

SUMMARY OF REMARKS BY
ATTORNEY GENERAL DICK THORNBURGH
TO A PROGRAM ON ETHICS AND MANAGEMENT IN GOVERNMENT
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Thank you, Judge Gerber, and welcome to the Great Hall of the Department of Justice. I'm particularly pleased to extend a personal welcome to Michael Josephson, with whom I've had the privilege of working in the past in the area of ethics in government and in our society, and to my former colleague from the John F. Kennedy School of Government, Ron Heifitz, a friend of long standing, both of whom, unless I miss my guess, have made or will make substantial contributions to a meaningful discussion in the areas that you've chosen for examination today -- ethics and management issues in government.

This is, as many of you know, the 200th anniversary of the Office of Attorney General. The Judiciary Act of 1789, in addition to a number of other landmark efforts, created the office and I think it might be useful to look at some of the issues you're discussing today in light of that 200-year history -- what happened subsequent to 1789 and what's happening today.

The Office of Attorney General as created in the Judiciary Act of 1789 was a part-time job. Edmund Randolph, the first Attorney General, we are told by the Department's historians, was George Washington's personal attorney. In today's lexicon, I'm sure he might be described as a "crony" of the President's.

He was paid \$1,500 a year, at the same time that his colleagues heading the Department of State and Treasury were paid \$3,500 a year and the Secretary of War was paid \$3,000 a year. What, you might ask, accounts for the disparity in treatment of the Attorney General? Well, Congress reasoned that the Attorney

General could augment his salary through private practice. In the words of Easby Smith, "the prestige of the office would be so great that it would be well worth the while of any lawyer to accept the office with only a nominal compensation." Moreover, after some hemming and hawing by Mr. Randolph, it took the personal intervention of President George Washington to persuade him to even accept the office at all. I will quote General Washington in the exact words of his enticement. He said, "The prospect of the Office would confer preeminence upon the incumbent and accord him a decided preference of professional employment." Any ethical problems, Mr. Josephson? Moreover, the routine expenses of the Attorney General had to be paid out of his own pocket -- such things as office rent, hiring clerks, providing stationery and postage, inkwells and all the trappings of office.

Well, things soon improved somewhat for the Attorney General, but not without some passage of time and some travail. The first travail was in 1814 when the holder of the Office of Attorney General was first obliged to come to Washington, D.C. and maintain his office here. It was not a requirement during the first 25 years of office. But in 1818, the Attorney General was provided with \$1,000 for a clerk and \$500 a year for rooms and incidental expenses. In 1822, he was provided with official quarters. They were hardly grand, but a room on the second floor of the War Department Building. In 1831, \$500 was provided for books. And finally, in 1853 some ethical slew-foot of the day

finally decided that it would be better to have an Attorney General who did not carry on a private practice at the same time, and that was thenceforth prohibited. In 1870 the Department of Justice was created to house all of the responsibilities incumbent on the office, but it wasn't until 1934 that this grand building was provided to literally house the Department of Justice.

Today the Department of Justice, which it is my privilege to head, is a much more sizeable operation than it was in 1789. Today we have 75,000 employees and a \$6.4 billion budget, and we supervise the activities of the FBI, the Drug Enforcement Administration, the Immigration and Naturalization Service, Bureau of Prisons, and a variety of other boards, agencies and commissions.

Nonetheless, although the character of the Department has changed, and the character of the ethical challenges that are faced by those of us who serve here have altered in kind and quality, ethical conduct remains a very important focus for this Department and for the Office of Attorney General. Our most visible focus is in the area of law enforcement, where, since the creation of the Public Integrity Section in 1976, over 7,000 federal, state and local officials, including 21 members of Congress of both parties, have been convicted of violations of the federal criminal law relating to their conduct in office -- to their betrayal of the trust of office. This remains a very important priority for President Bush and for this Department.

But perhaps more important is the focus that we must give in this Department and throughout government at all levels to the non-criminal aspects of ethical conduct in public office -- to the creation of sets of values and standards that ensure the public, the taxpayer, and those of us who work in government equally that programs are being carried out and responsibilities are being fulfilled with attention to the highest standards of conduct. For all of us as managers, that means that we must explicitly and directly set out what standards and values we regard as important for our organizations, lest other standards, informal standards, come to rule the day -- standards that are transmitted with a wink and a nod -- standards that derive from popular conceptions among subordinates that one must "go along to get along" or that there is a feeling that improper conduct is admissible because "everybody does it." Failure to be explicit in the management of large organizations creates a subversive culture that can overcome even the most eloquent protestations of a desire to do right.

President Bush's concern in this area is strong indeed as evidenced by the fact that the very first effort undertaken by his Administration was the appointment of a commission to reexamine ethical rules and standards within government and, with the rendering of a report by that commission, the submission of a package of legislation to the Congress.

You will have heard or will discuss the details of that package, but I think it is fair to say that the goal of the

President's legislative initiative is to create more uniformity across government in the application of ethical standards and greater simplicity and clarity with regard to what are the expectations of those who serve the public. And it is the public's confidence that is the ultimate target for these types of programs. For if the public does not have confidence in the integrity and the ability of government employees and leaders to act in ethical ways, confidence soon erodes and our task of governing is made much more difficult. There is, moreover, an interest on the part of those in government beyond the simple feeling of satisfaction that all is well in the conduct of public affairs. That is the rightful belief that an ethical and moral approach to the task of governing is in most cases likely to produce more effective and more efficient governing as well.

And that leads to the second area that you are examining today -- that of leadership and management of government enterprises. As I've noted, to be effective and efficient, any government enterprise must rest on a base of ethical and moral and, not to mention, legal conduct. But there is more to it than that. I've seen the management challenge from two different vantage points in the last decade. One, to oversimplify, where too little resources were available, and one, to vastly oversimplify, where too much in the way of resources is available.

When I was governor of Pennsylvania as this decade began we faced tough economic times. Our revenues were down, we had had

deficits in the public treasury and we had to make better management, doing more with less, the hallmark of our conduct, simply for survival. And that focused attention upon the need for a more efficient and effective governmental operation. We eventually reduced the size of the work force by about 15% overall, eliminating some 15,000 unnecessary jobs from what had become truly a bloated bureaucracy, which in return reduced costs and taxes and contributed to a climate in which the economy eventually turned around, and the state today enjoys a much more comfortable and prosperous quality of life.

Coming to the Department of Justice, I found that this Department, more than any other Department in government during the 1980s, had been favored with increased resources. The increase in appropriations and in personnel, percentage-wise, reflected the very high and rightful priority put on law enforcement by the two administrations in which I've served. But that is not without its problems as well. For in the stewardship of the public dollar, one can be, although I don't that the Department is, too awash in funds. Sloppy practices can develop. Waste and inefficiency can begin to retard the maximum return on the investment that we taxpayers make in the governing process. So my message to the managers of this Department of Justice is to be especially careful in scrutinizing the efforts that they undertake to manage the programs given to their charge. That requires strategic long-term planning; to look beyond hand-to-mouth existence and make the tough choices with regard to

allocation of resources recognizing that, not even in a well financed operation, can everything be done at once. (I might add that the imperative to make tough choices is much more prevalent in state government from whence I came because of the requirement in every state that the budget be balanced every year, something that has long escaped both the practical and theoretical attention of the federal government!) But nonetheless, even with an unbalanced budget, even with deficits being run, there are finite and challenging limits that have to be lived up to with regard to expenditures.

There are obvious difficulties in making such decisions. In responding to those managerial challenges, I have found one area which is very much a subject of contention in these late 1980s, and that is the kind of micro-management that is involved in the relationships between the Executive and Legislative branches. We are approaching a true joining of this issue in the debate over separation of powers when it comes to the particularity of the specific directions that emanate from the Congress in the expenditure of appropriated funds. This year's supplemental appropriation bill from the Congress, for example, contains the following language which is very stark in its application: "None of the funds provided by this appropriation bill shall be available to relocate, reorganize or consolidate any office, agency, function, facility, station, activity or other entity falling under the jurisdiction of the Department of Justice." The Congress acknowledged that this was a drastic step that was

undertaken because the Department of Justice, although it had notified the Congress of its intent to undertake certain action, went ahead even after the Congress expressed its disapproval.

Well, I'm sure your curiosity is piqued by what manner of action was undertaken by this Department to provoke such a strident response. Perhaps the merging of the FBI and the Drug Enforcement Administration. Or of the Anti-trust Division and the Lands and Natural Resources Division. Or the abolishment of the U.S. Attorneys' offices. Sorry to disappoint you, folks. It had to do with the shutting of the FBI Field Office in Butte, Montana. This action involved the removal of the Special Agent-in-Charge and his assistant and an Administrative Assistant and 12 clerical and support people, and their replacement with three agents and two clerical support people reporting to the Salt Lake City Field Office, representing an actual enhancement of the law enforcement capability being carried out in the Butte area. This illustrates, at its worst I must add, the kind of difficulty in managing for maximum return on the investment of resources that can be encountered when micro-management substitutes for real management and accountability for the final work product. I hope I have created a constituency for some attention to this matter.

Finally, I want to focus just for a moment on the matter of compensation. No one enters public service with the expectation that their compensation -- pay, fringe benefits and pensions -- will be the equivalent of the private sector. But we are rapidly reaching the point where one could argue that public service is

becoming almost a penalty. A lot of attention has been focused upon proposed pay raises for federal judges and they are desperately needed. Pay raises for senior officials in the Executive Branch and for members of Congress are not so desperately needed, but nonetheless should be effected considering the erosion of the purchasing power of the dollar since last addressed. But I can speak with some authority on the need for an adjustment in the law enforcement area to keep the federal government competitive and to keep the morale and spirit and commitment of our investigators and prosecutors and other personnel at the high level that it should be.

Assistant United States Attorneys begin today at about \$27,000 a year, which at last look was about 1/3 of what Wall Street firms are paying first year associates fresh out of law school. In the FBI, the Drug Enforcement Administration, the Bureau of Prisons, and other law enforcement agencies, we are competing today with state and local law enforcement agents who in many cases match and exceed what their counterparts in the federal government are being paid. For example, in a study done in California of 89 Federal, state and local law enforcement agencies, the FBI ranked number 84. That means 83 agencies in California were paying more to an entering agent than the FBI. In New York, because of its particular situation, this inequity has been addressed on an experimental basis by providing a cost of living differential. We may have to do that elsewhere. But those are band-aids. The real challenge is to ensure that the

very high standards and traditions of these important contributors to a safer America and a better system of criminal justice are maintained. Not all of that is bad, by the way, because the fact that state and local law enforcement agencies are paying more to their personnel indicates clearly that the level of professionalism and commitment and expertise at those levels is increasing as well.

There is, fortunately, a study commission authorized by the Congress last year to examine these rates and level of pay and compensation and benefits which will report to the Congress later this year. And my hope and expectation again is that it will propose some meaningful redress to these imbalances and inequities. If not, we are faced with a very serious problem of recruitment and retention for these very important agencies.

I guess the message in that respect is a simple one. We justifiably pride ourselves as a nation on being a "government of laws and not of men." But such a government is not going to satisfy the demands of this latter part of the 20th century unless good men and good women are attracted to and remain in public service. What you are addressing today and hearing about from your panels in the field both of the need for ethical conduct and standards and the transmission of the shared commitment to the observance of those standards and what you will examine in the area of providing the kind of leadership and management skills that can maximize the return on those individuals' activities will go for naught unless we continue to

attract the kind of people who are here today -- the kind of people I have found, almost without exception, upon my return to the Department of Justice, to be committed and dedicated to doing the job. I wish you well in your study and deliberations and I thank all of you who have consented to add to this program for your contributions. I look forward, literally, to reaping the benefits of your focus on these important issues.

Thank you very much.

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