Department of Justice

ADDRESS

OF

THE HONORABLE GRIFFIN B. BELL

ATTORNEY GENERAL OF THE UNITED STATES

BEFORE

THE ASSOCIATION OF AMERICAN LAW SCHOOLS

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12:30 p.m.
ATLANTA, GEORGIA

I am pleased to be able to address this annual meeting of the American Association of Law Schools. In recognition of your new committee and special program on judicial administration, I would like to talk about this very important and growing field, as well as some closely related efforts, such as research, that we are undertaking to improve the operation of the justice system.

But before moving to that, I would like to review briefly the first 11 months of our President.

In ancient Greece, there was a maxim that "the measure of man is what he does with power." Our own country's experience confirms that maxim, and we can measure President Carter accordingly.

He found Washington in need of repair. Our Federal establishment has been consumed for almost 20 years by three all-dominating issues: the civil rights revolution of the '60s, the Vietnamese war, and Watergate. Insufficient attention had been paid to the condition of government itself.

There were and are many accumulated problems. President Carter has faced those problems and is coming

to grips with them. He has not taken a public relations approach for quick or contrived victories. Rather, he has directed his attention and his intelligence and his powers of moral leadership to all problems, no matter how difficult.

This approach offers few immediate rewards. Nevertheless, the welfare of America is involved, and it is not a time for one to flinch. It is not a time to apportion the problems on an annual basis, with some being delayed until next year and the next and the next.

The American people have a right to expect no less than what has been the President's approach. In my view, as a citizen with close proximity to the scene, President Carter has done with the power of the presidency in his first year just what should have been done.

I am encouraged by the progress that has been made to date. It is progress only in the sense that solutions are in process. We will begin to see results in 1978. Our constitutional system operates in a ponderous

fashion, and the solutions which have been offered must be debated in the Congress. I look forward to a strong 1978.

As many of you know, the need to improve the delivery of justice in the courts and throughout the justice system -- both civil and criminal -- has long been a principal professional interest of mine.

Dean Roscoe Pound, in an address to the American Bar Association more than seventy years ago, first outlined the new direction and needs in the field of judicial administration. His classic address was commemorated last year by the National Conference on the Causes of Popular Dissatisfaction with the Administration of Justice. I was honored to be a part of that group and to be chairman of the follow-up task force that was appointed to develop recommendations for implementing many of the matters discussed at that conference.

Before I talk about some of our activities in meeting the mandate of the Pound Conference, I would like to reflect on the very positive development of the relatively new and evolving field of judicial administration in this country. When Arthur T. Vandervilt and Judge Parker developed the first standards of judicial administration in the late 1930s, they were pioneers. There was little interest among lawyers of academics in court organization and structure, selection and removal of judges, or improving civil and criminal procedure. There were some fortunate exceptions to this situation in the early years, such as the writing and adoption of the Federal Rules of Civil Procedure; but for the most part, judicial administration -- if it was thought of at all -- was regarded as dealing with such arcane subjects as organizing the office of the clerk of the court. And, if my own legal training is representative, among law school faculties the subject of judicial administration was never accorded a significant place in the legal curriculum.

In the seventy years since Dean Pound's address, our conception of the functioning of the system of justice

in our country has changed dramatically. Many of Dean Pound's projections have proved to be quite accurate. Through increasing activism by the courts, the increasing desire of citizens to seek resolution of their disputes in the courts, and legislative action that has increased the number and scope of governmental programs as well as the scope of the jurisdiction of the courts, new pressures have fallen upon the justice system, and especially the courts. These pressures have created serious problems which critically affect the delivery of justice. I welcome the growing awareness of the bar and the law schools that the protection of substantive rights is intimately linked to significant problems of court organization, operation and procedure.

Some of the problems in the federal system of case backlog, delay and expense will be eased when new legislation is passed increasing the number of federal judges and courts. But, clearly, the size and nature of the problems in our justice system today cannot be met solely by increasing the number of judges.

There is an urgent need to explore new forms for adjudication of various types of disputes and to develop new and improved procedures for dealing with increasingly complex cases. To meet this challenge, one of my first acts as Attorney General was to create the Office for Improvements in the Administration of Justice. As most of you know, Dan Meador has taken leave from his post at the University of Virginia Law School to head up this new Office.

The Office has a broad mandate to develop, among other things, alternate procedures of dispute resolution, to review and devise procedures for the selection of judicial personnel, and to design and prepare better and more effective court structures and procedures in civil and criminal litigation. The Office has a comprehensive two-year agenda on which it has already made substantial progress: for example, legislation has been written and introduced in the Congress to expand the civil and criminal jurisdiction of U.S. magistrates, to introduce compulsory, non-binding arbitration into the federal courts, to restructure diversity jurisdiction, and to establish a minor dispute resolution resource center with a seed money grant

program to the states. The Office has also designed a program to establish experimental neighborhood justice centers in three cities and is in the course of drafting a bill to revise and improve class action procedures.

Other measures we have developed or are now developing which bear on improving the administration of justice include a comprehensive revision of the federal criminal code, legislation to provide for the first time judicial screening and warrant procedures prior to the authorization of any electronic surveillance relating to foreign intelligence matters, legislation governing the shifting of attorneys fees in civil cases, and amendments to the Federal Tort Claims Act so that the government will assume the defense of suits against federal officials. We are also studying discovery and other pretrial practices in an effort to make those processes less expensive and more expeditious.

All these proposals and others we will be developing constitute a coordinated, integrated program to bring about fundamental improvements in the justice system. These will not be final solutions for all time. But by addressing

our severe contemporary problems, they will, if implemented, give us a far better system of justice than we now have to deal with current realities.

I believe the Department of Justice can and should provide strong leadership in this new area of judicial administration. And that is what we are attempting to do.

It is vitally important that the law schools of the country devote time and skill in the classrooms, and research effort, to these problems. As I think back to the Pound Conference in St. Paul last year and the report of our follow-up task force, I am struck by the importance that the conferees and the members of the task force assigned to the role of lawyers in meeting the challenges identified at the conference.

One of the special responsibilities of lawyers, imposed by Canon Eight of the Code of Professional Responsibility, is to "assist in improving the legal system." In addition, Chief Justice Warren Burger, in his keynote address at the meeting, stated that lawyers must fulfill their historic function to help assure the orderly evolution of the many changes that must accompany improvements in the delivery of justice in this country.

Of course, lawyers are not the only ones with important contributions to make. We must look to all fields for inspiration and assistance. But we must begin to graduate generations of lawyers who understand the importance of judicial administration and its relation to the substance of the law and to substantive rights. We also welcome the assistance and input of law faculties to our work at the Department. I know Dan Meador sent a letter to all of the law school Deans last summer about the possibility of law professors spending a year or a semester in Washington on a visiting basis working directly with his Office.

Research is another major area of interest to the Department of Justice as it relates to judicial administration and other aspects of improvement in the justice system. Dan Meador's Office administers the new Federal Justice Research Program, which for the first time provides the Attorney General with discretionary research funds that can be used for study of federal justice system issues.

We have identified a number of important areas for research, such as sentencing reform and arbitration, and we will look to this program to provide much of the

directed research about the federal system that is now lacking in both civil and criminal matters.

Closely related to this effort is our decision to proceed with the creation of a Bureau of Justice Statistics. This Bureau will provide for the first time a single, comprehensive, nationwide statistical repository with a high degree of public credibility. Once this agency is established, I hope that we can begin to measure the criminal and civil justice problems with a high degree of confidence, and that we will be able to direct our justice system resources at the federal level better than we have in the past.

In addition, as many of you know, the Department of Justice has been working on proposals to reorganize the Law Enforcement Assistance Administration, including its research functions. In formulating our proposal, which calls for replacement of LEAA by a National Institute of Justice, we have been mindful of the serious and valuable scholarly attention that has been given to the research record of LEAA in the past. One of the basic elements of our proposal is to create a truly national justice research capability that will be directed toward identifying and

resolving many of the most important research issues that abound in our justice system -- civil and criminal, state and federal. Our proposal will continue the current emphasis on law enforcement, including the police and prosecutorial efforts, juvenile justice and prisons, as well as the courts. I believe that the direction in which our proposal for creation of a National Institute of Justice is heading will be received positively by the Congress.

These federally funded research efforts provide another avenue through which law teachers can make a contribution to improving the justice system.

I would like to close with a few additional thoughts on the role of law schools in training lawyers. One of the dominant affects of legal education has been the leadership of great scholars and the inspiration of their work in shaping many fields of legal doctrine. I am sure that many of you at the end of a semester's teaching have had your performance evaluated by your students. One possible apocryphal anecdote about the late Dean Prosser was the evaluation turned in by one student: "Dean Prosser: major weakness -- thinks he is God; major strength -- he is God."

Dean Prosser, of course, was only one of the major figures in the development of law and in the teaching of law. Yet, I would like to think that this respect and dedication today can encompass not only the traditional fields of legal training but the important field of judicial administration.

As I have noted, lawyers face a particular responsibility in this area. We look to you, representing the law schools and the future of legal training in the country, to help us meet this responsibility.

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