

ORIGINAL

ADDRESS

OF

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

BEFORE

THE AMERICAN LAW INSTITUTE

Washington, D. C.
May 18, 1977

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6 ATTORNEY GENERAL OF THE UNITED STATES

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8 THE AMERICAN LAW INSTITUTE
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15 12:45 p.m.
16 Wednesday, May 18, 1977
17 Mayflower Hotel
18 Washington, D. C.
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P R O C E E D I N G S

[Applause.]

ATTORNEY GENERAL BELL: General Levi distinguished guests, ladies and gentlemen:

Can you hear me? What's wrong here? What about now? Is this better? I think it's the room. It's the first time in my life people have been unable to hear me.

But I'm glad to be here, and I'm glad you invited the Attorney General to report for the second year. And I hope this can be a continuing invitation, because there are a lot of things going on at the Justice Department that fit very well indeed in with what the Chief Justice brings in his testimony. As a matter of fact, I see the Chief Justice often, and cooperate on many things that we can do that perhaps he does not have the facilities to do.

I want to talk to you just a few minutes about how we operate in the Justice Department now. And then I want to mention one particular problem to you.

Since I succeeded General Levi, January 26th, they had a six day period there when we didn't have an Attorney General. As a matter of fact, it was doubtful that we would, it seemed, in the Senate.

[Laughter.]

ATTORNEY GENERAL BELL: I got the impression that I was not wanted here. But I finally made it.

1 I found the Department in good shape. General Levi
2 and Judge Tyler had put in a number of systems, particularly
3 in the field of intelligence, that I was able to take over
4 and build upon.

5 The main change that I have made is to create an
6 extra Deputy Attorney General. I found that the Department
7 was so large that it would be impossible for me to manage
8 it with just one deputy. So we now have two deputies. And
9 the other things have sort of fallen into place. One deputy
10 handles what we might call the civil side, the other the
11 criminal side.

12 We are still operating, as General Levi
13 did, under three great principles: one is that the lawyers
14 and employees of the Department are expected to adhere to
15 the highest ethical standards. We do that through an
16 office that Ed Levi created called the Office of Professional
17 Responsibility. We expect everyone to operate on the basis
18 of fairness. Whatever we do, it has to be fair in the sense
19 not only of the Equal Protection clause, but even
20 higher than that, a standard of decency and civility.

21 We're trying to operate as openly as possible. We
22 may be carrying that to an extreme. I keep a daily log and
23 let the press see it. I want to greet my friends from
24 the press, because I've been

1 with them all day, it seems.

2 [Laughter.]

3 ATTORNEY GENERAL BELL: But we have this spirit
4 of openness. And I think it's worked out very well. We
5 are trying to create the impression and the image that we
6 are running a Department of Justice in which all Americans
7 can take pride and that we really represent the people of
8 the United States.

9 Now, I have had one concept that I hope will bear
10 fruit. I've started out thinking we ought to have a
11 national policy on the delivery of criminal justice.
12 I've changed that to just the delivery of justice. And
13 this takes on the form of the Attorney General offering
14 leadership in the entire area of justice, state, local and
15 Federal. Most all justice is administered in state courts.
16 I want all my people to know that and recognize that.

17 But we do, in the national Department of Justice,
18 have a high responsibility to offer leadership. I've been
19 doing that by meeting with governors, and one day I met
20 with 23 state attorneys general. They have a committee now
21 that I work with on a continuing basis. I met with the
22 board of directors of the state prosecuting attorneys. And
23 there are many other groups, including interest groups. We
24 meet with anyone who wants to meet. That's part of our
25 policy of openness, and part of our policy on the national

1 delivery of justice.

2 We've created a new office called the Office for
3 Improving the Administration of Justice. We were able to
4 get Professor Dan Meador to join us from the University of
5 Virginia for two years. And he has a two year program that
6 he's already developed. And the first part of it will
7 include a magistrate's division in the Federal courts, which
8 will be almost a circuit court. We're setting up three
9 neighborhood justice centers on an experimental basis. We're
10 looking for three state courts to operate those out of the
11 clerk's office. We have the money already to fund those
12 three centers on an experimental basis for two or three
13 years to see if they're worthwhile. This is in line
14 with the idea that you must have alternative methods for
15 dispute resolution.

16 The next thing we'll be coming forward with will
17 be some form of compulsory arbitration for the Federal
18 district courts, somewhat like the system used in the Ohio
19 State courts, where you can either accept the award of the
20 arbitrators after an inexpensive, expedited hearing, or
21 return to your rightful place on the docket, and go forward
22 with your trial. When I first heard of this it seemed to
23 me to be duplicative. But I find they have a 95 percent
24 finality rate in Ohio under their system.

25 We are doing a lot of work now in the antitrust

1 areas. I've got the attention of the lawyers and the
2 judges. I was able to do that at the American Bar anti-
3 trust meeting by saying that the courts seemed unable to
4 handle some of the cases, and perhaps we'd have to certify
5 some cases to the Congress for decision --

6 [Laughter.]

7 ATTORNEY GENERAL BELL: -- rather than to the
8 courts. I've had a number of messages from lawyers -- none
9 yet from judges -- that they thought they could handle the
10 matters in court if we'd get off this new idea. And -- and
11 I hope we can get off of it. But we must handle the cases.

12 We've recommended to the Senate that they take a
13 look at all the exemptions from the antitrust laws. We're
14 working on shared monopoly. We hope to file a shared
15 monopoly suit before too long. There's never been one filed
16 in the Department of Justice. There have been two filed in
17 the Federal Trade Commission, but they've been there
18 there a good while, and nothing's happened.

19 We're in the process of
20 developing antitrust policies that relate to the new
21 energy programs. The Senate has asked that we work on it
22 now. We're getting a lot of complaints about the international
23 cartels and violation of the American antitrust laws.
24 And we're developing a policy on that.

25 We have a large legislative agenda. One of the

1 things I find that we needed most was some method to instill
2 trust in the American people in our intelligence gathering
3 apparatus. Attorney General Levi sponsored a bill last
4 year to set up a system whereunder you get a court order
5 before you engage in electronic surveillance in foreign
6 intelligence. We are sponsoring the same legislation with
7 a few minor changes. We had a meeting this morning in the
8 Rose Garden. We had Republicans, Democrats from the House
9 and the Senate, liberals and conservatives. And we have a
10 real bipartisan approach to the legislation. The bill will
11 be introduced this afternoon in the Senate and the House.
12 And I think we'll make rapid progress.

13 The next big legislative matter that we need to
14 deal with is a charter for the FBI, and when I say charter,
15 I'm talking about a statutory outline of their authority
16 in domestic security. I expect we'll be working on that
17 now within two or three days.

18
19 We've been able to mediate at the Department of
20 Justice between the varying groups and views on what
21 was S. 1 last year, but what is now S. 1437, recodification
22 of the criminal laws. I'm encouraged about that
23 legislation, and I think we're going to make progress.
24 I think that'll be passed in this Congress.

25 You all know what we've done in the area of

1 judicial selection. We are using commissions for Court of
2 Appeals vacancies. We are encouraging Senators to use
3 commissions and in district judge selections. We have
4 12 or 14 states now where Senators have set up commissions.
5 In four of those, they are having the commissions select
6 the U.S. Attorneys. That's working out very well, and
7 I want to see every state have a judicial
8 selection commission for district judges.

9 The great thing about the selection commissions
10 is that it partially frees the system from politics
11 in the sense that many more people apply for the positions.
12 You formerly would not ask to be appointed as a district
13 judge or a circuit judge unless you thought you had some
14 political connections. Now, you could have your name put
15 up; you can put your own name up. The number of people
16 that are being considered is larger, and the caliber of the
17 person being considered is much higher.

18 I had an interesting thing happen at quarter to
19 twelve, just before I came over here. Senator Moynihan
20 came to see me. He brought me the name of a U.S. Attorney
21 for vacancy in the Northern District of New York, and the
22 names of two district judge nominees, all of whom had been
23 selected by a commission that he created. Three of the
24 names were people that Senator Javits had had on a former
25 commission, and then six that he had selected. There were

1 three lay people on the commission. All three happened to
2 be academics who were highly skilled in political science.
3 The two judges and the U.S. Attorney who he nominated are
4 excellent indeed. And this is the sort of thing that
5 bodes well for our system, I think.

6 We have one problem that I want to mention to you.
7 I hate to mention problems. But it seems as if every day
8 I do mention one.

9 The U.S. Attorney nominees are not as good as they
10 ought to be. There are 94 U.S. Attorneys in the system.
11 They're appointed for four years, and we kept some until their
12 terms expire, notably, three in New York, because Senator Moy-
13 nihan said he wanted to keep them; they were excellent
14 people.

15 We need to have more appreciation of the office
16 of U.S. Attorney. I don't know how we can go about achiev-
17 ing this. We can hardly imagine that we're serious about
18 crime, or fighting crime, if we don't find the best
19 available lawyer to be the U.S. Attorney. It's hard to
20 imagine how you could have a good United States Attorney's
21 staff, if you don't have a good United States Attorney,
22 because somebody has to train the assistants, select the
23 assistants and train them. So we are going to have to do
24 something about this problem. We're going to have to say
25 that this office is no longer in the

1 patronage system. The Attorney General's office will
2 pick these people. The President will pick them. Whoever
3 picks them has to do it strictly on the basis of merit,
4 high qualifications. And if it fits into the political
5 system, fine. But if it doesn't, we'll have to reject the
6 nominees.

7 The judgeship vacancy process is not a problem.
8 If it is, I will at some future time say so. But the
9 U.S. Attorneys process, in some instances, is not good. In
10 many, there is no problem. It varies state by state and
11 district by district. But mainly state by state.

12 One last word, and that is, what should the
13 Department of Justice be like in the future? You know we're
14 having a reorganization of the government. We have Mike
15 Egan sitting there as Acting Deputy Attorney General as
16 my reorganization officer. We've met with the
17 reorganization committee from the Office of Management and
18 Budget. We've talked some about reorganizing the Department
19 and we're proceeding on the basis that the Department of
20 Justice ought to be in the main the department that prosecutes
21 crime, investigates crime, and even on through running prisons.
22 We ought to be the lawyers of the government. We give the
23 legal opinions, in any substantial matter, to the President,
24 and any other Department of the government. And the Office
25 of Legal Counsel even gives opinions to the Attorney General,

1 and sometimes rules against me. And that's good. Because
2 this ought to be an independent office. And then the
3 Office of Solicitor General, where we're representing the
4 government in the appellate process, and where we really
5 set the thread and the tone of the law.

6 And then when you get off into these side
7 ventures, like LEAA, Immigration and Naturalization Service,
8 for example, one wonders if those departments really ought
9 to be in the Department of Justice, or should they be
10 somewhere else. And if so, where should they be?

11 I hope that we can bring the Department of
12 Justice back into what it formerly was, and that is, lawyers
13 for the government; independent; non-political; bipartisan;
14 calling the shots as we see the shots.

15 If we do that, we won't have much need in the
16 future for special prosecutors unless it happens that the
17 top people may be suspect. And then of course somebody
18 ought to appoint a special prosecutor.

19 But I think that if we take this attitude, if
20 we take this concept, and hold to it, that perhaps we can
21 make the Department of Justice better than it ever has been,
22 and that it would be truly the Department that represents
23 the American people.

24 Thank you very much.

25 [Applause.]

1 MODERATOR: Thank you, Mr. Attorney General. You
2 have an invitation to return next year, same time, same
3 place, subject to checking a date with your office, which
4 will be done promptly.

5 [End of proceedings.]
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