

1 ADDRESS

2 OF

3 THE HONORABLE GRIFFIN B. BELL

4 ATTORNEY GENERAL OF THE UNITED STATES

5  
6 BEFORE

7  
8 THE MICHIGAN STATE BAR ASSOCIATION

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12  
13 THURSDAY, SEPTEMBER 21, 1978

14  
15 9:20 p.m.

16  
17 Detroit Plaza  
18 Detroit, Michigan

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P R O C E E D I N G S

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2 ATTORNEY GENERAL BELL: Thank you, President Hartig,  
3 Carolyn. Thank you for the warm introduction. I hope if  
4 you do that again, you will tone down the drinking part.

5 Chief Justice Kavanaugh and other distinguished  
6 State judges, Chief Judge and prospect, George Edwards --  
7 you know, he is going to be Chief Judge soon, other dis-  
8 tinguished Federal judges, distinguished guests, fellow lawyers,  
9 ladies and gentlemen: It's a pleasure to be here and I'm  
10 sorry I will not be here tomorrow morning to witness the  
11 debate between Sherry (Phonetic) of Sherry's Ranch and the  
12 prosecutor from Nevada.

13 I have to congratulate whoever got the program up  
14 on having a very innovative approach to Bar programs. It  
15 reminds me a good deal of a speech I made last year in Richmond,  
16 Virginia, at a Bar luncheon and they introduced me and said,  
17 "This is the largest crowd we have had -- ever had except  
18 last month when Elizabeth Taylor was the speaker."

19 I missed Justice Ryan's remarks on the Chief Justice  
20 and what the Chief Justice had to say about trial lawyers.  
21 I can testify that between the Chief Justice's remarks about  
22 trial lawyers and the President's speech that he made in  
23 Los Angeles, I have had a number of problems this year.

24 We seem to be getting over those two events. I'm  
25 not hearing as much about it as I did. I thought the Chief

1 Justice's speech, when it provoked the studies and statistics,  
2 every Bar Association disputed his figures -- he said 50  
3 percent of the trial lawyers were inadequate, Illinois Bar  
4 condemned him said it was not true only 20 percent  
5 who were inadequate, and all over the country. And finally,  
6 Maryland got down to 7 percent. That was the lowest figure  
7 I ever saw.

8 And it reminded me of this judge in Georgia when  
9 I was a young lawyer who made a study of the prison population  
10 and he found it on a projection that the prison population  
11 was increasing faster than the general population of the State.  
12 And he announced at a meeting of the State Bar that in the  
13 year 2014 everyone in Georgia would be in prison.

14 (Laughter.)

15 About the time the Chief Justice made this condemnation of  
16 the trial lawyers, such as it was, I was attending a dinner  
17 for Director Kelle when he was retiring as the head of the  
18 FBI, and his Congressman from Kansas City came to honor him  
19 and made a little talk. And he said that he was a used car  
20 dealer by profession, and he was very proud to be a used car  
21 dealer. He said that there were 26 lawyers mixed up in the  
22 Watergate and not one used car dealer.

23 (Laughter.)

24 I think it's a good time for me to say that I re-  
25 affirm my pride in being a lawyer and, having been a trial

1 lawyer of sorts for some years, and my response to the Chief  
2 Justice is not to criticize him but to create a trial advocacy  
3 program in the Department of Justice, which will be one of  
4 the best in the Nation and one that I hope the Bar Associations  
5 over the country can copy.

6 Now the President's speech -- let me say a word  
7 about that -- that he made in Los Angeles. Many people have  
8 asked me "Did you read the speech in advance?" And my answer  
9 is "Yes, I read it. He sent it to me and I read it." He  
10 also invited me to go to Los Angeles with him and I was unable  
11 to go because I had another engagement.

12 But the President's speech was not that bad to  
13 anyone who has read it. It was an exhortation the lawyers  
14 would do better. And my information on the President now is  
15 that he is thinking more of lawyers after his experience at  
16 Camp David, where they negotiated long hours, and in fact  
17 he said something to me Sunday night over the White House --  
18 I was privileged to be there at the East Room -- when the three  
19 leaders came there and met and he said something to me about  
20 lawyers which was complimentary.

21 And I appreciated it very much because I've dealt  
22 with him a lot and he would have been a good lawyer, had he  
23 not gone wrong and become an engineer.

24 (Laughter.)

25 I want to say a few words to you tonight about the

1 Department of Justice because I think you would like to get  
2 a report on it once in a while. And my remarks will be  
3 divided in what we call external matters and internal matters.

4 The delivery of justice is getting to be something  
5 of importance for all of the American people, whether we  
6 have an adequate system of justice. And I have been working  
7 in this field for some years in the American Bar and the  
8 Pound Conference. I was Chairman of the Pound  
9 Conference Task Force to implement the things that were  
10 recommended at the Pound Conference, and it seemed to me that  
11 the court systems all over the country were in trouble.

12 And it reminded me of a story that I read in the  
13 New Yorker magazine many years ago about the last traffic  
14 jam on Manhattan Island. Some fellow had a dream that there  
15 was this huge traffic jam and finally every car stopped. And  
16 they had a meeting of the City Council to see what to do and  
17 they said we will just pave over, pave over and start again.

18 And the court system was in about that shape in  
19 many places in this country. I can't help  
20 all the State courts, but I can help the Federal courts because  
21 the Justice Department has a big interest in the Federal  
22 courts. We're the chief litigants. We have more cases than  
23 anyone else.

24 So I knew that we would finally have a judgeship  
25 bill; we would get some more judges, but that is not the

1 answer. One day the President asked me early on, when we  
2 were talking about the judgeships and we had to get about 150  
3 more judges, and he said that everyone in the country is going  
4 to end up being a Federal judge and is there something you can  
5 do to get matters out of court?

6 So I'm taking a sort of dual approach to the matter.  
7 We got the judgeship bill introduced and yesterday the  
8 Conference Committee got into an agreement and by early next  
9 week I hope that bill will get passed and we will begin to get  
10 these new judges. And that will be the first increase we  
11 have had in eight years.

12 But to try to do something about the court system  
13 and get matters out of court that really don't need to be  
14 in court would require something else. So we came up with  
15 a system of arbitration, let lawyers be arbitrators, and we  
16 are trying that now in three Districts: the Northern District  
17 of California; Eastern District of Pennsylvania; and the  
18 District of Connecticut. It's working well and I think we  
19 will have a base by early next year to ask Congress to go  
20 ahead and pass a law so that we can have informal arbitration  
21 in the Federal courts.

22 This will be an inexpensive method of dispute  
23 resolution, but it will not deprive anyone of any right  
24 because if you're dissatisfied with the result, you can go  
25 back and take your regular place on the docket. You will not

1 lose anything except a little time and very minimal expense  
2 in arbitrating.

3 But where it has been tried in some State courts,  
4 notably Ohio -- in Cincinnati and Cleveland -- has worked  
5 well.

6 The other thing that we decided to do is to increase  
7 the power of the Federal magistrates so that they could try  
8 some of the cases that now are being handled by Federal  
9 judges and under a simplified set of procedures -- not the  
10 Federal Rules of Civil Procedure or Criminal Procedure --  
11 the magistrates' bill was introduced, passed the Senate and  
12 now is in the House. This week it came up on the Speaker's  
13 calendar and the normal parlance. That means it is going to  
14 be voted on soon and we will get that bill.

15 And I went to the Judicial Conference this morning  
16 over at Spring Court and the Chief Justice announced that the  
17 committee that he had appointed to formulate a set of  
18 magistrates' rules is almost ready to report. So we will  
19 get the magistrates and the new set of rules about the same  
20 time.

21 We are not doing well on diversity. The Justice  
22 Department has taken the position that a citizen of the State  
23 ought to go to the State courts rather than the Federal courts.  
24 It enhances the Federal courts. In the first Congress the  
25 diversity jurisdiction was for the non resident and not the

1 resident. It was later changed.

2 The House passed a bill removing all diversity  
3 jurisdiction. Our bill is in the Senate Judiciary Committee.  
4 They were going to vote on it yesterday and one of the Senators  
5 -- as he had a right to do -- moved to set it over a week  
6 because he is opposed to it. Congress is nearly at the end,  
7 and I don't know how this will come out.

8 I've been a Bar Association person all my legal  
9 career, and I'm usually on the side of the Bar, but I've had  
10 a hard time with the Bar Associations of the country, par-  
11 ticularly with the American Bar, with this bill. I think that  
12 the public interest requires that we readjust our court systems  
13 at least this much so that the State courts can take these  
14 cases and relieve the Federal courts and the National Associa-  
15 tion of State Chief Justices favors that. They favor the  
16 same position I'm taking.

17 Congress has just passed something  
18 called the Foreign Intelligence Surveillance Act, which will  
19 strengthen our foreign intelligence apparatus a great deal  
20 because we will be able to go to the Federal courts to get  
21 court orders in the foreign intelligence field. A Conference  
22 Committee has been created to settle the differences between  
23 the Senate and the House, but this will be some additional  
24 work for the Federal courts.

25 I regret to say that the Federal Criminal Code will



1 not be passed this year. It passed the Senate. It has never  
2 come out of the Subcommittee in the House. I wish I could  
3 recall and regain all of the days on end that I put on this  
4 piece of legislation, but this is the second Congress where  
5 it has failed, and I don't know what the future holds for it.

6 There is a very good part of it that should be  
7 non-controversial and that is the sentencing procedures which  
8 is part of the whole bill.

9 Now going to the internal matters, I suppose there  
10 are many things that I could say about the Department of  
11 Justice, but I think in a general way what I have tried to  
12 bring there, to teach there as an outsider is that we ought  
13 to be ethical and that we ought to be professional, and that  
14 we ought to conduct ourselves as government lawyers under the  
15 same standards and meet the same obligations as a private  
16 bar. I think that we are doing that.

17 I have worried some times about whether or not the  
18 Justice Department was sufficiently independent. The President  
19 asked me to be the Attorney General. He said that I have  
20 said publicly that I would like to make the Attorney General  
21 independent of the President and " I wish you would study that.  
22 Well, I did and I find that you can't do that because the  
23 Constitution charges only the President with the duty to  
24 faithfully execute the laws.

25 But I did decide that the Justice Department could be

1 converted into a neutral zone; that in our country the law  
2 must operate on neutral principles and certainly the Department  
3 of Justice, which represents all people, must be a neutral  
4 zone.

5 It's like the foreign intelligence business and also  
6 much like foreign diplomacy. It is non-partisan. And I have  
7 now just two weeks ago announced to the lawyers of the  
8 Department a new method of insuring independence to the  
9 Department from any interference by the White House -- anyone  
10 in the White House or the Congress or anyone else. And that  
11 has been published; there has been a good deal written about  
12 it.

13 And I patterned what we have done after what they  
14 do in England in the Attorney General's office where the  
15 government fell in 1924 when the Attorney General was accused  
16 of having been influenced by another Cabinet officer about  
17 a prosecution.

18 And since that time, whenever a public figure is  
19 involved, the career person who is called the Director of  
20 Prosecutions handles those cases. He tells the Attorney  
21 General about them, but the Attorney General makes no decisions  
22 on them.

23 I put a little different version of that in. In ours  
24 they tell me about it and they tell the Associate Attorney  
25 General and the Deputy Attorney General, and if we change the

1 decision, we'll say, of the Assistant Attorney General for  
2 the Criminal Division -- if we change it, we have to make  
3 public the fact that we changed it and why we changed it.

4 This is, I think, a sufficient safeguard, and it is  
5 exactly what I did when I overruled the Antitrust Division and  
6 allowed the merger of LTV and Lykes that you read  
7 about in the paper not so long ago. I made public the fact  
8 that I did overrule them and I gave my reasons for overruling  
9 them.

10 And then if we do that, if we put things on the  
11 table, then the American people can judge whether you have  
12 done right or wrong.

13 So I'm proud of that. And in closing I'll say that  
14 I have been through a great deal of travail as Attorney  
15 General. I started out, it seems to me, on an attack and a  
16 lot of people say, "How do you like it? How have you liked the  
17 job since you've had it?" I'd say the pay is very poor and  
18 the hours are long, but there is some good and some bad.

19 I was recently cited for contempt and I had been  
20 on an airplane one day and a woman came up to me on the plane  
21 and said she had been to see one of my predecessors who was  
22 in prison, and I told her I thought it was a fine thing that  
23 she did. And as she walked away, she said, "I certainly hope  
24 you will never have to go to prison."

25 And so when I was cited for contempt and finally my

1 status was stayed by the Court of Appeals, I called my wife  
2 to tell her and she started weeping. And she said, "I never  
3 let you know, but I thought the woman who spoke to you on the  
4 airplane was a prophet."

5 Well, it's not that bad. It's exciting and it's  
6 exhilarating and you survive because you think you're accomplish  
7 ing something. If I didn't think I was making some progress,  
8 I would have left before now, but I'm holding on and I think  
9 we are making progress.

10 And I think we do have now a Department of Justice  
11 that you can be proud of. Thank you.

12 (Applause.)

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