorting us to do that. I don't think any great harm was done by the President or the Chief Justice. I think we are all better for it. It made us assess or reassess our responsibility as lawyers, as judges, whatever our role might be in our justice system.

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I bring you greetings from Washington. Washington is a place where they have great interests of the moment. One we are having trouble with now is the ethics problem. I spoke in Fort Worth two or three weeks ago and as a present unbeknownst to me they handed me a pair of lizard skin cowboy boots, and somebody said they are worth more than \$35, which is a rule. I thanked them and told them it cost the government a lot of money deciding what to do with these boots, I would have to get an opinion from the Office of Legal Counsel.

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(Laughter)

I took the boots under my arm and went to the Dallas Airport. I never had had on a pair of cowboy boots, but the FBI agents thought I ought to try them on, so I got one on my right foot. I couldn't get it off.

(Laughter)

I had my foot up in the air, two agents pulling on the boot. It suddenly dawned on me that Jack Anderson might be in the lobby.

(Laughter)

I got the boot off, got back to Washington, we run an open department so I put them over in the press office, they are on exhibit there. I started the Office of Legal

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Counsel to work. They said we have already been down this road before. Ben Civiletti had just made a speech in Dallas and they gave him a cowboy hat. So we have a pair of boots and a cowboy hat there now. We don't know what to do with them. We can't keep them because they are worth more than \$35 each. The Smithsonian says they don't have any need for them.

(Laughter)

So I hope you don't have a present here for me today. But if you do, I want an affidavit from all of the federal and state judges that whatever you want to give me is not worth more than \$34.95.

(Laughter)

It is a great pleasure to be here and I want to talk to you a few minutes about what we are doing at the Department of Justice, because we have the same interest there as you have. The Department of Justice belongs to the lawyers and the judges and to the Américan people and we try to keep that foremost in our minds.

When I became Attorney General, I discovered several controversial pieces of unfinished business at the Justice Department. These included, among others, the investigations of the FBI break-ins in New York, the alleged South Korean

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bribery on Capitol Hill. I spent a great deal of time and energy on these inherited land mines during my first months.

I recall in 1977 someone said you are not to refer to these things as land mines. I said, well, I will probably lose my life on account of them. They said, no, you might only lose a leg or an arm, you may not be done in altogether.

(Laughter)

We worked out of most of those things and in the last few months I have been able to devote most of my time to development of long-range reforms of great importance to the justice system and to the entire Nation. I am now nearing the end of my second year as Attorney General, and I think it is an appropriate time and an appropriate occasion to make an accounting to the Nation of the important things we feel we have accomplished and what we hope to do in the future. There is certainly no more appropriate place than this closing session of the centennial of one of the great bar associations in our country.

My review will cover four broad areas and I then want to conclude by telling you about one major new reform that is being developed.

The first category on the agenda is what have we done to improve the Justice Department as an institution.

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When the President asked me to take this job, we agreed that my first priority should be to continue the efforts which had been begun by Attorney General Edward Levi to extract the Justice Department from the Watergate era. The department's management and day-to-day operations had suffered and was suffering because of preoccupation with Watergate.

The department had also experienced a severe decline in prestige and public trust and had acquired a taint of political partisanship. To address first the management needs, I grouped the department's 27 organizations in the department -- into the civil and the criminal sides and set up a manager over each to report to me.

The Deputy Attorney General, who previously managed all of the department's business under the Attorney General, now manages the criminal side and is the number two person in the department. A new Presidential appointee, the Associate Attorney General, manages the civil side. This division of responsibility is working smoothly and has increased greatly to the efficiency of the department.

Then, despite Attorney General Levi fine unpolitical stewardship, there remained in Washington in January of 1977 an abiding suspicion that every major department decision was

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influenced if not motivated by partisan political considerations. The leakers in the department and others outside the department exacerbated this syndrome. Let me cite an example.

As soon as I arrived, I began reading stories to the effect that the investigation of the South Korean's influence buying on Capitol Hill would be quashed now that a Democratic administration had arrived. I was astonished to find that there really wasn't much of an investigation going on, only a few lawyers looking into the allegations, most of which were being seen in the news.

I created an investigative team and pushed them to get to the bottom of those allegations. We did that and some persons were prosecuted, some were disciplined, and many were cleared. But I noticed that it took almost a year to stop speculation that the investigation would be quashed on political grounds.

The fact that the speculation did stop indicates that our efforts to restore a public perception of the department's integrity were meeting with some success. One of my first acts in that effort was a speech early last year in the Great Hall at the department to the department lawyers in which I urged them to act as professionals in all matters,

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regardless of the political consequences.

The most important aspect of restoring public trust has been to institutionalize the independence of the department from the politics of government. I like to call it converting the Department of Justice into a neutral zone, because law will not operate except on neutral principles. The American people are entitled to have the Department of Justice as is a neutral zone in government where everyone, regardless of their political background, ethnic background, whatever, receives the same treatment.

This process of conversion is still going on, but a couple of major steps have already been announced which future Attorney Generals would have a hard time changing. I have taken a hands-off attitude toward all non-Justice Department related matters in the administration. Neither the President nor I consider it appropriate for the Attorney General to act as a political adviser to the President.

Further, I have moved to insulate the line attorneys and litigating division chiefs and the U.S. Attorneys and others at the department from political pressure I have done that by insisting that any contacts about the merits of specific cases from either the White House or Congress must come through my office or that of the Deputy or

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the Associate. We are thus able to screen out and absorb the pressure which is inherent in such contacts, while the Assistant Attorney Generals, the U.S. Attorneys and their staff lawyers can determine the merits of cases without regard to political considerations.

To assure that this process works, the Associate, the Deputy and I will reduce to writing our reasons for overruling any Assistant Attorney General or U.S. Attorney in any case and will announce those reasons publicly unless not possible for due process or privacy reasons, and so that by announcing we can be held publicly accountable. I have done this once already in the Antitrust Division ruling on the LTV-Lykes merger, where I overruled the department and announced and gave my reasons publicly and I have been accountable to the public since that time.

(Laughter)

The second item on our agenda is what we have accomplished for the system of justice. The Justice Department must concern itself with more than investigation, prosecution, and representation of the government in criminal and civil cases. It must also exhibit a continuing concern with the justice and judicial system as a whole. This attitude I think is in furtherance of Canon 8 of the Canons of

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Professional Responsibility, Canon 8, saying that a lawyer should assist in improving the legal system. And then in paragraph 8.1 under that Canon, we read this: "By reason of education and experience, lawyers are especially qualified to recognize deficiencies in the legal system and to initiate corrective measures therein; thus, they should participate in proposals and support legislation and programs to improve the system without regard to the general interests and desires of clients and former clients."

And then we read on in paragraph 8.4: "A lawyer must identify the capacity in which he is commenting on proposals, that is, on behalf of a client, in his personal capacity, or in behalf of the public interest. When purporting to act on behalf of the public" -- and we all must do that on some occasions -- "a lawyer should espouse only that which he conscientiously believes to be in the public interest."

I call that to your attention because I have the same attitude and desire at the Department of Justice, and in furtherance of that I created the Office of Improvements in the Administration of Justice. I recruited Professor Dan Meador, from the University of Virginia, who is a renowned authority on court systems, not only our system, he lived in England once for a year and wrote a book on the English system.

eting co., INC. etts Avenue, N.E. 0.C. 20002 6 He has just gotten back from West Germany where he spent several days studying the West German system. I let him recruit about twenty people who are very bright, and that is what we call our "think tank" at the department.

This office has and is developing a comprehensive program to address the major ills besetting the justice system, including the access of all Americans to justice and speeding up litigation while reducing its cost. Some proposals of that office came close to being enacted by the last Congress. In a few minutes I want to tell you about our legislative priorities in the new Congress.

One of that office's accomplishments is well-known to you. In working with various organizations, including the Los Angeles Bar, we were able to establish last year three pilot neighborhood justice centers. I understand, you visited the one here, some of you, just yesterday. People can take their minor disputes to the centers and get them resolved through mediation or arbitration without the need to go to court and without the need of lawyers.

I am proud of these centers. If they are run correctly, they can take a lot of pressure off our court system and resolve many disputes more quickly and less expensively and with less acrimony and frustration than usually

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is Avenue, N.E. C. 20002 results from litigation.

During the Watergate years, the Justice Department suffered piecemeal erosion of its position as a litigator for the government. Several agencies took advantage of the department's weakened state to gain authority from the Congress to conduct their own cases. This is a raging dispute going on right now in Washington, one to which I am devoting great effort. Such fragmentation could only lead to inconsistencies and confusion about the government's litigating positions, hardly in the best interests for the government or the courts.

I have spent a great deal of time arresting this trend, but at the same time I have tried to make the department's lawyers more sensitive to the concerns of our client agencies. I have tried to take the position that we are lawyers, we have clients, these agencies that we represent, hopefully convincing the agencies that we are good lawyers, that we are there to serve them and that the public interest would be better served by having the litigating authority vested in the Department of Justice. Of course, we have it in the Supreme Court, but this problem is at the trial level mainly.

Another major contribution to improving the justice

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system is a method for judicial appointment we have instituted in the appointments we have made to date. Although most fair observers agree that over the years the system has yielded basically good results, there have always been two criticisms of the appointment process for federal judges.

First is that it has been too much subject to the whim of individual Senators, and because of the historical patronage arrangement by which Senators determined who the President can nominate. Secondly -- and all keen observers I think would know this -- there has been a general unevenness in the quality as a result of this tradition.

At President Carter's direction, we have moved to meet these criticisms by first opening up the process for nominating courts of appeals judges by establishing panels in each circuit, to search out and screen potential nominees and submit recommendations directly to the President.

Recently the President issued an Executive Order establishing such standards and guidelines for Senators to follow in selecting their recommendations for district court judgeships. These standards and guidelines are aimed at opening up the process so that all qualified persons have a chance to be considered.

Since the Attorney General traditionally advises the

President on judicial appointments, I work closely with President Carter in these efforts. The improvements are genuine and I am gratified by the cooperation that we have received and which we are receiving from the Senators.

Another significant contribution at the department is improving the justice system by the training of trial lawyers. This is our answer to the Chief Justice. When I arrived at the department, I learned that an Advocacy Institute had been established in 1973 to train government trial lawyers, but it had never increased its offerings beyond the basic course or its volume much above 200 lawyers per year.

I have taken a personal interest in the Advocacy Institute, perhaps prompted by the Chief Justice's remarks, and by this year we have been able just from last year, we have tripled the number of lawyers who took the basic advocacy course, reaching the record number of 660. Of these, 418 were Assistant U.S. Attorneys, and 242 were attorneys from our litigating divisions.

In addition, the Advocacy Institute has conducted 16 separate advance courses to train more than a thousand lawyers in the department. These specialized courses, advanced courses cover such diverse federal subjects as program fraud,

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surface mining and public corruption as examples.

We have received praise for the institute's programs and have therefore laid the plans for a substantial curriculum expansion of the basic trial course beginning in February 1979. Our basic course at this time is only one week in length. We will now expand it to two weeks in length for part one, and six months later part two will be given which will be another week. With a three-week course, we expect to train 600 lawyers per year and the training will be the equivalent of one quarter of law school.

The plan for the first two weeks will be lectures, demonstrations, much copied after the National Institute for Trial Advocacy program, except we will divide our program, our lawyers, our training into civil and criminal. You either go in one course or the other.

After you leave and have some experience, as I say, within six months you will come back, you will go into part two. Part two will enable you to understand better some seminar training, you will also examine the special problems among federal practice such as jury misconduct, voir dire, unique types of cases being handled by the department such as RICO racketeering cases, perhaps enviormental cases, that sort of thing, which is a little bit off the normal path.

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In addition to this plan, this three-week course, we plan to continue giving advance courses to our lawyers. These courses will help assure that the government's lawyers are as competent and as well trained as any lawyers they will face in the private sector, thereby guaranteeing that the public interest will be fairly and firmly represented.

I might add that I think this program is in the public interest. The cost will not be substantial, and we will be able to get instructors at very little cost. But due to the heavy turnover of lawyers that we have in the Department of Justice, many of these lawyers will leave after a few years in the department to join the private sector and can benefit from their training in the private sector, and, of course, the ones who stay in the career service will also be better able to serve the public.

A third item that I want to mention to you is our work in foreign counter-intelligence and domestic security investigations. We have built on the foundation left by Attorney General Levi in establishing guidelines to regulate the FBI's investigations in these areas.

In general terms, the guidelines prohibit using an expansive intelligence gathering rationale to investigate domestic terrorist groups which claim a political motive.

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Instead, standard criminal law enforcement procedures are being used, including a requirement that a warrant be obtained from a court if electronic surveillance is to be employed. The guidelines provide for safeguards to insure that Americans are not being targeted for investigation on the basis of legitimate activities which are protected by the First Amendment.

In addition, a set of classified guidelines regulate the FBI's counter-intelligence espionage operations. We are continually revising and expanding those guidelines as we gain practical experience with them.

As the Attorney General, I am the President's agent to faithfully execute the laws, the Attorney General not being mentioned in the Constitution and the President being the only person that has this duty. And by his delegation I have had the responsibility for making sure that the intelligence community adheres to the rule of law.

We have learned that we can do so, while even improving our intelligence capacity. With the President's support, with excellent copperation from the Congress, we have pointed the way toward significant improvements in the safeguarding of our intelligence activities. The first major achievement was a Presidential Executive Order which was

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RTING CO., INC. etts Avenue, N.E. modeled after one promulgated by President Ford and prepared by Attorney General \underline{Levi} We took that same order and expanded on it and it is the cornerstone of our efforts to construct better systems for intelligence activities.

The other major step we have taken is to introduce a bill which President Ford and the Attorney General had introduced, it was not passed in the last Congress, it was passed in this Congress, which is called the Foreign Intelligence Surveillance Act. Under that Act, for the first time now we can go to court and get a court order There will be a special federal court set up by simply calling in judges designated by the Chief Justice to serve on this special court of part-time assignment and we will present our petitions to those judges, those special assigned judges to get court orders in foreign intelligence.

We are running a foreign intelligence and counterintelligence system in this country since just before World War II under the constitutional authority of the President. There has never been any -- the courts have never been brought into the process. The American public has had some distrust of this system in recent years and we percieved the idea that it would be better to bring the court system in and we are now in the process of doing that.

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I now want to turn to the last agenda item. In the area of judicial selection to which I have already alluded, we are faced with the monumental task of filling as quickly as possible the 152 new federal judgships created by the recent Congress. We have already filled 62 vacancies since we have been in Washington. These were normal vacancies. While filling this 152, there will be some other vacancies to be filled.

This was an awesome responsibility, one which will demand and deserve a large percentage of my time for several months. This is also an awesome responsibility for the FBI who will be doing background checks, for the ABA committee that screens federal judges, and we had a good meeting recently at the Justice Department and then went over with the committee and met with the President. It will also be a lot of responsibility for doctors who now for the first time give physical examinations to the candidates and or other groups of people who want to comment on whether a person can serve based on previous service, whether the person is free from bias and this sort of thing.

It will be an open process to the extent possible. Of course, we don't give out the name of persons who have been selected until we get the screening by the ABA and the

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FBI. We try not to give out those names until we actually decide that the President should nominate the person, because they might be turned down and it would be an embarrassment oftentimes. We do under the circuit judge selection system, we give out the five names, we make those public, and that is good because we get comment from the public. Some of the Senators are doing that. Senator Bentsen has done that in Texas recently with his list.

This was an historic opportunity for President Carter to establish firmly the tradition of open, meritoriented judicial selection which we have been building over the past two years and to take great stride in making the federal judiciary better reflect the diversity in the composition of the bar and the population as a whole.

The President and I are regularly conferring about this effort, and I am talking to Senators and others around the country on a daily basis. I have promised to the Chief Justice and the Judicial Conference, and I have said publicly that I expect to have 80 percent of these new judges confirmed by April 1. I must say that all of the people who work with me in the department are trying to get me to give up that promise, but I have learned in Washington that you never get anything done unless you set deadlines. So we have been

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DRTING CO., INC. Setts Avenue, N.E. D.C. 20002 waiting eight years for these judges, they are badly needed, and we intend to move as rapidly as we can with due regard for proper checks.

We have great hopes that many innovations developed by the Office of Improvements in the Administration of Justice will be enacted into law by the next Congress. I have spoken so many times, but I want to speak again on four things we badly need.

One is to expand the power of magistrates so that they can try some small cases. The other is to put in an arbitration system so that we can have substantial numbers of cases arbitrated. We are already doing that on an experimental basis in the Northern District of California, the Eastern District of Pennsylvania, and the District of Connecticut, and it is working well. I would expect that law to enable us to do that nationwide to be passed. No one loses and everyone gains.

You have compulsory arbitration, but it is inexpensive, it is a service lawyers will render, there will be free lawyers selected at random from a list of lawyers kept in the courthouse, in the clerk's office. The lawyers will become adjunct judges and the lawyer's office will be adjunct to courtroom for this service.

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If you are unhappy with what the arbitrators rule, you can go back to court and take your rightful place on the docket.

The third thing is that we must do something about diversity jurisdiction. I tried to go along last year with what I thought was the majority opinion of the American lawyers and the public interest, and that was to retain the diversity jurisdiction for the nonresident which was eliminated for the resident. I met with much effort to the contrary by the American Bar. We had a fight to the finish and I was the one that was finished.

(Laughter)

But I do not intend to give up. As I said, Shep and his House of Delegates, when you want to give every witness a lawyer in the grand jury room, I would meet you again at the Congress, so we will see how we come out on this. But we have got to do something about this. It disparages the state courts to give a resident of a state the option of using his own courts or going over to the federal court house. The state judges feel this in many places very strongly, and I feel it, but we will work with you and try to do something about that.

The last thing is -- and I don't find any opposition

"ING CO., INC. Is Avenue, N.E. C. 20002 to this, and that is that we eliminate all of the Supreme Supreme Court's mandatory appellate jurisdiction, leave them completely with nothing but certiorari jurisdiction except in a very small range of three-judge district courts. This will help the Supreme Court and they need help. They have as many cases now as they can handle, and from a news story of a recent opinion of last week, perhaps they are almost at the breaking point. So we want to help.

Now, the last thing -- and I just want to touch on this briefly -- we are living in a period of great inflation. I think it is up to the lawyers to do something about inflation. There are things we can do. Here is something that we are looking at right now, just one thing. There are a lot of other things. There is a range of things that lawyers could do.

I ran across this fact. I don't know where I ran across it, but I saw that the malpractice premiums of hospitals had gone up from \$200 million in 1974 to \$1.2 billion in 1977, that in 1977 it costs \$5 a day for every person in America in a hospital to pay malpractice insurance premiums only. It hasn't been many years ago that you could stay in a hospital for \$5 a day. Now, that is rampant inflation.

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Surely, there is some better system than what we are using now. Surely there must be some way that we could get some predictability where insurance actuaries could better forecast the costs and reduce these premiums. I have Dan Meador's group studying that right now and we will be coming out with something on that. But we want the bar association, local bars, state bars, American Bar to begin to think about where our tort law is carrying us, not to do away with the tort law, not to drastically change it but to see if there are't better ways of doing these things.

There is something wrong with the system, where it is just out of hand, like a machine without a driver, where all you do is just throw money, pay more money. Nobody is studying it, so that is one thing we are studying. That may be a very small thing, but it is one thing that I think we can look at and that we intend to come up with something on that.

In all of the programs I have described today, our sole interest has been and is in improving the justice system, in elevating the quality of justice for all Americans. We want your thoughts on every aspect of our efforts. We want your cooperation in working for the public interest. As lawyers, we know that there is some tension always between our

professional duty and the interests in the lawyer-client relationship, particularly the adversary aspects of it, tension between the adversary role that we play and in our public duty. We must take care to keep our eye firmly fixed on the public duty.

The last thing I want to say is that I have enjoyed being Attorney General now for almost two years. I come from a part of the country where we have had few opportunities to serve in the national government. I am glad to have a chance to serve. It is great to be a southerner, it is great to be from Georgia, but most of all it is great to be an American.

Thank you.

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