

Griffin Bell

On January 26, 1977, Griffin B. Bell was sworn in as the Attorney General of the United States. A 1948 graduate of the Walter F. George School of Law, Mr. Bell served for fifteen years on the U.S. Court of Appeals for the Fifth Circuit. It is, therefore, quite appropriate that this Fifth Circuit Survey is dedicated to this distinguished alumnus.

This introductory comment to this tribute can be analogized to the statement of the case found in almost every appellate brief. Its function will be to set forth the facts of Griffin Bell's life to date and it will be followed by persuasive and revealing authorities; namely, personal tributes by outstanding members of the legal profession who have known Mr. Bell as a friend and worked with him as a colleague.

Many attorneys and judges have said that the statement of the facts of appellate practice has, in and of itself, favorably determined the outcome of innumerable cases. The record of Griffin Bell adds a new dimension to the accuracy of that statement. Mr. Bell was born in Americus, Georgia, on October 31, 1918, and continues to maintain his legal residence in his native state. He served in the U.S. Army from 1941 to 1946 and attained the rank of Major.

Following his military service, Mr. Bell entered Mercer and exhibited his academic prowess, receiving his LL.B. degree Cum Laude in 1948. While studying at Mercer, he was a member of Phi Alpha Delta legal fraternity and worked part-time for the Macon law firm of Anderson, Anderson and Walker, now Anderson, Walker and Reichert. After his graduation, Mr. Bell practiced law with the Savannah, Georgia, law firm of Lawton and Cunningham. In 1952, he was a member of the firm of Maddox and Bell in Rome, Georgia, where he remained until 1953, when he joined the Atlanta firm of King and Spalding. From 1959 to 1961, Mr. Bell served as Chief of Staff to Georgia Governor Ernest Vandiver. During his stint with Governor Vandiver, he played a major role in the establishment of the Sibley Commission, a blue ribbon panel formed for the purpose of holding hearings throughout the state to educate citizens on public school desegregation. In 1960, Mr. Bell served as the Georgia campaign manager for the presidential campaign of the late President John F. Kennedy.

In 1961, Griffin Bell commenced his service on the Fifth Circuit bench, a tenure that lasted fifteen years until his resignation in March of 1976. During this period on the bench, Mr. Bell helped shape approximately three thousand decisions, personally writing more than five hundred decisions. Serving during a time of drastic and often controversial legal developments, particularly in the area of civil rights, Mr. Bell established himself as a highly respected and moderate member of this nation's federal

judiciary system.

After his resignation from the Court of Appeals, Mr. Bell returned to the private practice of law in Atlanta with King and Spalding until his appointment as Attorney General. He has received honorary degrees from Mercer University and Oglethorpe University and also has received the Order of the Coif from Vanderbilt Law School. In 1976, he was named Man of the Year by Morris Brown College.

Mr. Bell served as Chairman of the Atlanta Commission on Crime and Juvenile Delinquency from 1965 to 1966 and also served on the Committee on Innovation and Development of the Federal Judicial Center in Washington, D.C. He has been a member of the Board of Deacons of the Ponce de Leon Baptist Church in Atlanta and was Chairman of the American Bar Association Division of Judicial Administration. Mr. Bell has also been a member of the American Law Institute, the Commission on Standards of Judicial Administration of the American Bar Association, the Board of Directors of the Federal Judicial Center, and the Visiting Committee of the Vanderbilt Law School. He is a trustee of Mercer University and the Institute for Continuing Legal Education in Georgia.

Of course, no factual record of Griffin Bell could be complete without highlighting the fact that he is married to the former Mary Foy Powell. The Bells have one son, Griffin, Jr., who is a practicing attorney in Savannah.

Any attempt to briefly summarize the accomplishments of Griffin Bell tends to be an exercise in futility—they are too numerous and magnanimous. Perhaps the words of Winston Churchill will suffice for present purposes: "The only guide to a man is his conscience; the only shield to his memory is the rectitude and sincerity of his action. With this shield, however the fates may play, we march always in the ranks of honor." The record of Griffin B. Bell reflects such a shield—his career of service to the legal profession, the honors bestowed upon him and the words of praise by his colleagues are ample evidence that he marches at the head of the ranks of honor. The members of the *Review* take pride in this school's association with Mr. Bell and enthusiastically dedicate this issue to him.

"His vigor, his imagination, his resourcefulness uncalloused by too long membership in the fraternity made him an effective voice."

To memorialize a dead judge is easy. No dead judge ever wrote anything other than scintillating, perceptive, clear, logical opinions.¹ To do this with a live judge or, even more, an even liver ex-judge might put us under some

1. *Crossing the Bar*, 78 YALE L.J. 484 (1959).

constraints. But not so with Griffin Bell. He is not a paragon, and had he been, he would have been uncomfortable with his fourteen associates on the Fifth Circuit. But he is very much a human being with great accomplishments in the past and more, I am sure, for the future.

This is not the time to critically analyze, praise, exalt, condemn or criticize his judicial opinions. That will be done, sooner or later, dead or alive. He will come out good, although burying him will be that 50% of disgruntled, unhappy litigants plus a host of eager law review editors and professors who will see how clearly he should have done this or said that.

For an edition of this fine law review dedicated to him—now very much alive and kicking—I think there are other areas that call for my undiluted praise.

Griffin Bell is a doer. All life needs a doer. Courts certainly need a doer. Although in his valedictory on resigning the judgeship, he announced that probably his basic mistake was that, at age 43, he came on the bench too early in life,² he soon proved, and continued to the last gasp to demonstrate, that it was his vigor, his imagination, his resourcefulness uncaloused by too long membership in the fraternity that made him an effective voice in both what judges do and, equally important, how they go about doing their assigned tasks.

I have known him a long time—first as an advocate at our Bar, and then as a judge and friend. Perhaps overwhelmed by the majestic ceremonies at his investiture on October 6, 1961, which the renowned former Chief Judge Joseph C. Hutcheson described for me as a “coronation,” he probably thought, as most of us did, that he was ascending an elevated plane of great prominence and power. Responding to the generous invitation from Chief Judge Elbert P. Tuttle, also of Atlanta and my distinguished predecessor, to make some of those comments which traditionally seem to be the burden of the about-to-be judge, I said: “I know you thought you were getting some great power, but you will find that that will not be true because you will always have to get someone to agree with you.” History proved to him, as it does to all of us, that this forecast was true. It is a tribute to his intellect, his preparation, his power of persuasion that he was frequently able throughout his career to generate that one more vote.

But running a court as an institution is something more than quality, justness and rightness in the end product. This cannot be done—certainly not in a 15-judge tribunal—without a determined, thoughtful treatment of court administration. I was here where Griffin Bell left an indelible impression on the institution of the Fifth Circuit. Thinking, in what I now call tranquil days, that the situation in 1968 was a real crisis, he was the Chairman of our Judicial Council Committee to devise new methods for

2. Recorded in the St. Petersburg (Fla.) Times, Feb. 8, 1976, p. 2-D, by Eugene C. Patterson, former editor of the Atlanta Constitution and now editor and president of the Times.

disposition of the ever-growing docket of cases. He and his colleagues on the Committee came up with a remarkably simple device: screen cases by judges, not simply by law clerks or staff counsel. This resulted in our screening system by which all cases are screened by judges to determine whether full argument (Class IV), limited argument (Class III) or summary disposition without oral argument (Class II) is required.³ He and his Committee conceived the idea also that to assure equality with those getting oral argument that a classification as Summary II without oral argument required the unanimous consent of the three judges on the panel plus a unanimous opinion—an advantage which those with oral argument do not have, hoping at the worse for a two-to-one decision. This has worked well. We have screened over 12,944 cases since 1968, and now 53% are disposed of without oral argument. Proof of the pudding is that had we not had the Summary Calendar disposition without oral argument, we would now have, against a present one of about 600 cases, a backlog of 4,000 cases which would have taken not less than five years to get through, not counting the annual incursion of new appeals.

We judges fully appreciate that this procedure is subject to criticism by the Bar. In an idyllic state, the judges would prefer oral argument in many more cases. But screening has been the means of survival, not for the judges but for litigants, by avoiding until just this past year, the prospect of backlogs requiring years and years for disposition.

To this, must be added his further contribution in recommending to the court the adoption of Rule 21, by which cases not reasonably requiring an opinion can be disposed of by a simple "Affirmed" or "Enforced" for administrative reviews.⁴ Although a Rule 21 opinion gives slight comfort to anyone except the victor, it is in no sense a discretionary matter like denial of certiorari, but a full determination on the merits of the litigation by a panel of three judges who must act unanimously.

Approximately 35% of our cases are now disposed of by the Rule 21 opinion. Far from lightening the workload of judges, they help produce decisions in time to be meaningful to the litigants and, in many critical areas of public interest, they markedly advance the day of finality in criminal cases and post conviction remedies.

In his person characteristics, Griffin B. Bell is a warm, friendly person. But typical of his successful advocacy as a lawyer, in conference he had that same drive for his point of view, prevailing sometimes, losing sometimes, but always with the assurance shared by all that we knew where he stood. In this exercise which outsiders might believe is a mild, objective exchange of views with laboratory aseptic purity but which is a real head-

3. Rule 18, 5th Cir. *See Isbell Enterprises, Inc. v. Citizens Cas. Co.*, 431 F.2d 409, Part I (5th Cir. 1970).

4. *See NLRB v. Amalgamated Clothing Workers of America*, 430 F.2d 966 (5th Cir. 1970).

to-head confrontation among fifteen dedicated men of possible contrary ideas, he had that rare talent of heading off sharp clashes and helping us to break log jams by his humor.

We miss his presence very much. Perhaps we wonder sometimes whether in his new solo role as Attorney General he needs another vote.

JOHN R. BROWN
Chief Judge
Fifth Circuit Court of Appeals

"His individual accomplishments as Attorney General shall be superseded only by his constructive contributions to all the citizens of this great nation."

There lives in these difficult times a paragon of a man, esteemed by fellow judges for his legal acumen, admired by members of the bar for his indefatigable dedication to the pursuit of justice, eulogized by those cognizant of his altruistic devotion to the service of *all* mankind, and respected by all, be he confidant or rival. This man is Griffin B. Bell.

Unfortunately, try as I may, the sentiment which abounds in my heart engendered by the humanitarian works of Griffin Bell, cannot be portrayed by the mere words which flow from this humble pen. Further, time constraints will not permit an exhaustive delineation of the remarkable accomplishments Mr. Bell has actualized throughout his illustrative career. Therefore, my expression of tribute must rest on a hope: that this encomium providing a few bits of insight into Bell's character and an indication of some of the types of contributions he has made to society will not offend the reader by its brevity.

The first United States President to reward Griffin Bell with an appointed office for his unique abilities as a public servant was John F. Kennedy, who appointed Bell to a federal judgeship on October 6, 1961. While on the federal bench, he distinguished himself throughout his nearly sixteen years of dedicated service. His competent and comprehensive command of the voluminous body of legal knowledge has been enhanced not only by his unique ability to shrug off the debilitating constraints of what is known as the conventional wisdom, but, also by his relentless pursuit of truth that applies to the realities governing individual situations. Further, Bell is a man who recognizes that much of our thinking is based on preconceived ideas which are unrelated to objective truth. This insight concerning human nature is essential information of which a judge must be cognizant in order to deal with recurrent conflict and to seek its effective resolu-

tion when individuals embrace dissimilar views.

Conflict is said to increase geometrically with the complexity of the society's social and economic structure. In this age of complex computers, modern rapid transit systems, and instantaneous tele-communication technology, the complexities of life also increase the pace one must maintain in order to keep up with an ever-changing environment.

During these hurried times when professional careers and personal obligations frequently leave us little time to share with family and friends, Griffin Bell has found time not only to pursue a rewarding career, but also to assemble one of the largest arrays of meaningful friendships and to cultivate one of the strongest family unions I have ever witnessed. His lovely wife, Mary, a native Virginian, endowed with gracious Southern charm, a warm, radiant smile freely given, and uncommon compassion, an attribute that only a genuine concern for the quality of human life can manifest, is God's gift to the Bell family. His son, Griffin, Jr., is already an accomplished attorney and successful professional in his own right. To say that in many respects he emulates his father is the highest compliment I have to offer and one which he deserves.

Griffin Bell is an outdoorsman, a sportsman, and a man's man. He likes to fish, to bird hunt, and he still shoots in the middle 80's when he can find the time to play golf.

A mutual friend of ours recently told this story about Griffin. It seems a few weeks prior to his taking on the tremendous pressure job as Attorney General of these United States, this mutual friend and Griffin were bird hunting in South Georgia and one of the bird dogs came to a point in the most dense thicket imaginable—in fact, the brush was so thick one could hardly see how to negotiate it, much less shoot through it. Nevertheless, a single bird got up and before our mutual friend could raise his gun to his shoulder, Griffin had already killed the bird. A few hundred yards further but still in the same thicket, the identical thing happened. A single bird got up and Griffin shot and killed it. They then proceeded a few more yards and entered a plowed, open field with no brush or trees to interfere with an open shot. When a third bird arose, Griffin shot three times, missing the bird each time. I relate this story to prove the point that our present Attorney General works better under pressure, and he will do exceedingly well in the thicket we refer to in these times as Washington, D.C.

It is in part, I suppose, Bell's marvelous gift for getting along with people that has contributed so constructively to his success as an organizer and administrator when the role demanded.

His managerial expertise, expressed most dramatically perhaps by his ability to organize and efficiently distribute the limited available resources, accounts for the incessant flow of benefits to organizations and units of government he has so faithfully served. That steadfast service has spanned a period of time which bridges several decades. I would find difficulty in justifying the inclusion of the following differentiation be-

tween a boss and a leader as it relates to Bell's managerial competence if he were not so acutely aware and representative of the latter.

The boss drives his men; the leader coaches them.

The boss depends upon authority; the leader on goodwill.

The boss inspires fear; the leader inspires enthusiasm.

The boss says "I"; the leader "we".

The boss fixes the blame for the breakdown; the leader fixes the breakdown.

Although the foregoing discussion has been mostly conceptual in approach, I am hopeful that it has left the reader with meaningful insight concerning some specific elements of Bell's character.

Still, this tribute would be lacking an important ingredient, and I would be inexcusably remiss if a philosophical statement of Bell's admirable character were to be omitted. Therefore, the story I once heard of an elderly woman is a propos. It seems the woman, a Quaker by religion, possessed a beautiful complexion and was asked what kind of cosmetic she used. In reply, she offered this prescription:

I use for my lips, truth; for my voice, prayer; for my eyes, pity; for my hands, charity; for my figure, uprightness; and for my heart, love. This prescription can be filled without expense, and the supply will increase with continued use.

From a personal observation of Griffin Bell over many years, I can relate in categorical confidence that it is not only the feminine gender who can adorn the cosmetics of virtue. It is indeed fortunate for the citizens he represents that a man of such unfaltering character continues to be appointed to high public office. By what magic does he continue to progress from one highly esteemed position to another? A recent church service held the answer, to wit: There is always a place reserved for the person who doesn't knock anyone over when helping his fellow man to a better place.

It has been a decade and a half since his first Presidential appointment. Now, Jimmy Carter, President of these United States, a man responsible for ensuring the continued prosperity and future development of the greatest nation ever to exist on the face of the earth, has expressed his recognition of the virtues of Griffin Bell by entrusting to him the most sacred appointed position of any free nation—that of Attorney General. This position, requiring integrity, demanding unparalleled competence, and assuming unfaltering dedication to the relentless pursuit of the ideal, embodies a multitude of abilities few men acquire, let alone command, as adroitly as Griffin Bell.

Knowing this man as I do, his exemplary behavior both on and off the bench instills the confidence a true leader must exhibit to be effective in public office. I have every confidence that his individual accomplishments as Attorney General shall be superseded only by his constructive contribu-

tions to all the citizens of this great nation.

By now it must be clear, even to those who know him only remotely, that attempting to do justice to this man by describing the magnitude of his productive achievements with words is analogous to trying to empty an ocean with a tea cup. Regrettably, there will be those few who will read these words and will mistake the foregoing expressions of my accolades accurately describing Griffin Bell to be inflated verbiage appropriate only in the context of the moment. Let me assure you, were a more descriptive communication medium available to express my sentiment for this man, I would more clearly and laudatorily convey this commendation. And for the sake of posterity, it must be emphasized that these remarks are as perennial as the mountains; as they were true yesterday, they are true today and, as certainly, they will be true tomorrow. Griffin B. Bell, A Man for all Seasons—an *example* for all men.

H.E. NICHOLS
Chief Justice
Supreme Court of Georgia

"Griffin Bell embodies the qualities that mark a person as a leader."

While it has not been my privilege to work closely with Griffin Bell for as long as have others who join in this tribute, the association I have had with him over the past two years has, for me, been a most rewarding one. To my mind, Griffin Bell is a person of outstanding capacity, of unquestioned integrity and of complete fairness. The American Bar Association has been fortunate to benefit for many years from his tireless efforts and his eminently good judgment.

The first significant contact the Association had with Judge Bell came in 1961 at the time President Kennedy was considering him for appointment to the Court of Appeals for the Fifth Circuit. Our Federal Judiciary Committee reviews, at the request of the Department of Justice, possible nominees for the federal bench and gives its report to the Department. We did so in the case of Griffin Bell. Although Judge Bell had been in practice only fourteen years, he received a well-qualified rating, the second highest rating which the Committee gives, and one which is seldom given to a person with less than fifteen years of practice.

Despite the heavy burdens of his judicial duties as a member of the Fifth Circuit Court of Appeals, he gave generously of his time to work with the Association on behalf of improvements in our system of justice. He was chosen by the Judicial Administration Division of the Association to serve

as its Chairman in 1975-1976. He was an effective, highly respected leader.

In April of 1976, the ABA cosponsored, with the Judicial Conference of the United States and the Conference of Chief Justices, a National Conference on the Causes of Popular Dissatisfaction with the Administration of Justice. The Conference, which was inspired and led by the Chief Justice of the United States, brought together judges, academicians, laymen and practicing lawyers to discuss ways in which our system of justice could be made to work more effectively to serve our nation today and tomorrow. Although many problems were highlighted, it was clear that further work should be done to develop recommendations for their solutions and for the implementation of the solutions.

These follow-up responsibilities were delegated to a task force under the chairmanship of Griffin Bell. He performed admirably, and within three months that task force prepared thoughtful, concise recommendations for future action.

Out of our working association with Griffin Bell, we see a man who is continuing to grow in stature and who has demonstrated an awareness of the need to provide for changes in our system of justice while retaining our fundamental constitutional guarantees.

I have on several occasions explored personally with Judge Bell the need for and the objectives of these changes, and I am impressed with him. Griffin Bell embodies the qualities that mark a person as a leader, as one whose judgments will be sound. He is progressive and open-minded. He is tolerant of the views of others. Unlike many who assume positions of authority, he has not forgotten how to listen. He works well with people, and he gets things done.

I have great faith in Griffin Bell. The nation will benefit from his leadership, just as those who know him have benefited from his friendship.

JUSTIN A. STANLEY
President
American Bar Association

