

ORIGINAL

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REMARKS
OF
THE HONORABLE GRIFFIN B. BELL
ATTORNEY GENERAL OF THE UNITED STATES
BEFORE THE
CONFERENCE OF ALL SPECIAL AGENTS IN CHARGE
FEDERAL BUREAU OF INVESTIGATION

WEDNESDAY, APRIL 4, 1979

9:00 A.M.

WASHINGTON, D.C.

P R O C E E D I N G S

1
2 MR. WEBSTER: Good morning. I suppose you made good
3 use of last night, and you are all ready to go again. We are
4 very pleased to have the Attorney General and Deputy Attorney
5 General with us this morning to talk about some areas that we
6 have not covered, will not cover; and the Attorney General
7 has indicated that there will be an opportunity for us to ask
8 some questions and discuss things with him.

9 Judge Bell and Deputy Attorney General Civiletti
10 have made a very strong team for the Department of Justice.
11 I'm sure you know -- because I don't have the opportunity to
12 introduce him -- I'm sure you know the background of Ben
13 Civiletti, a former prosecutor, and then Assistant Attorney
14 General for the Criminal Division, before becoming Deputy
15 Attorney General. He probably brings more background and
16 experience and understanding of the F.B.I. problems, than
17 any Deputy Attorney General in history, that I can recall.
18 We've had a good working relationship, and it's been a great
19 pleasure for me to come on board with such a team.

20 I wanted to mention some of the things that the
21 Attorney General has done in support of the F.B.I. I'm sure
22 you are aware of some of them. Some of them were mentioned in
23 our session yesterday. The Federal Tort Claims Act has had
24 his full and complete support, the amendment to that is
25 derived, and he has given it every boost at every opportunity.

1 It was because of the direct personal intervention of the
2 Attorney General last summer, that we succeeded in extricating
3 ourselves from the Civil Service Act. You know, of course,
4 his participation and role in the Socialist Workers Party
5 case. Some of you may not know, as our budget worked its way
6 up in these very stringent times, that the F.B.I. budget was
7 at the top of the Department of Justice's priority list of
8 appeals. When we went through the F.C.I. budget, which not
9 only goes through OMB but also through the Director of Central
10 Intelligence, additional cuts in our personnel were proposed.
11 The Attorney General went to see the President of the United
12 States, and recovered 100 Special Agents for us.

13 Now, we've heard mention yesterday of the Attorney
14 General's decision to protect the confidentiality of one of
15 our informants, who had given information under a pledge of
16 confidentiality, and whose safety was in real jeopardy in
17 New Jersey. These are just some of the examples of specific,
18 important contributions which the Attorney General, with the
19 whole wide range of responsibilities to the Department of
20 Justice, has found time to do for us on a personal basis. It
21 has been a great pleasure working with him in the past year.
22 We were friends beforehand; I think we're better friends now.
23 I know the warmth and appreciation that he feels for this
24 organization, and I just wanted to demonstrate in chapter and
25 verse some of the major contributions that Judge Bell has

1 made in the last year.

2 Gentlemen, it is a pleasure to introduce the
3 Attorney General of the United States.

4 (Applause.)

5 ATTORNEY GENERAL BELL: Thank you very much, Judge
6 Webster, and gentlemen. I am going to speak about four or
7 five minutes, and call on Mr. Civiletti to speak about ten
8 minutes, and that will save us about 40 minutes for questions.
9 I am a great believer in the proposition that you can communi-
10 cate better with questions and answers, than you can through
11 speeches and lectures, so we will test part of that out this
12 morning.

13 Two things I want to mention, and both have to do
14 with ethics. You hear a lot about ethics today. We had
15 Howard Cosell speak to the employees across the street yesterday.
16 I didn't know what he was going to speak on. He's a friend
17 of mine, and I thought maybe we ought to have some outside
18 speakers on occasion; and he spoke on ethics in sports, and
19 it was a pretty gruesome picture that he painted about the
20 skullduggery going on and affecting sports in this country.
21 But I will leave that to someone else, and talk about our own
22 business.

23 We continue to have leaks in cases. When I first
24 came here, the leaking was so bad that they embarrassed the
25 Attorney General. We were operating in a most unprofessional

1 manner. We got in very serious trouble in the F.B.I., break-
2 ing cases in New York, and part of it came through leaks that
3 came out of the group of lawyers who had been working on a case
4 before I came. Judge Duffy became quite exercised, and I
5 took affidavits from everyone that had anything to do with
6 the case, and found out just who the person was that had
7 talked to this reporter, Seymour Hersch of the New York Times.
8 And the person is no longer working in the Government. Judge
9 Duffy seriously considered bringing him there and putting
10 him in contempt; finally decided not to do it.

11 In Atlanta now, in the Lance case, we are in some-
12 thing of the same situation, and Lance's lawyers have filed
13 suit against me and others on the grounds that we have leaked
14 information, grand jury information. They are just trying to
15 get the case thrown out, on that basis or other relief, such
16 as contempt, that sort of thing. It is just pro forma against
17 me, because I am disqualified in the Lance case, on account of
18 having owned stock in his bank, the Bank of Georgia. But the
19 serious thing, it points up again that if we are really, truly
20 professional, we don't leak out information that will -- out
21 of an investigation, whether it's in the grand jury, out of
22 the grand jury, or where. No one has accused the Bureau of
23 doing the leaking; it's generally thought to be the lower level
24 of the lawyers, as best we can tell. It may not be there; it
25 may be through another Government agency that has been working

1 with the Justice Department lawyers and the F.B.I. There are
2 two or three other agencies. One of them -- it may be another
3 agency, because one of the reporters has seemed to get some
4 of the news that covers another department of the Government,
5 not the Justice Department.

6 At any rate, however it is happening, it is unpro-
7 fessional, unethical, and something we ought to be on guard
8 against.

9 The second thing, a matter of ethics I want to
10 mention, is a thing called the Ethics in Government law,
11 which takes effect July 1. This bill is the -- the law is
12 the finest hour for the interest groups, and the greatest
13 accomplishment in their history was in this bill. They have
14 -- if the bill stays as it is, the bill gets momentum, it
15 will effectively eliminate any short-term worker from ever
16 coming into Government: the "dollar-a-year man" that became
17 famous in World War I and World War II, will be a thing of the
18 past, and no one will be able to come in for a short time in
19 any kind of a responsible job, because of the penalty you
20 have to pay to leave, would be not only a -- for one year
21 you couldn't go back to an agency, before an agency, but for
22 two years you couldn't have anything to do with any matter
23 that fell within your official responsibility.

24 In my case, that would mean every matter within the
25 Justice Department, in the F.B.I., in the U.S. Attorneys

1 Offices, in the country, whether I'd ever heard of it or not.
2 So, that would effectively -- for two years, I might -- I
3 would just make arrangements to go teach somewhere, maybe go
4 into the banking business, or --

5 (Laughter.)

6 This is aimed at lawyers. I told the President that
7 they had shot -- misfired, and hit doctors and scientists
8 harder than they did lawyers. I gave an example, of a
9 doctor who dedicates his life to cancer research, works out
10 at the National Institutes of Health, on a very narrow -- in
11 a narrow area. At some point it is necessary for him to leave
12 there, and go to Sloane-Kettering in New York to continue that
13 same research. He would be a -- possibly charged with a
14 felony, if he comes back and deals with the same people he
15 was working with at the National Institutes of Health.

16 Some engineer at the Defense Department, working on
17 a missile system, submarines, let's say, some complicated
18 thing -- left to go work on the other end of the project, he
19 couldn't -- he may have helped get them some technical
20 information for a change order, and he might be charged with
21 something. This is an overkill. This takes us back to the
22 time of ancient Greece, when Solon came in and had to rewrite
23 all the laws, because every time their legislature would meet
24 they would raise penalties, until they finally had nearly
25 every minor crime carrying a death penalty. Solon came in and

1 rewrote all the laws, which seems to be in the process in
2 this country, of overkill of that sort.

3 I'm hoping that we are going to get some changes
4 made. We are proposing some changes that will narrow this
5 field, and will relieve the doctors and scientists, and to
6 some extent the lawyers, of the problem of at least a chance
7 to make a living without being charged with a felony. These
8 are what we call the "technical amendments". I don't know if
9 they will pass or not, but if Congress is going to pass them,
10 they'll have to pass them in a hurry, or the people will be
11 gone, because they -- these scientists and doctors are --
12 they react like sheep following a shepherd. They went out and
13 got lawyers of their own to find out what the law meant, and
14 when they found out, they said they were leaving; and I don't
15 blame them. I would leave myself.

16 I found nothing but a cooperative attitude on the
17 Hill, amongst the leadership, when we went up and asked for
18 these changes, and the President agreed to change it right
19 off the -- these are things that were put in the bill, after
20 the bill got up to the Hill. This is a good example of what
21 the staff in the Congress can do as to legislation; they
22 carry great power now. The staff, working with interest
23 groups, will do us in; and we've just about been done in by
24 this. There's nobody in the country that's not in favor of
25 ethics in Government. Take a high-sounding title like that,

1 and add all these restrictions to it, you're going to end up
2 with a situation that's very much against the public interest,
3 in my judgment. We'll talk more about that later, in the
4 question and answer period; but you can ask me anything that
5 comes to mind, once I get a chance to get back up.

6 Now, I would like to present my Deputy Attorney
7 General, a man in whom I take great satisfaction, Ben
8 Civiletti.

9 (Applause.)

10 MR. CIVILETTI: Thank you, Judge Webster and Judge
11 Bell. Good morning, gentlemen.

12 I know a good many of you from speaking engagements
13 or trips around the country in the last two and a half years,
14 but it gave me a thrill to walk into the room this morning,
15 behind Judge Bell and Judge Webster, and see you assembled
16 together, the quality of men and the outstanding careers of
17 performance that you stand for in the country. It's a little
18 bit like -- some of the best ceremonies that I have been to in
19 the Nation's Capital have been those ceremonies which start
20 with the presentation of the colors, and the Marine Band.
21 You're going to have to have a hard heart or a black soul not
22 to be thrilled when that occurs.

23 I would like to address, from a couple of different
24 aspects, the achievements and progress as we look at it, or
25 as perhaps a different perspective, the lawyers' side in the

1 last two and a half or two years. One, progress is measured
2 by some improvements, assistance. It is also measured by
3 resistance to attack or to deterioration, and it is also
4 measured or can be judged by advances in product. And I would
5 like to address that progress from the point of view of the
6 last year or year and a half or so, short-term, near-term
7 prospects, and then a few directions that I see in the future
8 which are good signs and high hopes.

9 First, in the administrative field, it seems to me
10 that the ADP system, management knowledge at the SAC level
11 has proven out more this year than any other year; that
12 Director Kelley, and other improvements built on by Judge
13 Webster, have enhanced the capacity of decision-making and
14 knowledge here, aided in the budget presentations. You know,
15 it's very difficult -- as you all know, you've been through
16 it many, many times -- it's very difficult to communicate, it
17 is to me, to communicate with OMF and then again to try and
18 communicate with OMB, because they speak a different language.
19 They speak in terms of numbers, and I think we now are beginning
20 to, at least on our side, the Bureau has been able to do it
21 better consistently for a long, long time. We now have
22 better ammunition, better language to speak, in order to
23 obtain the kind of resources necessary here.

24 Administratively, minority employment, strides have
25 been made there, with your hard work, with a reach-out program,

1 and with Judge Webster's leadership. The priority system,
2 I think has improved the capacity and flexibility and strength
3 of the Bureau substantially.

4 Short-term, near-term, further administrative type
5 of strengths, I think message-switching, arguments, and
6 symbolism and nonsense, is going to be ended very shortly; and
7 positively, I think through an election process, we've had
8 some luck, and I think finally some understanding --

9 (Laughter.)

10 MR. CIVILETTI: -- I think finally some understanding
11 of some principles. They are not very difficult, but they
12 are apparently very hard to understand, even in good faith,
13 which has not always been present, I think, on this issue. I
14 think we will bury that issue very shortly.

15 FOIA, I think the Congress, there, and others in
16 the public, do not want 16 percent, 20 percent of the work of
17 the Bureau, in the issuing, releasing information from its
18 files, to be released to criminals, to convicted criminals,
19 or their aides; so that I think that at least we will be able
20 to achieve, in the near term, some redressing of the abuses
21 that are now present under the Freedom of Information Act.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

With regard to the Federal Tort Claims Act, Judge Webster and Judge Bell have probably fought more skirmishes without yet winning the war, in that field, as any other --

1 fought -- I won't detail all of them, but fought the ABA and
2 fought the congressional committees, fought over in the review
3 process of approval for legislation, fought the Civil Division,
4 and now fighting, of course, with the Federal Tort Claims Act
5 introduced by Senator Kennedy, with a very substantial state-
6 ment in support of it, and it's now pending before Senator
7 Bayh's subcommittee. And it is one of those bills that just
8 attracts cumbersome collateral problems to it; and the problem
9 which it is now interrelated with, should not be -- it doesn't
10 have anything to do with it -- is the intelligence charter.

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
There have been lots of setbacks in the course of the two-year struggle with the Tort Claim Act amendments. We are not set back in this instance; it is simply a delay, but we are determined -- I am

1 determined, and I know Judge Webster and Judge Bell are, from
2 their performance -- are determined to continue the skirmishes
3 and overcome them, and to get the legislation enacted.

4 With regard to training, I think training has been
5 continued at the pace it's always been, and it has been one
6 of the prides, I think, of the public and the F.B.I., and why
7 the public has the rightful impression that the F.B.I. has
8 been, is, and will continue to be the finest investigative
9 force the world has ever had, civilization has ever seen.
10 Quantico -- performance at Quantico, the number and capacity
11 and ability of the training program there, continues at an
12 outstanding level. Additional training, though, added -- in-
13 service, in part, and in other ways joint training with pro-
14 secutors and investigators in special areas, I think has made
15 some advances over the last year and a half, two years or so.
16 The white-collar crime unit training that Joe has been so
17 heavily participating in, has been very worthwhile. I anti-
18 cipate in the short run, and perhaps even in the long run,
19 that financial investigation training, integrated training
20 between not only prosecutors and agents, but between
21 specialists in other areas looking to the F.B.I. for guidance
22 and direction and support, will increase. And I think as we
23 do the really hardest work, as we are now doing and have been
24 doing for a long time, but the emphasis continues to be at
25 the very hardest work, the other side of that prioritization

1 is going to be an increase -- and it will be a difficult area
2 -- is increased dependence on the Bureau to not only support,
3 as we do, but to specially train the executives, the manage-
4 ment, the Captains and Majors, of State and local police
5 authorities, in the manner and method of not only administra-
6 tion, but technique, performance, incentives, and all of the
7 rest. I say it's a tough area, because -- although we've
8 done it well, and done it for years and years and years --
9 the quantity of doing it, I think, is likely to increase, and
10 that poses a budgetary problem. And there is a strong
11 feeling that the mood of the country now, and in the years in
12 the future, will be toward balanced budgets and looking to the
13 States to provide their own resources and revenue expenditures.
14 But I think that's inevitable, that we will be asked to assume
15 even more and more of a role, as we try to -- with flexibility
16 and good sense -- move from less onerous duties into more
17 onerous duties.

18 With regards to techniques, we have, I think, pro-
19 tected well the techniques which are most useful to us. We
20 have even, I think, to some extent, perfected some of those
21 techniques; and in other areas we are continuing to learn,
22 beginning with informants, undercover operations, Title 3s,
23 grand jury performances, investigations, immunities, and
24 record access -- a little bit of a balancing, with regard to
25 record access, troublesome, but it's far better than the kind

1 of stone wall that was put up with an Act such as the 1976
2 Tax Reform Act.

3 And the SWP case is, as you have heard in detail,
4 I'm sure, a victory for the principles which are so important
5 to effective law enforcement. The undercover operations which
6 are now under way, are, I guess, at the highest level in terms
7 of numbers and sophistication and difficulty and achievement,
8 that has ever existed outside of -- in the criminal field,
9 outside of the counterintelligence area -- that have ever
10 existed in the entire history of the Bureau. Sure, there are
11 problems. They are very difficult. And there are civil
12 exposures, and there are, of course, the individual exposures
13 to danger and to risk and serious bodily injury, which has
14 tested the Bureau. But the Bureau has not only met the test,
15 but it has met it superbly, and the men and women in the
16 F.B.I. have proved again that the confidence that the public
17 and the laws impose in them, in this new area -- which again,
18 in the short term and in directions, will become, I think, a
19 larger and larger part of the role that the Bureau plays,
20 without restricting or subverting or damaging to any extent,
21 the informant systems and networks and their importance.

22 I think we will, in techniques, I think that
23 equipment, use, development, and improvements in equipment,
24 will -- in the near term, perhaps not, but certainly in a
25 three or four-year period -- will prove to be of extreme

1 importance and help to us. Equipment of all kinds, not only
2 communications equipment, detection equipment, and laboratory
3 equipment, electronic equipment, but in protective equipment,
4 in security equipment, too.

5 Most importantly, though, in terms of achievements
6 and measures, I think are what I would loosely refer to as
7 "action achievements" in every area, in every single area of
8 importance, or of emphasized importance. We do a tremendous
9 number of things, and you do, that are important, which are
10 not emphasized or are not priorities. That doesn't mean that
11 they're not important; they are all extremely important. But
12 in these emphasized areas: espionage, terrorism, corruption,
13 economic crime, Government crime, organized crime -- the
14 performance in the last two and a half years, or the last
15 year, year and a half, has been absolutely astounding. The
16 cases that have been brought in every major city, in smaller
17 cities, the scope of the cases, the intensity of those cases,
18 -- and you can tick off 15 cases in every one of these fields
19 -- the rapid response time has been sensational. And they've
20 been high-visibility, they've demonstrated to the public and
21 reconfirmed the value and the performance of the Bureau in
22 its everyday operations, day in and day out, week in and week
23 out, year in and year out. And I think that that has enhanced
24 the honor and respect in which the public holds the F.B.I.
25 and its people, and Judge Webster's --

1 (End of side one.)

2 (Laughter.)

3 MR. CIVILETTI: Essentially, there is a legal argu-
4 ment now that the statutory language for the payment of AUO
5 can be read to require that the overtime -- subject to call
6 for overtime -- must be continuously or regularly such that it
7 could not possibly be administratively managed as double-time,
8 or time-and-a-half, or other overtime provisions are managed;
9 and that therefore, if someone is in a removed position --
10 what we would call, say, a management position or an admini-
11 strative position -- who is not directly in the line of law
12 enforcement and investigations, subject to being called out
13 and working this, that, and the other thing, that the statutory
14 language compels that whenever an administrator or manager or
15 unit is able to assign the work on a regular basis, or control
16 overtime on a regular basis, or a fairly regular basis, that
17 it must do so not with AUO, but in some other payment basis.
18 And that applies to the position, as well as its -- the
19 regularity of the individual occupying the position, or indi-
20 viduals.

21 What we want to do is to slightly change the
22 language, to eliminate that argument entirely, so that the
23 AUO system that we now have that works so well for us,
24 regularly, and we are all, I think, fairly -- even those in
25 administrative positions -- you know that you may be, you

1 know, for a month -- somebody may be 9 to 5 -- we are all on
2 call. We can not control the responsiveness that we must
3 make, sometimes hourly or daily or weekly, and sometimes for
4 a long period of time, to the duties that we have; and there-
5 fore, by a slight change in the statutory language, we can
6 eliminate the perennial argument that somehow, some positions
7 in the Bureau -- either in the field, or particularly at
8 headquarters -- can or should be removed from the AUO status.
9 And it seems to me career development is such, that we -- it's
10 essential not to penalize people coming in here to head-
11 quarters. In fact, it seems to me they ought to get hazardous
12 pay --

13 (Laughter.)

14 MR. CIVILETTI: That's essentially it.

15 ATTORNEY GENERAL BELL: In connection, I know a
16 law firm that's opening an office in Washington, and they are
17 going to pay their people assigned here 15 percent more than
18 they get in the headquarters city, because they find that the
19 cost of housing is so terrible in Washington. It really is a
20 big handicap. The first year or two you've been assigned to
21 Washington, I think you ought to get paid something extra.

22 MR. CIVILETTI: Aggravation pay.

23 (Laughter.)

24 SPEAKER: Recently there was correspondence from
25 the Bureau with an attachment from the Department, on the

1 possibility of modifying the Department of Justice guidelines
2 on Dyer Act prosecutions. Two questions, really: One, is
3 that a contemplated change in the near future? Two, I think
4 they suggested that they might put the -- make the Dyer Act
5 one of the legs of the RICO statute, add that to the
6 RICO statute. Is there any current change on --

7 ATTORNEY GENERAL BELL: I don't know. The Deputy
8 Attorney General will have to answer the -- I want to say,
9 in my experience as a Federal Judge, that it was the finest
10 thing John Mitchell ever did -- and he probably did some
11 other fine things -- the finest thing he ever did was to take
12 the Bureau and the U.S. Attorneys' Offices out of these minor
13 Dyer Act cases. When I was first appointed as a Federal
14 Judge, that's about all that it seemed to me the Bureau and
15 the U.S. Attorneys were doing, in the South, other than -- the
16 U.S. Attorneys' Offices were handling bootleg cases, but the --

17 (Laughter.)

18 ATTORNEY GENERAL BELL: Be thankful the Bureau never
19 had to get into that.

20 MR. CIVILETTI: The basic principle, I don't think,
21 has changed, but there is concern and there is recognition in
22 the -- some of that correspondence reflects it, that as some-
23 times happens with a good idea, with a good purpose and a good
24 direction, you go beyond that which you intend, or the con-
25 sequences go beyond that which is intended; and you have to

1 be extremely careful with that, and here we have a growing
2 problem involved in commercial -- you know, utilizing the
3 opportunity that we are less, have less coverage in the area,
4 and less emphasis in stolen motor vehicles, to develop and
5 blossom into the "chop shops" and the rings. And they are
6 difficult to prosecute and -- I mean, difficult to investigate,
7 and difficult to penetrate, when you are not running the
8 underlying operation in an intensive way, of Dyer Act cases.
9 So the issue is being thought about; it is serious; it is of
10 concern. But I don't think the solutions will be a major
11 change in Dyer Act policy, although I do know, as you pointed
12 out, that there is some sentiment to bringing in the enter-
13 prise concept in the Dyer Act under RICO, because of the
14 availability of the punishments and the system.

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

ATTORNEY GENERAL BELL: I think Judge Webster sent all of you a copy of the opinion in the Socialist Workers case in New York. That trial, that was the first time, in modern times, that a court has ever said anything in behalf of the law enforcement apparatus, the Attorney General, or what not, and a very fine opinion. I have had a high regard for the courts, but it certainly improved after that --

(Laughter.)

SPEAKER: Judge Bell, would you comment on the intelligence charter status?

ATTORNEY GENERAL BELL: Yes, I'll be glad to comment.

I am not keen on a charter

1 for the F.B.I. on the domestic side or the intelligence side,
2 for different reasons.

3 On the domestic side, we're getting along mighty
4 well, now. We've learned to live on the guidelines; we have
5 systems in where people sign for -- to assume responsibility;
6 written records are made; and once we get over in the Congress,
7 I don't know what will happen to us. So I've never agreed to
8 the charter, the domestic charter. Ben and Judge Webster
9 agreed to it, because we had to send something over there.
10 But my position is that I would just as soon not have it, so
11 if some Senator or Congressman wants to add something to it
12 that is restrictive, too restrictive, then I am going and say,
13 "Well, I'm against it. Let's just drop it, just forget it."

14 The same way with the intelligence charter. They
15 have got a charter they drafted and sent, which I'm very much
16 opposed to, frankly. It's called S. 2525, I think it's called.
17 We have got enough of a charter of our own, which applies the
18 Fourth Amendment to procedures. It keeps it within the
19 bounds of the Fourth Amendment. Ours is a very simple -- and
20 in my short experience with Washington, I find you can't get
21 anything done if it's simple. You have to complicate it.
22 And so I doubt ours will go anywhere, so I expect my position
23 is going to be, that we would be just as well off just to
24 leave everything alone. And what I said -- yesterday, some
25 Senators or staff people said they would be glad to introduce

1 one charter or the other -- I don't know which one it was --
2 at my request. Well, I'm not requesting it. At one time, I
3 thought we needed a charter, particularly a domestic charter,
4 and perhaps an intelligence charter; but we have learned to
5 live without it, and I'm afraid we'll be done in if we aren't
6 careful, as the process continues. I think what we ought to
7 do is be cautious. We'll see how it goes. I guess the idea
8 that they would be holding up the amendment, in the Senate
9 Select Committee on Intelligence, to try to get a better
10 intelligence charter -- that doesn't set well with me, either.
11 I understand "blackmail," "graymail," "whitemail" --- ---

12 (Laughter.)

13 ATTORNEY GENERAL BELL: I know what that means.

14 SPEAKER: The Financial
15 Privacy Act of '78 has cut off a lot of our informal access
16 to information on various types of business, and we recently
17 had a ruling out of the Department that we could not use
18 grand jury subpoenas unless the case was being heard by the
19 grand jury; particularly in fugitive-type cases, we're just
20 about without any tools. Is there any consideration on the
21 part of the Department, how we might be able to obtain and
22 protect the sources of these documents?

23 ATTORNEY GENERAL BELL: I think there is a court
24 decision that says you can't use a grand jury subpoena, unless
25 the grand jury is considering the matter, or expects to con-

1 sider it. Ben, do you know anything about that?

2 Ben keeps up with the privacy laws. You know, the
3 bankers have got this started, the Bankers Association, so
4 its not -- you can't say that everyone is interested in law
5 enforcement. That's why I don't get too excited when the
6 bankers call on me about helping with bank robberies. I think
7 that they should have thought about that when they sponsored
8 this privacy legislation --

9 (Laughter and Applause.)

10 MR. CIVILETTI: As you may know, when we got into the
11 Financial Privacy Act, and by "we" I mean the Department, it
12 was over in the Finance Committees -- it wasn't in our
13 Judiciary Committee, it hadn't come up that way. It was
14 proposed, as the Judge said, by the bankers and by some
15 Privacy Commission, and it was from a prior Administration,
16 but came out of this Administration; and there is sentiment
17 among the public, generally, or, I guess, an Orwellian kind
18 of fear -- it's not fear of law enforcement. It's fear of
19 Government, generally, and people poking around in your
20 business and my business, who have got no business doing it.

21 When we got into that, it was really severe. It
22 was just heading right down the same railroad track as the
23 1976 Tax Reform Act, and that Act, the Department took the
24 position that we opposed it absolutely, entirely, and we lost
25 the game and the war and everything else. And we have the

1 result, problems with trying to get access, quick and ready
2 access and communication with the Internal Revenue Service,
3 even on the same operations, of thieves, crooks, and the rest.

4 So here, we tried to carve out and accommodate and
5 balance the interests, and did a fairly decent job. We got
6 grand jury out of it, we got the counterintelligence out of
7 it, we got the security aspects of Secret Service excepted
8 entirely from the Act; we preserved the right of informal
9 access, in effect, and truly it is a prelude to, or the first
10 step to getting the civil demand, the Bureau obtaining in
11 effect the subpoena power under a different name. It is the
12 first step, because it provides for a written request, and
13 unless there are certain objections taken and the rest, it
14 protects the bank from disclosure, and provides for -- notice
15 has to be given, and the rest, but it provides for disclosure
16 by the bank, free of some of their old arguments about liabi-
17 lity for wrongful disclosure and the rest.

18 I think that we are in a shake-down period. The
19 Act is brand new -- went into effect, what? -- March 1st or
20 15th or something. I think everyone's antsy about it, and
21 apprehensive. I think you've got more shutdowns now, or
22 closeoffs, than you will have when we become more comfortable
23 with it and have worked with it -- "we", I mean the community
24 generally, private and public -- and there will be less dif-
25 ficulty. At the same time, I think the charter, wisely --

1 this isn't an immediate answer to your problem -- the charter
2 wisely takes the next step and provides to the Bureau, the
3 civil investigative demand or subpoena power, or administrative
4 ability to obtain records, which is the next logical step,
5 even if it is under a system of restraint or potential court
6 process.

7 SPEAKER: It is quite apparent that there are 20
8 scores, or hundreds of organizations we have investigated in
9 the past, eagerly awaiting the outcome of this SWP ~~action~~
10 civil suit. Yesterday we heard that the SWP is willing to
11 settle this suit for \$5 million.

12 ATTORNEY GENERAL BELL: It was in the paper.

13 SPEAKER: Pardon?

14 ATTORNEY GENERAL BELL: It was in the paper, last
15 week. And we refused to do that.

16 SPEAKER: My questions are, what is the prognosis
17 of that case, and if we do settle or lose that case, will
18 there be scores or hundreds of other civil suits filed, and
19 keep us tied up for the next 15 years?

20 ATTORNEY GENERAL BELL: Well, of course, the
21 statute of limitations is running on some of them, but they
22 are -- this has been a difficult problem. You know, I have
23 spent more time on F.B.I. problems, I suppose, than anything
24 else, since I've been Attorney General. When I came in, I
25 reviewed a lot of these suits, and I said we'll admit liability

1 and go to trial on damages, jury trial on damages; and the
2 damages would be very slight, in my opinion. That's, to some
3 extent, the way I used to defend an antitrust case.
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7 ATTORNEY GENERAL BELL: We're not paying that, and
8 we're not -- also not paying any more lawyers for discovering
9 documents. We're going to let the jury -- the judge, in the
10 future, set the amount of money that we pay lawyers for getting
11 these documents up, under the Freedom of Information Act. I've
12 never been so shocked, as I read in the paper one morning that
13 we paid these lawyers for these Rosenberg sons,
14 in New York, \$194,000 for looking up records, for their
15 efforts they made in getting records of the Rosenberg trial.
16 And I told the Civil Division not to pay anything else without
17 me approving it personally, and I'm not approving any large
18 sums of money for anything like that. Some judge is going to
19 have to set that, in the future.

20 SPEAKER: Judge, one question we get is, in con-
21 nection with all of these civil suits -- and you mention the
22 Chicago case, the ACLU suit -- they have attorneys on their
23 side, and volunteer attorneys, all these law students, and
24 for six years, like in the SWP, it's been in a discovery
25 stage -- the Government has, at best, one attorney, sometimes

1 the Department doesn't even have an attorney assigned to it.
2 And we always seem to stand up there taking their best shot,
3 and all we do is respond to their discovery; and our people
4 in the field, our legal advisors, seem to think that we never
5 engage in filing interrogatories. We don't have the time,
6 because we have such a limited civil staff, out of the Depart-
7 ment or in the United States Attorneys' Offices. Their
8 question is, can we do more like was done recently in the
9 Dellenger case, where some of these activists, immediately
10 upon being served an interrogatory, they dropped the suit.
11 They won't respond to these, most of the activists. They
12 don't want to go into publicly what they have done, and so
13 the question is, when you are getting funds for additional
14 attorneys, is there ever going to be an opportunity to fund
15 the Civil Division and some of the United States Attorneys
16 Offices to take an aggressive approach in these civil suits?
17 We've got 300 pending against Bureau Agents right now, and it
18 is not an aggressive defense, in many of them.

19 ATTORNEY GENERAL BELL: Yeah. Well, I don't want
20 you to think that I don't have a mutual interest in this.
21 I have been sued more than 300 times, myself.

22 (Laughter.)

23 ATTORNEY GENERAL BELL: But we are -- I don't think
24 that -- the problem, that we've given the specialized attention
25 to these cases that we should have. After I was cited in

1 contempt, of course we got a lot of lawyers and --

2 (Laughter.)

3 ATTORNEY GENERAL BELL: -- somehow, they responded
4 to that.

5 (Laughter.)

6 ATTORNEY GENERAL BELL: In a hurry. But if
7 we win that case, it might be the part of wisdom to set up
8 a special unit of lawyersto see what we can do about these
9 cases. We need to get rid of these cases. It's just like
10 something that's carried over from the '60s, some of the
11 other problems we have. We just need to get somebody on the
12 cases.

13 That's a good idea, Jim. I'll see if we can't get
14 special operations going on this type case.

15 This is probably the last time I'll have a chance
16 to speak to this group. I know a lot of you, from traveling
17 around the country. I want to thank you for your help in
18 the past, and for your friendship.

19 Senator Eastland was Chairman of the Senate Judiciary
20 Committee, and a man of few words. And we were over in the
21 Rose Garden one day, launching the bill to create the Foreign
22 Intelligence Surveillance Court. The President asked
23 Senator Eastland if he had anything that he would like to say.
24 And he said, "Yes, I'd just like to say that I'm for the F.B.I."

25 (Laughter.)

1 ATTORNEY GENERAL BELL: That's all he said, just --

2 (Laughter.)

3 ATTORNEY GENERAL BELL: So, we had a going-away
4 party for Senator Eastland over in the Conference Room at the
5 Justice Department, and everybody had had a drink or two, and
6 he was feeling emotional. And I'd said some nice things
7 about him, and I asked him if he would like to say anything
8 in response. And he said, "Yes, I'd just like to say I'm
9 for the F.B.I."

10 (Laughter.)

11 ATTORNEY GENERAL BELL: That's all he says.

12 Not long ago, we were arguing something about the
13 Budget Director, but I've forgotten what it was. I was in
14 the dining room over at the Justice Department, and I told
15 somebody to go and get that straightened out. I said, "I
16 want it known that I'm for the F.B.I."

17 (Laughter.)

18 ATTORNEY GENERAL BELL: Just like Senator Eastland.
19 They all said in unison, "We know that already."

20 (Laughter and Applause.)

21 MR. WEBSTER: Judge Bell and Ben Civiletti, I think
22 that the response speaks for all of us. Thank you, and
23 Godspeed to you, wherever you may serve your country.
24

25