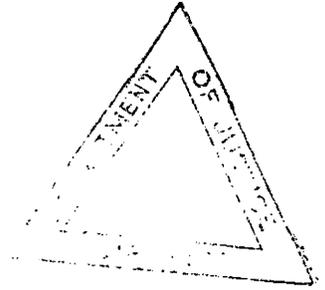


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ADDRESS

by

HONORABLE HERBERT BROWNELL, JR.  
ATTORNEY GENERAL OF THE UNITED STATES

PREPARED FOR DELIVERY

BEFORE

AMERICAN LAW INSTITUTE

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Not far from here on the facade of the Archives Building are many mottoes. One of these is simply "What is Past is Prologue."

Those simple words mean a great deal to us, but to my predecessors in the Department of Justice apparently meant little. I think their attitude can best be illustrated by the story of a mid-west manufacturer who came from his small town to Washington on government business.

It was the first visit of this small businessman to the National Capital, and all these grand buildings that line Pennsylvania Avenue were new to him. As he whizzed down Pennsylvania Avenue in a cab, his attention was drawn to that simple group of words and he found it hard to understand. He turned to his driver and repeated the words "What is Past is Prologue," and asked the cabbie what it meant. Now, mind you, this was more than a year ago, and this is what the cabbie said:

"That means, Bud, hold onto your hat -- you ain't seen nothing yet!"

To us, those words, "What is Past is Prologue," mean that out of the rich experiences of life come the lessons which should lead to improvements in all fields. To outline some of the improvements in the legal profession and in the Department of Justice, which we are endeavoring to effect, is my purpose this evening.

It was out of rich experience that, in April 1938, the American Law Institute appointed a Committee on Criminal Justice for Youth. This move resulted from the Institute's concern about the alarming increase of youthful offenders.

The Committee worked for two years and then drafted a model Youth Authority Act which proposed the creation of a new agency for the treatment

of young men and women who had turned to crime.

This draft resulted from careful consideration of past experience. Shortly after the Committee published its report, the Chief Justice of the United States Supreme Court appointed a special committee to study the punishment for crime. Many features of the model Act were adopted by this committee and led eventually to drafting of the Federal Youth Corrections Act which became law in the fall of 1950.

But my predecessors did not see fit to implement the act. Largely for political considerations, they overlooked the fact that there was available to them a new means of helping young persons who come into conflict with the laws of the United States.

During the weeks just passed, we have been devoting time to the problem of bringing the new system into operation. To do so, we first had to find capable persons for the new Parole Board, particularly the three who would make up the initial Youth Correction Division of the Board.

I am pleased to be able to report that the new Parole Board will shortly be announced and the new program will then be put into operation. This will bring to early fruition the splendid program which you initiated.

As many of you know the new act rejects the basically punitive approach characteristic of the administration of justice for hundreds of years. It results from the established fact that the traditional methods of handling young men and women have fallen short of their objective and do not offer full protection to society.

It applies to those under the age of 22 who have violated Federal laws. It gives the Federal judges a completely new tool. They may continue to give probation to the more hopeful offenders and they still may impose sentences provided for adults under law. There are three important

new provisions:

1. A young offender may be committed by the court to the Youth Board for treatment for an indefinite period up to six years,
2. Where the court believes the youth requires treatment or supervision for a period of more than six years, as in the case of a sex offender, it may commit him for any period not exceeding the maximum penalty provided for the offense.
3. Where the court is uncertain as to how to proceed, it may place the offender in the Attorney General's custody for study, diagnosis and recommendation prior to the imposition of sentence.

A youth sentenced under any of the new provisions would be placed in a classification center. There a group of trained specialists will study him and then send on their reports to the Director of the Federal Bureau of Prisons. On the basis of these, the Director will recommend to the newly created Youth Correction Division of the Board of Parole a program of treatment for its consideration. Then the Board, in cooperation with the Director of the Bureau of Prisons, will determine an institutional program for the offender.

During the time the offender is under treatment, there will be periodic reports and recommendations of the Bureau of Prisons to the Youth Division. Upon these, the Board will determine whether further institutional treatment is necessary and under what conditions the offender may be released. Conditional release of all youth offenders, or unconditional discharge, rests exclusively with the Division.

Progressive correctional methods have been stymied by the practice of giving definite prison terms to the youthful offender, with the result that the number of repeaters has steadily mounted.

Contemplated in the program are a wide variety of steps designed to aid the youth. There will be schools, hospitals, forestry and other camps in time. And, there will be special training programs under public or private auspices for the young and sometimes accidental offenders.

Another important departure from the time-worn methods is the provision that every youth be returned to his home or some place selected for him when conditionally released at least two years before the end of his commitment period. Through this, there will be continuing help in applying the training and education he has received.

The responsibility for this necessary guidance after the youth has left the institution will not rest with professionally-trained workers alone. The act provided for enlisting volunteer sponsors who can share in reclaiming young lives. These sponsors would be sought among the intelligent, stable and well-adjusted private citizens willing to aid in the program.

The drafters of the legislation adopted this provision because they recognized that the community must accept some responsibility. And there is no doubt in our minds that many private citizens can make a real contribution to the lives of youngsters who previously had no one to whom they could turn for capable counsel and help.

The act also provides for an Advisory Corrections Council comprised of United States judges and administrative officers. The judiciary members have already been designated by the distinguished Chief Justice of the United States who was among the first to recognize the value of

This committee will have two responsibilities - first, to study the prevention of crime, and second, to study the treatment and correction of all offenders. It will make recommendations to Congress for the improvement of criminal justice and bring about closer relations between the courts, the prisons and the law enforcement agencies.

We propose to see that the provisions and intent of this progressive and forward looking act which this organization did so much to promote are speedily put into effect. You have shown through your action in this matter that you are interested not only in the niceties of the law but in how and where it affects human values as well.

We propose to use it to the maximum extent in the firm belief that more young prisoners can be returned to useful lives if properly handled.

Another long-standing program which the Department of Justice is vigorously supporting in an effort to bring to fruition efforts of the Bench and Bar over a period of years, to increase the number of Federal District Court and Circuit Court Judges, and to obtain substantial salary raises for all Judges in the Federal Court system.

For a long time it has been evident that the volume of cases in the Federal Courts required an increase in the number of Federal Judges. Both in the district courts and the circuit courts the statistics are incontrovertible, and strong support exists in the Congress for granting the proposed increase in the number of Judges.

Likewise, the evidence presented to Congress at its current session indicates greatly the need for a substantial increase in the salaries of Federal Judges. The increase of \$10,000 per year presently advocated by the proponents of the pending legislation would still not completely

bring the salary scale, in terms of cost-of-living, up to the former scale. Nevertheless, the pending legislation is a very substantial improvement over the present inadequate compensation rates for our Federal Judges.

The Department of Justice enthusiastically favors both the bill to increase the number of Federal Judges and the bill to increase the salaries of Federal Judges, and urges all segments of the organized Bar to bring the facts in these matters to the attention of Congress and important opinion-making groups in their communities, to the end that these obstacles to improvement in the administration of justice may be overcome this year.

Still another of our efforts to join with the Bench and Bar in furnishing leadership to improve our Federal legal system, is to support a proposal of the Judicial Conference of the United States to examine into the causes of long delay, great expense, and voluminous records in certain classes of cases, including some which reach the courts from the Federal executive departments and administrative agencies.

A committee of judges and an advisory committee composed of representatives of the agencies and of the bar had presented a report to the Conference several years ago. The findings were that unnecessary delay, exorbitant expense, and excessive volume of record occur in so many cases in the Federal Courts as to create a serious problem in the administration of justice.

On April 28, 1953, pursuant to a suggestion of Chief Justice Vinson, which had my hearty endorsement, the President called upon all executive

departments and administrative agencies to designate a representative to meet in conference for the purpose of considering remedies for the problems presented.

He appointed three Federal Judges and twelve members of the Bar, as additional representatives to the Conference.

Judge E. Barrett Prettyman of the United States Court of Appeals for the District of Columbia is the Chairman of the Conference. The opening session is scheduled for early June. The Department of Justice is providing the Secretariat and has offered its facilities to help the Conference to succeed. Every alert member of the legal profession will, I am sure, want to assist by making suggestions to the Conference members, and I believe great good will result from the meetings.

Our major effort to improve the administration of justice has been in the field of improving the personnel and raising the ethical professional standards of the Department of Justice. It is not an easy task. Before we took up the reins, the Department of Justice -- once an august and respected arm of Government -- had fallen from grace. Public confidence was shaken by scandalous reports of incredible dereliction, shocking malfeasance, and just plain incompetence.

The Department has grown in recent years to an organization of over 30,000 employees, dispersed in eleven buildings in Washington, and in five hundred additional offices throughout the United States, its Territories and foreign countries.

In addition to the traditional legal functions of the Department, there have been added the Immigration and Naturalization Bureau, the

Prison System, the Alien Property Office, and of course the far-flung investigative activities of the Federal Bureau of Investigation.

Coming from private practice of law to an organization like this was a somewhat unsettling experience. I felt much like the man who fell out of a fourth story window onto the sidewalk. Quickly a crowd gathered and a policeman pushing his way through to the injured man asked, "What's going on here?" The fellow replied, "I dunno, I just got here myself."

Well, that was almost my reaction. For the size and diversity of the Justice Department has no remote counterpart in private practice.

Recently I read the argument which Daniel Webster made in the Senate against the enlargement of the department of law in the Federal Government. He certainly foresaw many of the difficulties which an Attorney General would face if all of these various administrative functions were piled on top of the traditional legal duties of the office. "If the Law Department bill should pass", said Webster, "the Attorney General will become a fractional monstrosity, a half accountant, a half lawyer, a half clerk -- in fine, a half of everything and not much of anything."

In January we found that we had inherited more than our fair share of odd characters, logrollers and misfits. Persons such as those naturally impair the efficiency and morale of their competent co-workers, and the morale of the Department was at a very low ebb only a few months ago. Violations of trust and incompetency on the part of high-placed Justice officials had sundered whatever esprit de corps may have existed.

The first step then was to gather together a nucleus of hand-picked qualified men from successful private practice, sympathetic with the goals and standards of the Eisenhower Administration. This step has

largely been completed. These men, my Deputy and my Assistant Attorneys General, are all brilliant lawyers and able administrators of the highest integrity. I believe in these men and I ask you to also. They need your confidence and respect -- and they deserve it.

Prior to January 20, these officials were unknown to each other. Today they enjoy a comraderie that comes only from mutual esteem and trust, from a common desire to rebuild the reputation of the Department of Justice to its former eminence. This group is already welded into a brisk, businesslike team of executive lawyers, whose broadening perspective makes them increasingly capable of doing an outstanding job themselves and of inspiring others to emulate their zeal and efficiency.

If the phrase "influence flows from the top down" means anything, this apparently is the way to get at the root cause of our personnel problem. Given dynamic and intelligent leadership, the lower strata of government careerists in our Department can't help but be infected with a new zest for work, a new pride in their accomplishments, a new diligence in their approach to problems.

We found among the career lawyers a large number of competent, faithful, hardworking attorneys. Under their new division chiefs, they have turned to their work with a new enthusiasm and already a new vigorous program is going forward at a good and productive pace.

We have taken steps designed to prevent any skulduggery such as was possible through the manner in which our predecessors operated. We have put an end to secrecy in the granting of pardons. We have abolished the so-called health policy in tax cases, thereby returning to the courts the decision as to whether a taxpayer is well enough to stand trial. We

have given more active cooperation to the Federal Bureau of Investigation and its great Director, J. Edgar Hoover, in the effort to guard our internal security.

A major innovation has been a move to provide for a better functioning of the offices of our United States Attorneys.

It is a common mistake of people working in Washington to assume that the problems of government occur and can be solved within the confines of the District of Columbia. The truth of the matter, of course, is that a government is good or bad depending upon its effectiveness out across the nation and around the world, where the problems with which the government deals have their real situs.

Ninety-four United States Attorneys' offices cover the area of federal jurisdiction from the District of Columbia to far-away Guam. The importance of these offices in the administration of justice cannot be over-emphasized. They are in effect miniature Departments of Justice and the United States Attorneys who head them are really regional Attorneys General. They are located at the precise point at which justice is - or should be - converted from theory to fact.

In the first place, we are picking capable lawyers to head them - the very best we can find. Without good men, good rules and regulations are worthless. So far we have recommended to the President United States Attorneys for 37 of the 94 districts.

In the second place, we are asking these men to divorce themselves completely and absolutely from private practice. The post of United States Attorney carries with it heavy responsibilities and it is worth the full and undivided effort of any man who occupies it.

To make practical our restriction on private practice, we have asked Congress to provide us with funds to raise the salaries of United States Attorneys and their Assistants to a level more nearly commensurate with the importance of their jobs.

After his selection, but before he assumes his duties, every United States Attorney-nominee is brought to Washington for orientation. From nine in the morning to six at night for a full week, we provide each man with the best instruction we can in the handling of his new job. In conferences with the President of the United States and with the Attorney General he is grounded in the policies which we expect him to follow in the administration of his office. He meets with the various Assistant Attorneys General and key members of their staffs, to learn in detail both what we expect of him, and in turn, what he can expect in the way of help from the seat of government.

Every effort is made to keep his instruction on a practical and individual level. Before he arrives for his week of orientation, the files of the Department of Justice are thoroughly searched to gather together all the information available in Washington concerning the particular problems in the office which the nominee is to head.

When a new United States Attorney assumes his duties, he will do so, not only with a clear idea of our basic policies and objectives, but also with an individual knowledge of the particular problems he will face and the way in which we think he can best solve them. More than that, he knows us and we know him from a week of face-to-face personal contact -- a fact that we hope will have real value in future contacts between Washington and the field.

It is important to start with a clear mutual understanding of what is to be done, and how. It is equally important that a means exist for continuing that understanding as circumstance and situation change. We have therefore reduced to writing and delivered to the printer a full statement of the policies and procedures which are to govern the United States Attorneys' offices in all of their operations. We propose to issue this new United States Attorneys Manual in loose-leaf form and to keep it constantly current.

We have still another new project in the mill which seems to us to be essential to an intelligent control of the enormous daily work load of the Department of Justice. It is a shocking fact that under existing procedures in the Department of Justice a case might well repose in the desk drawer of an Assistant United States Attorney for days, for months, for years, without any means for his superiors to become aware of his delinquency. It is literally true that cases have been "lost" in this fashion until the passage of years barred them under the applicable statute of limitations.

We have been working hard at the task of creating a system of reports and controls which will enable both the United States Attorney and the Department in Washington to determine the exact status of every pending matter and case at any given time, and which will automatically bring to the attention of the supervising officials any case or matter which is in an apparent state of delinquency.

The great problem here is to create a system which will be adequate but at the same time avoid burying a limited staff in an unreasonable load of paper work. The size of the job is indicated by the fact that

in the last fiscal year the United States Attorneys' offices handled over 100,000 criminal complaints, commenced almost 40,000 criminal prosecutions, received about 25,000 civil matters, and filed over 20,000 civil suits.

I think we are very near a practical solution of our problem, and we hope to have an effective and practical system in operation by the beginning of the new fiscal year on July 1.

To handle these jobs, -- the Orientation Program, the publication of the United States Attorneys Manual, the establishment of a system of case control -- and to provide general executive assistance and supervision to 94 offices of United States Attorneys, we have recently created a new unit known as the Executive Office for United States Attorneys. It will function under the immediate supervision and control of the Deputy Attorney General.

The new office will coordinate the activities of the offices of the United States Attorneys and facilitate the exchange of information and ideas among these offices and between them and Washington.

It will fill, we believe, a long standing need in the Department and will remedy the very pointed criticism directed justifiably at the Department by a Congressional Investigating Committee. This seeming over-emphasis on the administrative or housekeeping functions of the department should not be misunderstood. It is difficult for a lawyer in private practice to realize the importance of them, but we believe their reform is a prerequisite to the smooth functioning of a law office composed of sixteen hundred lawyers. I am glad to report that this administrative reorganization of the Department is drawing to a close, so for the months ahead we will be able to concentrate, under the leadership of new personnel, on the revision of major policies in the prosecution

of criminal, tax, civil and anti-trust fields.

From this review of some of the activities of our new group in the Department of Justice I trust you will conclude that our aims to improve the administration of justice are in the best tradition of the Department as it was operated in the days when it commanded the highest respect and confidence of the Bench and Bar.

I trust you will feel that our standards and practices are in line with the program of the American Law Institute, which has had such an honorable and effective part in improving the administration of justice in this country.

It is a great honor to have been invited to join you here this evening and I bespeak your individual and collective support in helping us -- if you believe in our sincerity of purpose and professional competence -- to instill in the Bench and Bar and the public generally, a respect for the professional ethics and confidence of the Department of Justice, which we now hope will be not only the world's largest law office but its best.