



Department of Justice

ADDRESS

OF

THE HONORABLE GRIFFIN B. BELL
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BEFORE

THE AMERICAN SOCIETY OF NEWSPAPER EDITORS

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THE WASHINGTON HILTON

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I speak to many groups at the Justice Department..

Recently I met in Washington with some 40 business people
who were taking advance courses at Stanford University.

I answered questions for awhile and finally one man in
the rear of the room asked the following question:

"What condition do you think the Department of
Justice would be in today if President Carter had
followed the example of President Kennedy and
appointed his brother Attorney General?"

I replied that the meeting was at an end. I will
speak about 15 minutes today and then will do my best to
answer your questions.

I am often asked what I think of Washington and what
it is like to be Attorney General. There is no easy answer.

But John Kennedy probably was near the mark when he said that the Presidency was probably a pretty good job when Coolidge had it.

I like to think of Washington as a place which demands our best. In "The Law of the Yukon," Robert Service wrote:

"This is the law of the Yukon, that only the strong shall thrive, that surely the weak shall perish, and only the fit survive."

That may be a little dramatic but we all know that government service on a high level is arduous to say the least.

In our post-Watergate atmosphere, one might well choose as a text, Chapter VII of the Book of Amos where the prophet Amos saw a vision of the Lord placing a plumb line in the midst of his people. It seems to me that we are

measured by a media plumb line as we attempt to serve
the American people in government.

One studies history though and realizes that little
changes. Shortly after the Civil War, Attorney General
Evarts resigned and said:

"I shall return to my business of farming and
lawing and leave to the newspaper correspondents
the conduct of affairs."

And then again perhaps it is possible to adjust to
Washington. I am of Scotch descent and I am reminded that
in Boswell's, Life of Dr. Johnson, it was said that:

"Much can be made of a Scotsman if he can be
caught young."

I may have been too old when I arrived in Washington,
but let me give you a few of my thoughts.

I began my tenure as Attorney General with two concepts in mind. The first was that the Attorney General has the duty to offer national leadership in our total system of justice -- federal, state, and local; criminal and civil. Every effort has been made to do this. Our goal has been and is to make "equal justice under law" a living and meaningful promise, with justice available to all on a prompt and inexpensive basis. I am encouraged by the progress to date toward that goal.

We are working closely with the Senate and the House on a number of important legislative measures in this area. We are hopeful for the passage this year of a new Federal Criminal Code -- the most comprehensive revision of our

federal criminal law in the nation's history.

We have proposed legislation to expand the authority of United States magistrates and legislation reforming diversity jurisdiction.

We are trying to identify the most appropriate forum for prompt and effective redress of disputes. In that connection, we have developed proposals for alternative means of dispute resolution. One specific proposal would authorize an experiment with compulsory but non-binding arbitration in selected types of federal civil cases.

One important step is to improve the conduct of litigation. We have been working with the organized bar, various interested groups, and Congress toward changes that will

make the discovery process less expensive, faster, and, as a result, more efficient. And we are developing effective rules to limit the scope of discovery to materials relevant to the issues raised in the action, rather than to the "general matter" as is now the case. We are also working on some revision of the class action procedure.

In the intelligence area, we are moving forward with legislation that would put foreign intelligence electronic surveillance under a judicial warrant system for the first time. We have also been working continuously with the Senate Intelligence Committee to develop a charter to cover the foreign intelligence and counterintelligence activities of the FBI.

What I have just listed is but a portion of our agenda. Last November I offered to the Southern Newspaper Publishers Association what I termed the constructive comment that the media too often focuses on the eye-grabbing front-page story at the expense of the less exciting, but perhaps more important story that cannot compete as effectively in the editors' eyes for prime space. As an example, I said we had been trying to interest reporters in this legislative agenda to refurbish the courts and the administration of justice in the United States. The story is being told in bits and pieces, but it has failed to attract in-depth treatment in major newspapers. I still hope that accessibility to justice is a significant story waiting to be written.

The second concept with which I began as Attorney General was that the Department of Justice is the Department in which every American has a vested interest. If the Department of Justice is not to be trusted, what Department is?

I knew that the Justice Department had to be a place of openness; and we insist on its being open. We make all information available that can be made available within the strictures of law and ethics.

We insist, of course, on absolute integrity. We expect the highest standards of professionalism on the part of all of our employees.

We also expect restraint in the use of power, for we know that power is often abused. My view, one that I learned

on the court, is that the best use of power is not to use it at all except when absolutely necessary, and then to use it sparingly.

We teach fundamental fairness in the sense that there are levels to be reached in dealing with American citizens which go beyond due process in terms of decency and civility. I recognize that ours is not a very civil society.

Operating on these principles, we investigate and prosecute crimes, we defend the government in civil suits, and we bring civil suits on behalf of the government. In addition, we give legal opinions to the President and other high government officials and even to Congress when requested. In short, we are the lawyers for the nation. It is

understandable that these responsibilities routinely have us on the front pages of your publications.

Recently, Herbert Brownell, Attorney General under President Eisenhower, came by for lunch and to wish me well. He said that controversy and newsworthiness is inherent in the Department of Justice. He recalled one year during his tenure when the Department was the subject of seven of the ten top news stories of the year.

The President is charged with faithfully executing the laws, and in that capacity I am his agent. I am also his agent in some foreign intelligence matters.

But as I perceive the office of Attorney General, I am in the end the lawyer for the American people, and that is the way it should be.

It is a complex, challenging and almost impossible job and one to which I am fully devoted. My hope is that we will refurbish the Department of Justice -- putting people and systems in place with the result that the Department will function in an efficient and capable manner, and will in every word and deed symbolize the rule of law in our country.

The Department has drifted for several years from issue to issue, reacting rather than acting; usually on the defensive, sometimes under attack from the media and always a favorite political target. Its goals were hardly discernible when I arrived in Washington. Attorney General Levi had just begun to bring the Department out of the doldrums and I am

thankful for his start. I have been building on his start and we are beginning to manage the Department with stated policies and definite goals as tools.

There are roughly 54,000 people in the Department of Justice. The Department is divided into 26 parts. Each of these parts is now functioning on a plan which includes missions, goals, and methods to achieve the missions and goals.

My time as Attorney General has been devoted generally to: (1) management including advising the President on legal matters, (2) working with Congress, (3) public information through speaking and the media, and (4) foreign intelligence. Each of these areas takes about one-fourth of my time.

In getting information to the public, I am in partnership with you. If our citizens are to have confidence in the Department of Justice, they must be convinced that we are conducting our business with fairness, civility and integrity. The public cannot have that confidence if it suspects that these principles are being compromised. How the public perceives what government is doing may be an important factor in whether the government succeeds in doing its job. You create and transmit that perception. You must draw a line, if the Department is not to be harmed, between criticism of the Attorney General and criticism of the Department of Justice as an institution.

I am a heavy consumer of your product. Every morning

I receive three newspapers and the White House news summary before my 8 a.m. arrival at the Justice Department. I read another two to three newspapers before retiring for the night.

In addition, I receive by nine every morning a Justice Department news summary containing 25 to 40 articles clipped from a half-dozen or so daily newspapers and from magazines. Finally, I am given every week or so a folder containing news articles, columns, and editorials taken from hundreds of newspapers across the country by clipping services.

The newspaper habit, a habit I brought to Washington with me, did little to prepare me for the Washington press corps. As a Federal appeals judge in the Fifth Circuit for about 15 years, I had only occasional contact with the media. I was rarely interviewed; I was never interrogated.

My media baptism in Washington was not gradual; in the "born again" context, it was "total immersion." I became an immediate "media event" upon being designated as Attorney General. I found myself utterly without privacy -- to say nothing of private clubs.

It was like the story of the Vermont farmer who was asked in court if he believed in infant baptism. His answer, "Believe in it hell, I have seen it with my own eyes."

Washington, of course, is a media town. It's been written that we live under a government of men and women and morning newspapers. From my own experience, I know that on many days, after looking over the morning papers, my agenda is altered if not reset.

I fully understand that the press plays an important role in our society. The press, together with the Congress and public opinion, make up our society's system of official accountability. They are the means by which policy is examined and explained.

In Great Britain, a principal instrument of accountability is the question hour in the House of Commons, in which the government is examined, often to its discomfort, on matters of policy or conduct. Press conferences fill much the same role in the United States.

Since the days of the first President, press and government have been wary and sometimes hostile adversaries.

No one with any pretension to serious understanding of this complex political process would wish that to change.

Reporters in a very real way represent the American public, and I try to answer their questions in that spirit. As a lawyer I have great respect for the adversary process as an instrument for getting as close to the truth as we can manage.

I encounter the media almost on a daily basis.

-- I hold news conferences. I see reporters in individual interviews. Only once -- when I wanted to talk with Department of Justice media regulars about the Department's information

performances -- have I spoken under any ground rules --

the various levels of which I've never understood -- other

than on the record. I considered that one instance to

be a business meeting in which I sought advice.

-- I make my telephone logs public; they are posted

daily on the wall of the press room.

On the other side of the coin, though, there are some

areas, where as you understand, concerning which we cannot

give information. These areas include:

-- Certain aspects of pending criminal investigations
and criminal cases.

-- National security and intelligence matters.

-- Situations where the law prevents disclosure of
information, as in the Privacy Act, which prohibits disclosing
information about individuals without their consent, or the
statute that makes it a felony to disclose taxpayer
information.

-- Advice involved in the decision-making process.

It is vital that the citizens be informed of government
decisions and told candidly the reasons for them.

But those in positions of responsibility in government must have unvarnished advice, free of the inhibitions that arise when the source of the advice thinks it may be disclosed publicly.

I do not complain about reporters and their methods.

Recent history has shown they would be derelict if they did not seek out leaks. On the other hand, there is a heavy responsibility in reviewing leaks. A judgment must be made as to credibility. The leaker may have an ulterior motive and seeks to use the media. Often the leaker has only partial information and the use of the information leads to mischief or even harm.

As one recent Brookings study on the federal bureaucracy

observed:

"Since information is a primary strategic resource in Washington, the passing of unauthorized messages outside channels often approaches an art form. There are routine leaks to build credit and keep channels open for when they are needed, positive leaks to promote something, negative leaks to discredit a person or policy, and counterleaks. There is even the daring reverse leak, an unauthorized release of information apparently for one reason but actually accomplishing the opposite."

Leaks in the early days of the FBI break-in investigation were a perfect example of a leak not to right a wrong, but rather to force me into making a particular decision.

To help the press get a full and accurate picture, I have made it a policy to try to answer reporters' questions myself or through my Public Information Office. To facilitate even further the flow of information to the fullest extent appropriate, I have just appointed a member of my personal staff, a lawyer and former journalist, to head that office.

We will give you the best answers we can and give them quickly.

In concluding, I would like to indulge in several observations about the news business as I have watched it from my perspective for the last fifteen months.

I don't have much trouble with reporters, especially the Justice Department regulars. I find them very accurate. The same is true for most editorials. There are one or two exceptions among columnists.

I am adopting a new policy. Henceforth, you will be advised by me in writing of any glaring inaccuracy in any story or column about the Justice Department carried in your

newspapers. I believe that I owe this to you, rather than merely complaining. Railing at the press is not a good practice.

The point is that I think the media is responsible if it carries false or inaccurate information. You are the fourth branch of government and have great power. I think that I have the responsibility to criticize you, just as you have the responsibility to criticize me. But only after I have called the falsehood or inaccuracy to your attention. At that point, if I ran a newspaper, I would apply a simple rule. One false or inaccurate story, the writer's fault; two such stories, perhaps the editor's fault; three such stories, definitely the editor's fault.

One way to avoid false or inaccurate stories is to ask the accused. UPI recently carried a story that I had placed certain documents concerning the Torrijos family in my office safe to keep them from the Senate. This was a blatant lie. UPI was so advised and the story was killed after being run over the night wire. The point was that I was not asked if the story was true. The reporter (not the Department regular) may not have known of our practice to respond. Most reporters, and all of our regulars, have learned to ask before carrying the sensational. After all, our interest in accuracy is at least as great as yours.

There is the need not only for greater accuracy but for a greater concern for accuracy. In this regard, it is

heartening to note that some newspapers regularly print corrections in a box on the same page each day. I learned only a few days ago that Stan Tiner, the editor of the Shreveport Journal, has put in a front page correction policy.

I congratulate him and it is a policy which will certainly make for accuracy.

Another observation is one I think most of you will agree with. There is little criticism of the media by the media. It is the one safe zone of the four great areas of our system. Our great First Amendment would not be harmed in the least if the media became accountable to the media.

Indeed, the First Amendment guarantee would be enhanced by virtue of the accountability.

On this constructive note, I must say that I am impressed with the increasing use of ombudsmen by newspapers, to criticize their own performance. Two recent ombudsmen columns struck me as particularly significant.

The first is by Charles B. Seib of the Washington Post, discussing an essay by James C. Thomson, Curator of the Nieman Fellowships at Harvard. The essay, which was published by the Poynter Center at Indiana University, offered five proposals for improving media ethics. One which obviously touched a responsive chord with me was that the media be more self-critical and more open with the public. He concluded after

discussing the difficulty of detailed codes of ethics that perhaps the best ethical guides are "the old journalistic bywords 'fairness' and 'accuracy'" to which both Thomson and Seib added a critical guide I would endorse -- "compassion."

The second column was by George Beveridge of the Washington Star, discussing with care and discrimination the varying treatment by the media in reporting -- and refusing to report -- the rumored indictment of a Congressman before an indictment was actually returned by the grand jury. As a lawyer, a former judge and present Attorney General, I cannot pretend to have an objective view of this subject. Refraining from printing such a story -- absent factors of official

misconduct in the prosecution process -- is a restraint that I feel is obligatory on the press -- it is the essence of due process.

In conclusion, I would like to see far more extensive and in-depth coverage of the media, not only by each paper of itself, but of other papers and broadcast outlets as well. If we blunder in the government, we are called to account bluntly, and by name, as it should be.

Should not the same standard apply to those charged with the responsibility for calling us to account?

My hope is that as national leaders -- of which you are very much included -- we will have a renewed vision of the goals, interests, and values of the American people. I think

that these are just what Tolstoy had in mind in speaking to a group of Russian tribesmen about Abraham Lincoln following his assassination. No person, Tolstoy said, could endure in history as being great unless that greatness was rooted in four precepts: humanity, truth, justice, and pity. These precepts go to the heart of your profession and mine. It is in that spirit that I end and respond now to your questions.