



# Department of Justice

---

"THE AMERICANS WITH DISABILITIES ACT:  
WHAT IT MEANS TO ALL AMERICANS"

AN ADDRESS

BY

DICK THORNBURGH

ATTORNEY GENERAL OF THE UNITED STATES

TO THE

BUSINESS WEEK ANNUAL SYMPOSIUM  
OF CHIEF EXECUTIVE OFFICERS

ON THE

AMERICANS WITH DISABILITIES ACT

9:30 A.M.  
FRIDAY, OCTOBER 12, 1990  
THE WILLARD HOTEL  
WASHINGTON, D.C.

This month of October we observe National Disability Employment Awareness Month and the prospects for the future made possible by the recent passage of the Americans with Disabilities Act. I am officially here as the Attorney General to tell you about the opportunities ADA opens up. But let me first remind you that in the 1980s I was a governor -- serving two terms during a period when economic development for my state of Pennsylvania had to be our number-one priority. I think I understand what dynamics create real jobs, and how vital a better business climate is to genuine expansion and rising employment. Both in that role and in twelve years as a corporate lawyer, I've walked some of the same steep paths -- in the same enterprising direction -- as you have.

So I identify with your interest, realizing that you may have sound business questions to ask about this future I foresee -- even concerns about ADA -- questions which I trust can be allayed. The big plus is, your presence already indicates a strong focus on ADA which we find particularly promising -- those of us who are involved in implementing this landmark civil rights act.

We base our faith in this future over the next decade on two dynamics -- rapid change in technology, and progressive change in attitudes, particularly among the workforce. Let it stand as a given that technological change will continue to increase productivity by developing tremendous resources previously

untapped. But do not miss the salient fact that one of these untapped resources -- arguably the most important in a difficult labor market -- is the human resource of Americans with disabilities. . .and their considerable talents.

These new American workers -- using modern technology, both to surmount their disabilities and to raise your output and efficiency -- will be the agents of changing attitudes. It is bound to happen. As our national workforce shifts in composition to include those two thirds of Americans with disabilities . . .and talent. . .presently not working, stereotypes and misperceptions about those with disabilities will have to change. What might once have been thought of as "charity" or an "obligatory hiring" will increasingly be seen as simply good business. Indeed, those who early seize the employment opportunities offered by ADA will find they have enhanced their competitiveness domestically and increased their markets globally.

And to this end -- speaking now for the Department of Justice -- we eagerly accept the responsibility for framing the regulations needed to aid your compliance with ADA. We accept this responsibility not as a burden, but as one more opportunity to further guarantee equal protection under the law for every citizen of this nation. My hope is that American business will see fit to do likewise in your own entrepreneurial self-interest.

Ultimately, I do believe that is what makes us all the real beneficiaries of progress on civil rights.

This year, of course, we have had more than our share of dispute over civil rights legislation that might adversely affect business -- largely because of good-faith conflict over what many regard as fine distinctions or "legal technicalities" in the Kennedy-Hawkins bill.

I don't shun these legal arguments. I would be happy to discourse on "disparate treatment" of an individual -- which we all agree the law should fully remedy -- as opposed to "disparate impact" upon a group -- which, by all past legal principle, must first be proved to the court in a particular case before any remedy is ordered. Just as the former can lead to injustice, the latter can lead to quotas. But as convinced as I am on those points, I see them as secondary to the next great leap forward in civil rights that Congress enacted and President Bush signed into law this summer: the Americans with Disabilities Act.

The impact of ADA is not disparate, but broadening, inclusive, and -- if you will -- re-awakening. Do not let this bright moment in modern American history escape you. Let me describe its coming impact upon our country's life in straightforward but startling terms.

Consider these demographic figures. Over thirty million Black Americans make up 12.3 per cent of our populace. Other minorities -- just over eight million -- comprise another 3.4 per cent. That total is a full 15.7 per cent of our entire population.

But 43 million Americans with disabilities represent 17 per cent of the nation. So, as a direct result of the Americans with Disabilities Act, we have just seen those empowered by our civil rights laws in this country double. And although I take these figures from the rolls of potential beneficiaries under ADA, I definitely mean it when I say that rights are what have truly doubled.

Because each time civil rights are enlarged in this country, they extend over the whole of our society. All Americans, not just minorities, are involved in every new extension of such rights. The passage of ADA is truly another emancipation -- not only for the 43 million Americans with disabilities who will directly benefit, but even more so for the rest of us -- now free to benefit from the contributions which these Americans will make to our economy, our communities, and our individual well-being.

All that is required -- from the rest of us as citizens, but particularly yourselves as leaders of business -- is action to

comply with the ADA provisions that will allow these presently underutilized workers to bring their talents into the workplace.

A first priority, always, has been physical access for disabled individuals. We are assembled this morning at the Willard Inter-Continental Hotel. Out front, on the left as you face the hotel, runs a ramp providing easy access to the lobby for those of us using wheelchairs. All of the elevators easily accommodate wheelchairs, as do the conference rooms such as this one.

The old Willard played nineteenth-century host to American history. General Grant checked in here from Vicksburg to take over the Grand Army of the Potomac and the Civil War. He went unrecognized among the political grandees, snubbed by the desk clerk. Maybe it was downhill from there for the Willard, but ever since its grand re-opening in 1986, the new Willard has proven wisely hospitable. There are four rooms specially fitted for use by patrons with disabilities. Doors have also been built wide enough to accommodate any of us using a wheelchair, which sends a further sincere message of welcome.

In a sense, that is what our concern for those with disabilities is all about. Widening the doors -- a civil right become an architectural imperative. But not just physical doors -- please understand -- also the doors of opportunity for those

with disabilities. And, among the broader public community, the doors of perception -- so that we all recognize the right of people with disabilities to come in. . .to mainstream society.

This final widening of the doors -- through ADA -- occurs after a long legal campaign. The Rehabilitation Act of 1973 was the first milestone, showing that doors could be physically widened, and other public access offered -- but more important, that federal employment policy could accommodate those with handicaps. Then came the Education for the Handicapped Act two years later -- Public Law 94-142 -- which gave a new generation its great opportunity.

That act set about teaching people with disabilities within the nation's mainstream school systems -- guaranteeing an appropriate educational placement in the least restrictive setting. In the ensuing fifteen years, an unsighted person or somebody with impaired hearing or mental retardation or using a wheelchair could learn right alongside others. He or she could have started somewhere between K through 12, and by now, be all the way through college. This new generation overcame both their disabilities and the prejudices, often very sympathetic prejudices -- the hardest to counter -- that their disabilities aroused. They have gotten a high school education either by diploma or certificate of completion. Many have gone on to college and even advanced degrees. And yearly they are coming into the labor market 150,000-strong. You will be pleased to

hear they are well-educated, well-motivated, and well along in understanding what prospects life can really hold for them.

They are the first generation of Americans with disabilities who will be -- in every best sense -- fully empowered in the 1990s, and aware they are guaranteed their civil rights by ADA.

To touch all its bases, ADA overcomes our past failure to eliminate attitudinal, architectural, and communications barriers in employment, transportation, public accommodations, public services, and telecommunications. In short, it widens all the doors I have spoken of -- mandating true access for Americans with disabilities to mainstream society.

First and foremost, however, the ADA acts against job discrimination in the private sector. But we can better understand this -- as I've already emphasized -- in terms of an upgrading of the workforce made available to your businesses. At present, 58 per cent of all men with disabilities, and 80 per cent of all women, are jobless. So long as unemployment continues to be the lifelong fate of two thirds of those with disabilities, we cannot break the bind of national expenditure for dependence: somewhere between \$150 and \$300 billion annually, approaching nearly four per cent of GNP.



As Chief Executive Officers, you are concerned about the practical results of the ADA. It is not a law either to "slap wrists" or to reap punitive damages. It is law designed to guarantee that the obvious -- or unthought of -- is not overlooked. The ADA legally requires -- following Section 504 of the 1973 Rehabilitation Act -- that the private employer make "reasonable accommodation" to the known mental or physical impairments of qualified disabled persons, so long as making that accommodation does not result in an "undue hardship" on the operations of the employer.

This, obviously -- inevitably -- raises the question of cost. But, if this new generation is all that it appears to be, any initial outlay to accommodate an employee with disabilities may well be offset by corresponding gains from his or her native abilities. Gains in education and brain power and stick-to-it-ivity could easily cancel out the expense of putting in a ramp, or assisting an unsighted or hearing-impaired employee with telecommunication equipment -- especially with computer and other technological advances in compensatory assistance.

The Department of Justice will work as a fair enforcer of the ADA. As you know, the law has built in safeguards to protect companies from undue hardship resulting from any over-zealous implementation. Many provisions cover companies making a good-faith effort to comply with the equal opportunity objective of

the law. But I would admonish you that it would be unfair -- and unlike American business -- to seek to side-step the civil rights protections of the ADA. Those organizations which do so will be hurting themselves in the long-run.

The President's Committee on Employment of People With Disabilities has already done excellent work to show how any business -- from one to 1,000 employees -- can economically employ those "Ready, Willing, And Available." And as Attorney General, I have a role to play, under ADA, in offering technical assistance to the business community as you prepare to hire from this pool of people with disabilities. And it seems highly unlikely to me that any employer -- in a stressed labor market, skewed demographically toward the previously unemployable -- is going to undervalue any group's potential contribution. A mind, whatever its limitations or the disability of the body, is still a terrible thing to waste.

The other great widening, under ADA, is in access to general accommodations and public transportation. None of our citizens should have to face preventable obstacles and inconveniences when they go out shopping, or to the movies. What is only a curb to most of us may seem like a rugged cliff to somebody using a wheelchair.

ADA also ends barriers that people with hearing impairments face in using the telephone through auxiliary aids such as non-

voice terminal devices. But auxiliary aids must not, the ADA further states, cause an "undue burden." A restaurant should not, for example, have to provide menus in braille to blind patrons, if the waiter is willing to read the menu -- especially a French restaurant.

It is in public transportation that ADA requires a giant step toward physical access within the near-term future -- that urban bus systems really kneel down, if you will. All newly built buses must be accessible to persons with disabilities. The ADA does not mandate retrofitting buses already in service. But 35 per cent of present urban buses are already accessible, and, for once, the potholes are on our side! Attrition and replacement will quickly bring total accessibility to the nation's inner city bus systems.

But I am now getting down to duller details, and away from the real spirit behind ADA. Let me re-iterate two important points about this new legislation. One, ADA is primarily about employment. Even its attendant provisions are in aid of employment, or for the better enjoyment of the rewards of employment. Consider transportation: suddenly the right to a seat on the bus -- an old, first cause of civil rights -- is once again vital to the right of employment. Once the struggle was not to be forced to sit in the back of the bus, on the way to work. Now the struggle is to get on the bus, period, on the way

to work. ADA becomes, in this respect, the enabling act for this new generation of Americans with disabilities, and all those who come after.

My second and final point is that those enabled form a mighty cohort ready to make a strong contribution to our economy. And I am going to offer a profile of one young man in the Department of Justice to prove this.

Last Wednesday I invited the twelve White House Fellows to lunch. A formidable group of public-spirited men and women, let me tell you, especially in one-on-one debate with the Attorney General. The man in charge of our round table that day was our White House Fellow, Drew Batavia. Besides being a lawyer and a specialist in health care financing, Drew is an expert on productivity. Here is how he got to be one.

At age sixteen, Drew incurred an injury. When thrown from the back seat of a crashing automobile through its windshield, he woke up with only the use of his neck, mouth, other parts of his face and head -- including a very remarkable brain.

Faced with his quadraplegia, Drew decided he had better find a very cost-beneficial way of handling himself. At age 33 today, he is a graduate of Harvard Law School and Stanford Medical

School's public health program -- the author of three books and over thirty scholarly articles.

When you go into Drew's office, just down the hall from mine, you are likely to find him tapping away at a computer keyboard with his mouthstick. Twenty-five words a minute, at least five to eight hours per day. His computer and reading stands are up on tables, raised to a level high enough to accommodate his wheelchair. At first glance, it looks. . . expensive. But as Drew points out, virtually all employees have computers and telephones. How much more does it cost to add a little height to the table legs? How much extra for a few wooden reading stands?

That's his subject: how you can actually raise productivity by hiring Americans with disabilities. But what I like even more is Drew's symbol. He has it hanging on the office wall. It is a knock-off of a famous Picasso print, showing Don Quixote charging the windmills. Everything in the print is the same -- the hot sun, the spear, the knight's chamber-pot hat, the windmill -- except for one small detail. Don Quixote is not astride a gallant steed. Don Quixote is mounted on a wheelchair.

That is the sense of purpose and determination and even daring you will find among Americans with disabilities -- especially if, and when, you have the good business sense to

bring them into your workplace. If I might share a family experience with you, that same spunkiness in our own son Peter -- mentally retarded from an automobile accident in infancy -- enables him at age thirty, although greatly limited, to live independently of his mom and dad, to work in a workshop, bring home a paycheck, and, yes, pay taxes, just like the rest of us. Such human beings are our great resource waiting to be tapped, at whatever words per minute. And the Americans with Disabilities Act permits us all to reap the advantage.