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ADDRESS

OF

THE HONORABLE GRIFFIN B. BELL
ATTORNEY GENERAL OF THE UNITED STATES

AT THE

CEREMONY HONORING CHIEF JUDGE JOHN SAMMONS BELL

MONDAY, APRIL 2, 1979

10:00 A.M.

STATE JUDICIAL BUILDING
ATLANTA, GEORGIA

P R O C E E D I N G S

1
2 Attorney General Bell. May it please the court, Governor
3 ~~Vandiver~~, Members of the Supreme Court, members of other
4 courts, Bar leaders, other distinguished guests, Chief Judge
5 John Sammons Bell, Evelyn, other family members:

6 We are met today to honor a great jurist. He is that
7 rare combination of intelligence, bravery, executive ability,
8 common sense, and good manners, that one seeks in placing men
9 and women on the bench. Judge Bell exemplifies the British
10 tradition of noblesse oblige: a war hero, a judge, a lawyer,
11 and a teacher. But in honoring him, it is important to note
12 that we also honor this court, indeed, all courts. We also
13 honor our most precious heritage, our system of justice.

14 As Sir Edmund Burke noted in the Parliament, prior to the
15 American Revolution, "Beware of the Americans; more copies of
16 Blackstone's Commentaries on the Law have been sold in the
17 American Colonies, than in the whole of England. The Americans
18 are a litigious lot."

19 Tocqueville noted in his Democracy in America, after
20 having traveled in America for about four years in the 1830s,
21 that most problems in America, including problems of govern-
22 ment, seemed to end up in court. This insatiable desire to
23 litigate is not all bad. It enables us to resolve our disputes
24 in law; we take it to law, as we say in South Georgia. And we
25 have avoided any concept of force in arms, vie et armis. It

1 also enables us to check our government, local, State, and
2 Federal, when we feel aggrieved by the government, and the
3 right to take the government to court may turn out to be the
4 saving grace in our system. It may be our last hope.

5 Tocqueville, in the same book, Democracy in America,
6 foresaw that the government would, by regulation, eventually
7 cover the whole of our social life, subjecting us to a network
8 of petty, complicated rules, both minute and uniform. Not so
9 much, he said, as would break our will, but as would soften,
10 bend, and guide our will. I deny that prediction for our
11 country. As a free person, I would never be subjected to any
12 such treatment by the government.

13 But I am thankful that we have courts, because it is to
14 the court that we may eventually have to turn; and the right
15 to go to court is no luxury item. It is the sine qua non of
16 being an American citizen. It goes with the flag.

17 But there is a problem. Sharp growth in population since
18 World War II, the technological revolution that we are
19 experiencing and have been experiencing for some 30 years, and
20 our ability to convert all cases into large cases, as well as
21 our overkill in appeals, has brought the capacity of our
22 justice system into question.

23 Just last week, Admiral Rickover, who has an opinion on
24 most things, said that frivolous litigation in the courts of
25 America has become a national disgrace. I feel frivolous

1 litigation almost as strongly as does Admiral Rickover. No-
2 where more true than in the criminal field, where appointed
3 lawyers feel the necessity of appealing every case, rather
4 than to be sued by the person they were appointed to defend.

5 It has been only through good management techniques that
6 the system has been able to stay above water; without able
7 Chief Judges exercising great leadership, our system of
8 justice would not long endure. It is worth noting today, that
9 there has been no change in the number of judges during the
10 tenure of Chief Judge Bell. There were nine members of the
11 court when he became chief judge, and there are nine now. At
12 least, I thought so until this morning.

13 In the period of almost 10 years of his service as Chief
14 Judge, the number of cases increased from 800 to 2,000, nearly
15 150 percent. But there was never a delay in the disposition
16 of these cases, the quality of the opinions of the court was
17 not diminished, and throughout it all the Georgia Court of
18 Appeals has remained a model appellate court. I salute this
19 court, and all of its members. I thank you as a citizen of
20 Georgia, for your efforts, for your devotion to duty, and for
21 your service to the people of Georgia.

22 Our goal must be to continue the quest of finding good
23 men and women to serve as judges. It is a calling equal to
24 the ministry. Indeed, it is a ministry, the ministry of
25 justice. One of the great repositories of public power, is in

1 our courts. One of the great potentials for the abuse of
2 power, is in the judge. Yet we rarely hear of an abuse of
3 power, even of an excessive use of power, by a judge. We can
4 attribute this to the fact that judges are very careful in
5 their use of power. It is an axiom that the best use of power
6 is not to use it at all, but when necessary, then to use it as
7 sparingly as possible.

8 As a people, we are comforted in the thought that our
9 judges do take care in their use of power. This careful use
10 of power is sometimes to be contrasted with the use of power
11 by the agencies, by government officials, what we call the
12 bureaucracy.

13 I close on a note of caution. Judges, just as private
14 citizens, are entitled to their constitutional rights of
15 privacy. We are living in a period where public officials are
16 more and more being denied the right of privacy. There is
17 good public policy in the thought that some modicum of dis-
18 closure is necessary on the part of public officials, but
19 there are limits beyond which laws and regulations should not
20 go. We are besieged, in some jurisdictions, with the require-
21 ment that all assets be disclosed to public view, and now
22 there are even requirements that the spouse of public servants
23 must disclose assets.

24 We must guard against overzealousness, which reaches the
25 level of intruding into the personal and family lives of judges

1
2 and other public officials beyond any public interest or
3 necessity.

4 It is a great honor for me to be permitted to appear
5 before this court, and Your Honors. It is an honor and privi-
6 lege for me to salute my warm and old friend, Honorable John
7 Sammons Bell, and Evelyn, to thank him for his service to our
8 State, and to our nation, and to say that President Carter
9 joins in these salutations and in wishing John and Evelyn the
10 best now, and in the future.

11 Thank you.

12 (Applause.)

13 Now we will come to one of the main events of the morning.
14 May it please the court, this reminds me of once I was arguing
15 a case in Haralson County to a jury. The Sheriff came in and
16 told Judge Mundy, who was then in his 80s, that the State
17 Patrol had just reported that there was a tornado on the way.
18 So the judge announced to the jury and to the lawyers that
19 there was a tornado on the way, and he said to the Sheriff,
20 "Mr. Sheriff, stand over by the window. Watch out for the
21 tornado. Mr. Bell, you go right ahead with your arguments."

22 (Laughter.)

23 So I thank you for not bringing the portrait in ahead of
24 time. Evelyn, will you come over here and join me?

25 (Applause.)