



Ambassador Jeffrey L. Bleich – Talking Heads Function

**Remarks of Ambassador Bleich
Talking Heads Function
Attorney-General's Department**

(As prepared for delivery – November 24, 2010)

Thank you, Roger, for that kind introduction. After an introduction like that, people often say, “boy, I only wish my mother and father were here to hear that.” But I actually brought my mother and father along to hear that. I want to thank you all for inviting me, my wife Becky, and my parents – who are visiting for Thanksgiving – to join you for today’s Talking Heads program here at the Attorney General's Department.

As Roger mentioned I’m a recovering government lawyer myself, and so it is good to be among friends and colleagues. As you know, lawyers do not always get the best treatment from the media and the public. In fact, I didn’t realize you could fall further on the social food chain until, of course, I became a diplomat. One of America’s Founding Fathers, John Adams, once remarked that based on his long experience, he’d concluded that one useless man was a waste. Two was a law firm. And Three or more was a diplomatic corps.

Notwithstanding the abuse we take, I am very proud of being a lawyer and especially enjoy working with Attorney General McClelland and your excellent staff on a range of legal issues.

One of the interesting things about working with another nation’s Attorney General’s office is that discover each other’s histories and customs, and some of the similarities and differences. Some of them are superficial – for example when referring to more than one Attorney General, we say “Attorneys General” and you, more sensibly say Attorney Generals. I assume the only reason for our expression is that it’s a way of making those who aren’t in the know feel like they aren’t “in the know.” Likewise, you call the boss the Attorney, while we -- for whatever reason -- call him or her “the General.” (Which they secretly love).

But one of the main differences is that while your system by custom restricts who is picked as AG to someone who is both a lawyer and a member of parliament, our system and custom allows the President to appoint any lawyer that the Senate will approve. Over history, our experience has confirmed that if your rule is that any lawyer can be AG, eventually pretty much any lawyer will be AG. It is a little like Warren Buffett’s line –



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you should make jobs so that any idiot can do them . . . because eventually one will. We've had some magnificent AGs, but we've also had some people who went to jail or should have gone to jail or quite possibly did not know how to spell "jail."

So I thought I'd tell you all about some of our AGs before going into the issues today because, if nothing else, it will reassure you that however challenging your career may be these days, you're probably doing better than some people who once served as Attorney General of the U.S.

In general, our AGs have fallen into three categories – highly experienced government lawyers, high profile political figures, and good friends of the President. What is interesting to me, is that there is really no pattern over which of these categories produces good and bad AGs.

You'd assume, for example, that picking someone for AG who was inexperienced, simply because he or she is a friend, would be a bad way to pick an AG. But that's not necessarily true. Let me start with a good AG. Perhaps no Attorney General came to the position with as little lawyering experience as President John F. Kennedy's choice for AG – his brother Bobby. Bobby, who was 35, had graduated from law school only 8 years earlier, had no experience in any state or federal court, and he'd spent a pretty good amount of his time after graduating doing jobs like being a campaign manager, political advisor...and well, brother of the President.

Obviously President Kennedy knew his decision to appoint his 35-year old brother Attorney General would be controversial. Apparently to see just how controversial it would be, he revealed it in advance to Ben Bradlee, the editor of the Washington Post. Bradlee responded by asking how on earth President-elect Kennedy ever expected to announce he was appointing his brother AG without the media immediately exploding. Kennedy said:

"Well, Ben, I think I'll open the door of the Georgetown house some morning about 2:00 A.M., look up and down the street, and if there's no one there, I'll whisper, 'It's Bobby'."

As expected, when it was announced, there were howls of protest over the choice.

But to everyone's surprise, Bobby Kennedy turned out to be an outstanding AG. He understood his limitations and so chose a superb group of deputy and assistant attorneys general, including future Justice Byron White and future AG Nicholas Katzenbach.

As a team, they led a relentless campaign against organized crime, voter fraud, and civil rights abuses, and his record helped him become elected Senator from New York and ultimately the leading candidate for President.



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On the other hand, some Attorneys General who had impeccable credentials and seemed certain to excel turned out to be disasters. James Clark McReynolds was probably one of the most qualified people to be AG at the time he was appointed by President Wilson. He'd graduated at the top of his class at Vanderbilt and then University of Virginia Law School. He worked in government, practiced law, taught at Vanderbilt Law school, and had been as assistant attorney general for Teddy Roosevelt. Even one of his detractors, William Taft, acknowledged that as a legal thinker, McReynolds was an able man. The problem was that McReynolds was a jerk.

Just to give you some flavor for the man, he would not accept Jews, drinkers, blacks, women, smokers, married or engaged individuals to work for him. In fact, for his direct aides, he made sure they didn't date at all. They needed to live in the same apartment building with him so that he could order them to do things like his laundry or simply so that he could summon them to his room at odd hours and berate them.

President Wilson was so concerned that McReynolds was wrecking the Justice Department that he did what any sensible President would do: he put him on the Supreme Court. Apparently, he figured he could only infuriate 8 other people rather than an entire Agency. McReynolds managed to succeed admirably in this role . . . of infuriating his colleagues. He refused to acknowledge fellow Justice Louis Brandeis at all because Brandeis was Jewish: would not shake his hand, would not talk to him, even prevented the Court from having a ceremonial photo taken of the Justices because he didn't want to be photographed with a Jew. He caused two other Justices to quit their golf club simply because they couldn't stand having to see him on weekends, as well. Justice Clarke actually quit the United States Supreme Court altogether – abandoned his life tenure -- rather than work with McReynolds. Ultimately he inspired Chief Justice William Taft to fantasize about McReynolds' untimely death. Taft called him "selfish to the last degree... fuller of prejudice than any man I have ever known,... one who delights in making others uncomfortable."

Finally, in terms of the third category, Attorneys General who were experienced politicians, it is sort of a mixed bag.

Edwin Stanton was appointed Attorney General by President James Buchanan at the dawn of the civil war. He took his responsibilities seriously and likely changed the course of history. Despite his boss's inclination to have the South simply secede from the Union, he strongly opposed this on legal grounds. He is credited by historians for changing Buchanan's governmental position away from tolerating secession to denouncing it as unconstitutional and illegal.

Stanton's leadership was so great, that he was drafted to be next candidate to be President of the United States. He was considered a lock, until he was shocked to be beaten in the



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primary by Abraham Lincoln. To give you some sense of the quality of Stanton, he later served under Lincoln. Indeed, after Lincoln was killed, he said of Lincoln, the man who deprived him of the Presidency -- "There lies the most perfect ruler of men the world has ever seen."

On the other hand, not all political animals do as well. John Mitchell, bond counsel to the State of New York, became campaign manager for Richard Nixon. When Nixon won, he appointed Mitchell as AG. It probably should have raised some alarm bells somewhere that President Nixon specially directed the FBI not to do the usual background check on Mitchell. Among Mitchell's contributions to jurisprudence, he assisted covert efforts to sabotage the Paris Peace Accords that would have ended the war in Vietnam, instituted illegal wiretaps, controlled a political slush fund to gather intelligence on democrats, was indicted for obstruction of justice, assisted in the Watergate break-in and coverup, and was found guilty of conspiracy, obstruction of justice and perjury and served 19 months in prison.

Now while Mitchell was the only AG who actually went to prison, he did kick off a pretty bad streak of subsequent AG's being indicted and/or convicted and resigning in disgrace. Richard Kleindienst, Mitchell's replacement, forgot to mention at his confirmation hearing that he'd been told Nixon was involved in the Watergate break-in. He resigned in disgrace and was convicted of a misdemeanor for perjury during his testimony before the Senate. His replacement, Attorney General Elliott Richardson was a decent man, so he didn't last long. He resigned rather than follow Nixon's order to fire the Watergate Special Prosecutor who was exposing the whole break-in scandal. Richardson's deputy also refused and also resigned that same night. Ultimately, the task of firing the prosecutor went to the Solicitor General, Robert Bork, who was delighted to do it. Later the Senate delighted in torpedoing Bork's nomination to the Supreme Court. We now call this Borking.

After that, President Reagan's AG, Ed Meese, resigned in disgrace due to his role in the Wedtech scandal. Wedtech was a company that won many of Department of Defense contracts under a special program for minority-owned businesses. The only problem was Wedtech's majority owner, a guy named Fred Neuberger, was not a member of any minority. To get around this inconvenient fact, the company forged documents to keep Neuberger's controlling ownership secret. Their lobbyist who had been Ed Meese. While Meese was never convicted of any wrongdoing, he resigned in 1988 when the independent counsel delivered the report on Wedtech.

So what can we draw from all of this. First, as I said, you're probably feeling very good about your own AG at this moment. I know that this history also makes me appreciate how lucky we are in the United States to have our extraordinary AG, my friend Eric



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Holder. But second, it reminds you that what makes a good AG has less to do with background, or specific training, or political experience, or a relationship with the President or Prime Minister, as it does with having a commitment to the core values of our Constitutions. Good AGs recognize that everyone in society is subject to the law; no one more so than themselves. They must ensure that regardless of partisan politics they protect the nation like General Stanton, they ensure equal access and equal treatment like General Kennedy, and they choose good talented people and treat them well – unlike Justice McReynolds, because government lawyers have great power, and great responsibility.

We are fortunate that these same values endure here in your office. In the 11 months since I arrived, I have worked with your office on every subject from Drug interdiction and enforcement (recently our cooperation lead to the third largest cocaine seizure in Australian history), counter-terrorism including our efforts to restore civil law to Afghanistan, addressing international Organized Crime, cyber security, and combating trafficking in persons.

We have a busy year ahead. Just last month the Quintet Group on Organized Crime held their inaugural meeting in London to coordinate efforts on criminal syndicates and we'll be following up on that effort soon. We're cooperating extensively on Cybercrime and I want to thank you all for committing that Australia will be joining the Council of Europe's Cybercrime convention. Next month the United States, Australia, and Japan will participate in Trilateral Strategic Dialogue – Counter-Terrorism Consultations in Melbourne. And of course in July AG Holder and the AGs from the UK, Canada, and New Zealand will be here for the next Quintet of Attorneys General meeting.

Fortunately with all of this at stake, we have two outstanding departments with first rate AGs. I thank you all for your service and I look forward to working with all of you in the months ahead to make our nations more secure, more just, and more connected.