

Private Employment
Assn. Greensboro

Address by: Robert Morgan

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ON THE ROLE OF THE ATTORNEY GENERAL IN REPRESENTING
THE PEOPLE

I am pleased to be your guest tonight, and I am grateful for the opportunity of speaking to the Association of Private Employment Agencies. Your association has been more than cooperative with our office - in fact, they have come to the Consumer Protection Division voluntarily to offer their assistance on any complaints we received on employment practices.

And, considering that some 120 general employment agencies operate in North Carolina, it is with pleasure that I tell you that this past year, our Consumer Protection Division received only a dozen or so complaints concerning employment practices. This record looks even better when you consider that employment agencies interviewed something like 60,000 applicants for those 15,000 jobs. This is a record of good business in North Carolina, and reflects well on the North Carolina Labor Department in enforcing the regulations governing employment agencies. The willing and helpful cooperation received from your association and its leaders has also been a most important contribution to this record of good business.

Many associations and businesses are not quite so cooperative, and I believe, simply because they do not realize what we are trying to do.

If I may, let me give you some of my thoughts and ideas of the role of the Attorney General in appearing before state and federal regulatory bodies as the people's advocate and in representing the people through the Consumer Protection Division.

I remember that when I first began thinking on the idea of running for the Office of Attorney General, I asked myself several questions, the answers to which I thought were vital to any decision to become a candidate. Though a lawyer myself, I lacked even a basic knowledge about the office itself.

"What is the office? Where did it originate? Historically, what role has it played in the government of people? Has the office served the people of North Carolina as intended? If not, is there potential for increasing its effectiveness?"

I begin attempting to answer these questions, and it was not long before I had many of the facts before me and had drawn some very strong conclusions.

I quickly decided, in my own mind, that the Office of Attorney General is one of the most important offices to be held, for it is clear that all through history the Attorney General has been charged with the duty of protecting and preserving order in the land and insuring that the common rights of the people are protected.

Since the office was first created in England many centuries ago, the Attorney General has been in fact the "people's attorney," the chief law officer of the State and the effective functioning of the office has been directly related to the maintenance of basic rights and the promotion of justice for all.

I could see clearly the potential for service in the office if the current activities of the office were broadened to conform with the historical concept - the common law concept - of the Office of Attorney General. It was equally clear that for too long the office in North Carolina had been thought of as necessarily perfunctory, that it needed new energy and new direction - that it needed a new philosophy.

I believe that because an office is public in inception, it should not be less personal in its destination of sustaining service.

We must not forget that the public services of today were the private enterprises of yesterday. Citizens took turns keeping the night watch, keeping the roads in his neighborhood, digging his own well, disposing of his own sewage, fought his own fires, and hired the teacher for his own children. It is a matter of convenience, necessity, and grace that public officials are standing in the place of the citizens. When officials forfeit the right to stand in this place or forget that this is their role, then they should forfeit the right to serve.

I have pledged and my office has tried to dedicate itself to making the Office of the Attorney General an instrument of the people. I have repeatedly said that I believe government should be close to the people, responsive to the people and subject to the wishes of the people.

During these nearly three years I have served as your Attorney General, I have tried to make my office conform to this Jeffersonian concept, for I believe that as long as those of us who hold the public trust adhere to this philosophy, the people have little to fear from government.

This has been a primary objective of ours and hopefully we have moved toward responsibility, responsiveness and service to the people. I believe the Consumer and Business Protection Division within our office is the best example of the basic philosophy of our office.

While the establishment of a Consumer Protection Division seemingly is innovative, even the most cursory study of the history of the office reveals that this is one of its historic functions. As common law, it was the responsibility of the Attorney General to protect the public's interests; and as early as 1826, the Attorney General of North Carolina was instituting actions to protect the public health, safety, morals, and welfare.

To protect the public's interest. This is what I feel this office must do and what I have been doing when appearing before regulatory bodies in an adversary role. We are representing you.

All of us recognize that under our system of jurisprudence in America, we have never required any industry or any individual to go before a court and make a case against himself. It would be ridiculous for a power company, when they feel they need to increase their rates to make a fair return on their money, to come before the Utilities Commission and present all of the arguments as to why they are entitled to a rate increase, and on the other hand, to require them to present the other side.

This certainly isn't reasonable, and no one would expect any industry to do that. But, we do believe in this country in the adversary system. A recent report of the American Bar Association stated, "The atmosphere of contention, which always is present in an adversary proceeding, is still the hallmark of our way of arriving at justice.

"Two adversaries, approaching the facts from entirely different perspectives and objectives and functioning within the framework of an orderly and established set of rules will uncover more of the truth than would investigators, however, industrious and objective, seeking to compose a unified picture of what had occurred."

To give you an illustration I think that illustrates it simply. The first case we intervened in was Southern Bell. Southern Bell asked for a substantial rate increase in the Mecklenburg-Charlotte area. We appeared on the other side. They appeared in court and put their witnesses on the stand, and they testified that they needed a certain increase which I believe in this case came to about five million dollars a year from consumers.

Well, this sounded good as they got through making their case before the Commission, and if they had stopped right there, I am sure that the Commission would have had to grant their rate increase, but we begin to cross-examine them.

We said, why do you have to have this rate increase?

Well, they said, we were going to ~~im~~prove the type of services that are available to our customers.

Well, this is good. What type of improvements are you going to make, we asked?

We are going to reduce the number of telephones on party lines.

How much reduction are you going to make?

We don't know yet; we really haven't made an indepth study.

Well, if you haven't made the study, how do you know how much to increase the rates?

Well, this is an estimate.

When will these services be available, we asked?

We don't know yet; it will depend upon delivery of equipment.

Well, when will the rates become effective?

Immediately.

So you see, all these facts we brought out on cross-examination changed the whole complexion of the matter, and the rate increase was denied. The company went back and they did their homework and came back with facts and figures the Commission could act justly on.

Now, sometime ago, the Vice-President of that company came to me and he told me, "I want you to know that we agree with the adversary role that you are playing - not only because it is making us do our homework, it is making us do a better job, but second, because we would rather you do it on the State level because your door is always open to us. If you go off on a tangent or if you go off half-cocked, at least we can come to you and say what do you think you are doing. You'd better reconsider this. We may not be able to convince you, but at least, we can talk to you. But do you know," he said, and I know this to be true, "there is a bill pending in the Congress of the United States today, introduced by Senator Metcalf of Montana, which would provide 2,000 attorneys on the federal payroll, and the appropriation calls for an annual salary of \$20,000 a year in expenses for the sole purpose of appearing before State and Federal Regulatory agencies on behalf of the consuming public - just as we are doing in North Carolina.

So, here again, I think what we are doing in the Attorney General's Office is the proper exercise of state responsibility. For too long in this country, and especially in the South, we have talked about states rights, but we haven't done enough about them. I wonder often if the Attorneys General of the various states, through the years, had been a little bit more attuned to the needs of the people in their states, if we would have had so much federal intervention in all areas of our life and especially in our schools and civil rights.

When I talk with my counterparts in adjoining states, we send a complaint down, I won't say which state, that one of our consumers has been defrauded by a concern there, we get a very nice letter back saying, we appreciate hearing from you, but we have no agency in our state that we can talk with about this.

Yet, I am satisfied that whenever the federal government moves in with their class actions and their "storefront" lawyers that he is going to cry the loudest.

I believe in the adversary system - it is in the American tradition, and we shall appear and continue to appear on behalf of the consuming public before both federal and state regulatory agencies in judicial type proceedings whenever a regulated industry appears before an agency to either decrease its services or increase its charge for services rendered.

We shall continue to investigate and, where warranted by the evidence, institute actions in the federal or state courts where:

- (a) competitors agree between themselves:[to]
 - (1) artificially fix the price of goods sold;
 - (2) drive another competitor out of business;
 - (3) arrange with their suppliers to practice price discriminations against other competitors for the purpose of injuring the competition at the retail or wholesale level; and
 - (4) where manufacturers or wholesalers occupying a dominant place in the market require a retail merchant to take unwanted merchandise as a condition of a manufacturer or wholesaler acquiring wanted merchandise.

We shall continue our efforts to help maintain an open and competitive marketplace where businessmen can determine for themselves:

- (a) which products and services they are to sell;
- (b) the quality thereof;
- (c) the prices thereof;
- (d) the warranties they wish to attach thereto; and
- (e) the services the businessman wishes to render to the public regarding either his product or his services.

We shall continue to investigate and, where warranted by the evidence, institute actions in the courts where fraud and deception is practiced by relatively few merchants, wholesalers, and manufacturers, still when practiced, they bring the entire business community into disrepute. The effects are far reaching and damaging to the confidence of the buying public in our economic system, and this confidence is vital if our free enterprise economic system is to survive and flourish.

Public officers and offices are representatives of the people and this is my basic philosophy and the basic philosophy I have tried to bring to the Attorney General's Office.