

1989

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Recommended Citation

Greene, Harold H. (1989) "The AT&(and)T Litigation and Executive Policies toward Judicial Action," *Land & Water Law Review*: Vol. 24 : Iss. 1 , pp. 229 - 240.

Available at: https://scholarship.law.uwyo.edu/land_water/vol24/iss1/9

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LAND AND WATER LAW REVIEW

VOLUME XXIV

1989

NUMBER 1

Winston Howard Lecture

The AT&T Litigation and Executive Policies Toward Judicial Action

*Harold H. Greene**

As part of a discourse on the relationship between judicial and executive action, I will discuss my court's involvement in the government's antitrust suit against AT&T and with telecommunications problems in general. In that connection, I will also consider current attitudes regarding antitrust enforcement, and the related subject of efforts that are being made to narrow the judicial enforcement of rights stemming from the Constitution, statutory law, or judgments.

THE BREAK-UP OF AT&T

In the 1960s and 1970s, a number of small manufacturers of various types of telecommunications equipment tried with considerable spunk and not a little ingenuity to compete for business with AT&T, then by far the largest, most powerful corporation in the world. During the same period, several other companies, particularly MCI, began to build long distance telephone networks of their own, again in competition with AT&T.

The new long distance carriers had become viable at that time because of the then recent discovery that microwaves, later supplemented by satellites, could be used to transmit telephone conversations. Unlike telephone poles and copper wires, which as a practical matter did not tolerate duplication, microwave networks could be operated, from both a technological and an economic point of view, by more than one company at a time. Because of these new technologies, competition in this field became possible, and once awareness of the possibility set in, various companies naturally attempted to enter the field.

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This lecture was given at the University of Wyoming College of Law, April 22, 1988.

As competing manufacturers and long distance carriers emerged, they were quickly confronted with Bell System efforts to preserve its monopoly. It would take too much time to go into detail; suffice it to say that there was evidence that the Bell System sought to frustrate the connection to the national telephone network of the long distance lines and the manufactured products of the independents. The key to the success of that effort was the Bell System's total control of the local wires and switches through which all the competitors' products and services had to pass to reach the ultimate consumer.

AT&T was able to maintain this exclusive control because it was not feasible to use the new microwave technology for transmissions on the purely local level. In fact, today, twenty-five years later, that is still not feasible.

When AT&T began to require the independents to buy special connectors as a condition of a hook-up to the local wires, and when it began slow-downs in attachments, the institution of discriminatory tariffs, and the like, the victims began to complain vociferously to the Federal Communications Commission, asking for protection. In response, the FCC did, from time to time, issue various directives and orders to help competition along, but progress toward a fair environment remained painfully slow.

It was in this context that the Department of Justice, during the Administration of President Ford, brought an antitrust suit against AT&T in the federal District Court in the District of Columbia. The lawsuit was assigned to me on a routine basis when I was appointed to that court in 1978.

The pretrial process was completed late in 1980, and the trial itself began in January 1981. By the end of that year, after an eleven-month trial, the process was almost complete. When only about three more weeks of testimony were left to come in, the parties submitted a consent decree, thus obviating the need for a decision by the court.

Under a law enacted by the Congress some years earlier, the so-called Tunney Act, a consent decree subscribed to by the Department of Justice does not become effective unless the judge having jurisdiction finds the settlement to be in the public interest. The law was passed after the Congress had concluded, based on voluminous evidence, that the economic forces represented by the defense side of these antitrust suits were so powerful that the Department could not always be depended upon to negotiate agreements that would protect the public. Hence the added check and balance of an independent judicial evaluation.

The consent decree, as my court approved it with some changes at the conclusion of this process, had two basic features. The first effected the separation of the twenty-two local Bell operating companies from the central AT&T, and that task was, in fact, accomplished in January 1984. These twenty-two companies were at that time also reorganized into seven regional holding companies, the so-called Baby Bells. That name is some-

what of a misnomer because in assets each of the seven Baby Bells is among the top twenty corporations in America.

The second basic feature of the decree was addressed to the kinds of businesses the newly-independent local companies could engage in. These locals were the inheritors of the local switches and circuits which, as you will recall, had been the means by which the Bell System was able to discriminate against its competitors. The technological situation had not changed: independents could still not reach the ultimate consumers, whether residential or business, except through the circuits owned by the local companies. These companies also continued to control the manufacturing market through their ability to set specifications, connections, and the like.

In order to ensure that the local and regional companies would not engage in the practices that had led to the antitrust suit and the Bell System break-up, a central prophylactic measure was written into the decree: the companies were prohibited, in so many words, from engaging in those businesses where their bottleneck control gave them the greatest competitive advantage—long distance, manufacturing of telephone equipment, and information services.

A REVIEW OF THE CONSENT DECREE

What is significant about this development in terms of our topic today is that it was the Department of Justice that drafted the consent decree, and that it was the Department of Justice that insisted on the restrictions on the divested local companies. In fact, AT&T declared at the time that the issue of the restrictions on the local operating companies was a matter of indifference to it; the Department of Justice was the actual motivating force.

It is interesting to recall in this connection that, before the consent decree stage had been reached, and while the trial was still in progress, strenuous efforts were made within the Administration, particularly by the Departments of Defense and Commerce, to abort the lawsuit. These efforts ultimately reached President Reagan himself, but he took no action to stop the litigation. The Department of Justice was thus successful not only in pursuing the lawsuit but also in defending the line of business restrictions against all comers, to some extent including my court. I did manage to require the inclusion in the decree of a clause which provided for a removal of these restrictions when it could be shown that "there was no substantial possibility that a local company could use its monopoly power to impede competition in the market it seeks to enter."

In short, as of the time of the AT&T divestiture, the executive branch of our government, through its Department of Justice, was adamant in its view that the Baby Bells were to be absolutely prohibited from engaging in long distance, telephone manufacturing, and information services. This ban was to remain in effect until there was a change in the technological and economic environment sufficient to deprive these companies of their bottleneck monopolies.

That is where the matter stood in 1987, three years later, when the regional companies filed motions in court demanding that the court remove all the restrictions in the decree. As we will see in a moment, strangely, in light of previous history, these demands were strongly supported by none other than the United States Department of Justice.

After receiving and reviewing thousands of pages of factual and legal submissions, I issued a lengthy opinion last September in response to the regional companies' request in which I concluded that conditions had not changed sufficiently to permit the removal of any of the core restrictions.¹ The evidence, even that submitted by the Department of Justice, plainly showed that the monopolies maintained by the regional companies were as tight as ever. In fact, only one customer out of one million is able to reach long distance carriers without using the services, and being subject to the whims, of the regional companies. Not by any stretch of the imagination could it be seriously contended, therefore, that there is no longer a substantial possibility that these companies could use their monopoly power to injure competition. In short, avalanches of propaganda to the contrary notwithstanding, expansion into the restricted markets was and is plainly prohibited by the very terms of the consent decree.

There are two exceptions to this conclusion. My court last September repealed a provision in the decree which had kept the regional companies from engaging in businesses unrelated to telecommunications. Experience had shown that this restriction served no useful purpose. The monopoly power these companies enjoyed did not give them any measurable advantage over others with respect to such activities as the sale of real estate or the export trade, and the restriction was therefore eliminated.

On a more important note, my court repealed part of the prohibition on information services.² The regional companies may hereafter engage in the business of transmitting such services, and also in such allied fields as electronic storage and retrieval and the provision of electronic mail. But the companies are still prohibited from generating information content.

Here again, the decision was based directly on the language and the purposes of the decree. A regional company will have no incentive to discriminate against competitors in the transmission of information if it is not engaged in the business of originating and selling the information itself, in competition with others. The assumption is that, having no incentive to discriminate, it will not discriminate.

The situation is drastically different with regard to the sale of information, that is, the provision of such services as individualized banking and brokerage data; electronic shopping; travel, restaurant, and hotel information and reservations; employment opportunities; the dissemination of news; to name but the most obvious.

1. *United States v. Western Electric Co., Inc.*, 673 F. Supp. 525 (D.D.C. 1987).

2. *United States v. Western Electric Co., Inc.*, No. 82-0192 (D.D.C. March 7, 1988).

If the regional companies were permitted to engage in these markets, they would have an almost insuperable advantage over their competitors. All these independents would of course lack the convenience of being in control of a monopoly telephone network. All of them would be forced to use the facilities of their competitors, the regional companies, if their information products were to reach their customers. And as the AT&T trial has amply demonstrated, a great many means are available to those in control of a telephone network to disadvantage their competitors with respect to services dependent on that network—overcharges, delays, requirement of special access devices, among others.

There were also positive reasons for my court's decision to permit the telephone companies to enter the business of transmitting information services. As a practical matter, the various services I have mentioned are likely to become available on a large scale only if the information they represent is transmitted by the existing telephone networks which exist on a nationwide basis and reach every household. At the same time, these services can be an enormous boon to everyone, business and individuals alike. It is as difficult to predict with certainty how information services will develop, just as it was impossible to know that, when the first Model T came off Henry Ford's assembly line, we would eventually wind up with interstate highways with motels, restaurants, and gas stations. However, I am hopeful that, as a consequence of the lifting of the restriction on transmission, we will witness a flowering of information services, and thus an important advance on the road to the full benefits of the information age.

THE CHANGE OF HEART BY THE DEPARTMENT OF JUSTICE

I would like to return now to the subject of the other restrictions, those that are not being repealed at this time. As I have suggested, interestingly from the point of view of our topic today, the Department of Justice, which drafted and was a determined proponent of the restrictions, is now just as vigorously advocating their elimination — not only the entire information services prohibition but also those on the manufacture of telephone equipment and on long distance services.

Since last summer's court proceedings and the papers submitted to the court plainly demonstrate that the relevant factual situation is today what it was when the decree was adopted, the question inevitably suggests itself — what caused this change of heart in the executive branch?

One possible explanation is simply that of a change in personnel at the Department of Justice. The AT&T decree was drafted and negotiated by Professor William Baxter who at the time was Assistant Attorney General in charge of the Antitrust Division. By a peculiar circumstance, Professor Baxter was also the highest ranking Justice Department official with respect to this matter, because for various reasons the Attorney General and the Deputy Attorney General were disqualified from dealing with AT&T issues. Thus, absent White House interference, which the President declined to provide, Mr. Baxter's decisions with regard to the consent decree were conclusive.

The situation is quite different now. Attorney General Meese has the final word with respect to these subjects. Earlier this year, some doubt was cast on his participation in the decision making when it was alleged that he owned stock in several of the regional companies, but this matter appears to have been resolved by the decision of the special prosecutor not to proceed against Mr. Meese on this issue.

Professor Baxter is a brilliant academician, who had very definite, perhaps idiosyncratic, views on the subjects under his jurisdiction. He strongly believed that no one company, such as AT&T, should be able to engage in both regulated monopoly and unregulated competitive enterprises at the same time. Such a combination, according to Mr. Baxter, would allow the company to use the profits from its monopoly activities to subsidize the prices of its competitive products and services,³ to the detriment of both competitors and ratepayers. It appears that, with his departure, somewhat different strains of thought have gained an ascendancy at the Department of Justice. It is on these philosophies that I would like to focus now. Let me consider specifically two questions — one relating to the purposes of antitrust, the other dealing with the relationship between the executive branch and the judiciary.

THE EVOLUTION OF THE ANTITRUST LAWS

The AT&T consent decree is a product of the antitrust laws. The lawsuit which gave rise to the decree was brought as an antitrust enforcement measure, and the decree itself is designed to prevent a recurrence of what were deemed to be anticompetitive activities. In fact, that decree has worked just as antitrust doctrine would have expected it to work. In long distance services, where there now is competition, rates have been reduced by over thirty-five percent since divestiture. Likewise telephone equipment has not only dramatically declined in price, but we have seen innovation and sophistication on a scale unmatched in any comparable period.

The only discordant note in this history of advances in the last few years is struck by local telephone rates which have risen substantially during the same period. But these rates are of course set not by competition but by the only remaining monopolies in the system, the regional companies themselves.

In light of the new Department of Justice philosophy to which I have referred, it is appropriate, I think, to survey briefly the origins of the antitrust laws and their purposes in today's society. The Sherman Act, the fundamental law on fair competition, was based on a bill introduced by Senator Sherman of Ohio in 1889, and was signed into law by President Benjamin Harrison the following year.

The vigor of enforcement of the antitrust laws in this country since 1890 has waxed and waned, not always in harmony with the identity of the party in power in Washington. Presidents Harrison and Cleveland were

3. S. COLL, *THE DEAL OF THE CENTURY* at 182 (1986).

somewhat lackadaisical in their enforcement, and the latter, although a Democrat, appears to have occupied himself mostly with the prosecution of labor unions as antitrust violators. By contrast, Theodore Roosevelt, a Republican, is justly celebrated as a vigorous and effective trustbuster. Although sometimes political or financial pressures altered the picture, by and large enforcement was strong during the Taft and Franklin Roosevelt Administrations, and relatively weak during the Presidencies of Harding and Nixon. The most recent period has witnessed an exceptionally rapid decline in enforcement activity: fewer antitrust suits were filed by the Department of Justice during the eight years between 1980 and 1988 than during the preceding four.

The slogan of the opponents of vigorous antitrust enforcement, repeated over and over again during the last decade, has been that big is not necessarily bad. That is certainly true as far as it goes. But we hear little about the corollary, that big is not necessarily good, that the merger of two or three or eight corporations into a huge conglomerate can create severe problems, from harm to potential competition to dangerous concentrations of economic and political power. Yet the response of many of those to whom we would normally look for leadership in energizing antitrust principles has by and large been that the market will correct all problems, and that the most constructive policy is to do nothing, or as little as the political climate will allow.

This relative neglect of antitrust principles and antitrust enforcement is puzzling. Our government, our people, justly celebrate the philosophical bankruptcy of Marxism, not only in the Soviet Union and the Peoples Republic of China, but also in Western Europe and elsewhere. The tides of history that were said to flow irreversibly toward socialism have turned. For the first time since World War II, there is a general recognition that the capitalistic, competitive marketplace is a far more powerful motivator of individuals toward efficient production, and therefore a more likely source of economic abundance, than planning and other decisionmaking on a central basis.

Yet the marketplace can fulfill its essential function properly only if it operates as a marketplace, that is, if several sellers compete. A monopoly by one corporation or an oligopoly by a group of corporations is not likely to do better than a monopoly by the state. There is no reason to believe that private monopolists will voluntarily refrain from excessive pricing or that they will innovate to maximum capacity. It takes the discipline of real competition to bring price down and quality up, and that discipline can be achieved in some markets only through the pressure of the antitrust laws.

To be sure, society has changed since the 1890s. One significant change is that the market for some products is now world-wide, and it is obvious that antitrust enforcement must be cognizant of that new circumstance. For example, it would hardly do to proceed in a general way under the antitrust laws against the one or two American producers of cameras when

those producers have only a very small fraction of the market, with the lion's share controlled by foreign firms.

But such circumstances cannot serve as an excuse for lethargic antitrust enforcement in markets that have not been internationalized. To return again for a moment to the telecommunications industry, there certainly is no warrant for unleashing profitable, powerful corporations to engage in practices that were finally halted as anticompetitive not so long ago after an enormous twenty-year struggle in Congress, the courts, the executive departments, and the regulatory commissions. That struggle caused a tremendous dislocation in the telecommunications industry and in the telephone habits of millions of Americans. All these adverse consequences were judged worthwhile by the pre-1980 Department of Justice for the greater good of the establishment of a healthy, competitive climate. Given this history, the about-face of the Department and its Antitrust Division is particularly difficult to understand.

THE ROLE OF JUDICIAL REVIEW OF AGENCY ACTION

The Department of Justice and other executive branch agencies have also indicated that, if the AT&T decree is to be enforced at all, this should not be done by the courts but by some other mechanism, perhaps the FCC. This attempt to curtail judicial jurisdiction is illustrative of a far larger effort, and it could not have come at a worse time.

We are seeing today, to an extent perhaps unprecedented in American history, speculations, mergers, and acquisitions, many having little or no apparent economic justification. The abilities of some of our best minds are wasted in the choreography of intricate financial minuets financed by junk bonds, while other nations place their faith, their money, and their energies on the development of more efficient production lines. Large, influential banks are routinely bailed out when they fail, due to overspeculation or bad investment, while smaller businesses, and you and I, are met at the government loan or money counter with a cold-eyed referral to the letter of the law and a demand for collateral. Farm subsidies are paid out with abandon to large agriculture corporations, but the family farm is in a state of deepening crisis. The examples could readily be multiplied.

To the extent that government is involved, much of this activity involves policy that is properly the province of elected officials, not the courts. But leaving aside such matters, decisions are also made at times by and in the name of government that affect the rights of individuals. These may take the form of seeming departures from the law; refusals to accord hearings to those apparently entitled to them; and denials of equal treatment, particularly to those who lack political or economic clout. Yet we find the executive branch of government to be less than enthusiastic about judicial scrutiny of such occurrences and to try to eliminate or reduce it by every means possible.

Let me speak from personal experience. The United States District Court for the District of Columbia considers much of the litigation between individual citizens and the large federal agencies. Because of that circumstance, our court has a front row seat, so to speak, to the spectacle of the improprieties committed or tolerated from time to time by government officials. It is often to our court that those who claim to have been treated badly come to seek relief.

Again and again, one hears tales of overreaching, favoritism, and discrimination — whether it be against government employees, so-called whistleblowers, low bidders for government contracts, or outsiders with special concerns. These concerns may range from an interest in the protection of the environment, to the enforcement of the civil rights laws, the protection of the government grant and licensing process, the regulation of mining or other resources, and others like them. Some of the complaints made by these plaintiffs in our court may be valid; others obviously are not.

Before we see them, the hapless citizens who may be victims of unlawful conduct have usually pursued a lengthy, costly, and sometimes dangerous course through the labyrinth of the administrative hierarchy, to no avail. The higher echelons in government, as elsewhere, typically do no more than to approve what was done below. They do this not because they are evil people, but because the acts complained of conform to articulated policy, because of a prevalence of the attitude that “we have always done it that way,” or because it is easier to rubber-stamp a routine denial than to figure out a new way of approaching a problem to avoid injustice and inequity.

At the end of that long process, the victims of the bureaucratic obstacle course arrive at the courthouse door. When they appear before a judge, they feel that they have finally come to a place where an impartial person will listen to their problems — the procedural shortcuts, the unequal treatment, the denials of rights, the improper conduct. They arrive with gleaming eyes, full of hope, that now finally someone not committed by tradition, sloth, or design to the course thus far pursued will take a fresh look at the issues and do something about resolving them. That, in fact, is what our courts have traditionally done. But that course is becoming increasingly difficult to sustain.

The fact is that the federal government today generally does not appear in court willing to defend strictly on the merits the decisions its officials have rendered. The aim appears to be to avoid substance if that is at all possible.

What we hear, therefore, over and over again, are reliance on what for shorthand purposes may be called technical defenses—the court has no jurisdiction; the plaintiff lacks standing to bring the action; the suit was brought in an improper venue; the plaintiff has failed to exhaust his administrative remedies; the action is premature; the action has been brought too late, it is moot, it is beyond the period of limitations, it is barred by laches; or sovereign immunity bars the lawsuit.

All of these doctrines have the obvious virtue from the point of view of the government's lawyers of withdrawing from the courts the means for inquiring into the legality of the government's actions, their conformity with the Constitution, with statutes, or with prior judgments. When, for example, it is claimed that a government grant or contract has been awarded on the basis of deviation from the law or favoritism, the courts are often limited to deciding whether the victim's suit was brought in the right court, the right district, or too early, or too late. On this basis, the underlying merits are carefully left to the mercies of the executive department that allegedly committed the wrong in the first place.

It is ironic that this heavy weighting of scales in favor of government against the individual has developed most rapidly during this and the preceding Administration, both of which, more than others in memory, have prided themselves on protecting the citizens from the heavy hand of government. President Carter talked about seeking a government as good as the people, and President Reagan has said repeatedly that his aim was to get government off the backs of the people. Yet their lawyers are doing their best to shield government from accountability.

Federal courts unfortunately have often failed to resist these tendencies. Technical doctrines which twenty or thirty years ago were minor wrinkles on the body of the law are being enlarged, almost daily, into impregnable walls standing between the citizen's need for fair treatment and the achievement of that goal. I submit that these tendencies are at odds with our basic system.

I do not mean to suggest that the doctrines I spoke of should not be invoked in proper circumstances. Of course they should be. But the problem with their application in case after routine case to defeat inquiry into the substance of governmental action is that these more or less technical doctrines tend to choke off the achievement of conformity with the law, with justice itself.

Let me illustrate what I mean. Take the doctrine of standing, for example. The Supreme Court decided as long ago as 1923, that an individual may act as a plaintiff in a lawsuit only if he has "standing" to do so, that is, if he has a sufficiently concrete interest in the outcome to ensure that the suit was not a mere frivolous effort to secure what is called an advisory opinion.⁴ So far, so reasonable.

But in recent years an entire subspecialty of standing has sprung up, with the most complex and arcane rules. For example, just this week the Supreme Court heard arguments on the question whether an abortion rights group has standing to bring suit to challenge the tax-exempt status of the Catholic Church. The government contended that there was no standing, while Justice Stevens pointed out that the logic of this argument would also deny standing to the Republican Party to challenge a hypothetical law that authorized tax deductions for gifts to the Demo-

4. *Frothingham v. Mellon*, 262 U.S. 447 (1923).

cratic Party but to no others. I do not know who is right on the merits. But what is significant is that this kind of issue gets to be more and more complicated, and that the chances of a complaint being dismissed on some such preliminary technical basis are fast becoming as high as they were in the old days of common law pleading that lawyers had thought they had long left behind.

The doctrine of exhaustion of administrative remedies is another that threatens to overwhelm the real issues involved in litigation. It is perfectly sensible to reject consideration of a lawsuit if the plaintiff is still deeply involved in ongoing administrative proceedings, and if he is therefore seeking to have a court make a decision before the responsible administrators have had a chance to act.⁵ But the exhaustion doctrine, too, has by now become so complicated that, in many instances, an individual is unable to tell what remedies are available to him, much less whether or not he has exhausted them. Certainly when a government agency adopts unduly complex procedures or interprets them in such a way as to frustrate reasonable access to the courts, its schemes do not deserve deference.

Let us look, for one more example, at sovereign immunity. That doctrine, as its name implies, is closely related to the divine right of kings. From time immemorial, individuals were forbidden to sue the British Crown, the theory being that it would be subversive of the system to permit a mere subject of the sovereign to sue him in court.

Historians and political scientists might well wonder on what philosophical basis one could ever have defended the wholesale importation of the sovereign immunity principle into the legal framework established by the American Republic. Be that as it may, now that it is here, there seems little justification for an enlargement of the doctrine that "the king can do no wrong" when we all know that the king does err on occasion, and so, as we also know, does the American government. Yet we find in the Federal Digest more cases decided on sovereign immunity grounds in the last nine years than in the preceding seventeen.

An able and distinguished judge suggested last year that, in the absence of a specific statute granting a right to sue, sovereign immunity precludes the courts from entertaining challenges to the denial of government grants, even if those denials are the result of religious discrimination in violation of the First Amendment.⁶ If we must retain the antiquated sovereign immunity doctrine, at least let us not expand it to the point where it overwhelms the Bill of Rights itself.

The rise in the frequency of the use of the technical defenses is part of a broader effort to squeeze the judiciary out of disputes so as to leave them to the political branches, particularly the Executive. There is no question but that the courts should not become involved with policy matters, with subjects that are properly within the province of those who, unlike

5. *Myers v. Bethlehem Shipbuilding Corp.*, 303 U.S. 41, 50-51 (1938).

6. *Bartlett v. Brown*, 816 F.2d 695 (D.C. Cir. 1987).

the judges, are elected by the people — the President and the Congress. Interference by the courts with decisions involving these subjects would be inconsistent with democratic government itself.

But contrary to what is sometimes said by politicians, judicial decisionmaking is far less pervasive than the public imagines. The courts do not become involved, and properly so, in matters relating to appropriations, budgets, interest rates, the deficit, inflation, unemployment, foreign policy, foreign trade, national defense, tax rates, highways, city planning, farm policy, to name but a few. All of these involve policy considerations and the making of value judgments for which the judges are ill-equipped, and for which they have no constitutional mandate.

By the same token, where under the Constitution or the laws enacted by the Congress the courts have a legitimate role, they must not hesitate to play it, and, what is more pertinent for our discussion today, they must not be prevented from playing it.

A principal purpose of the Constitution is to protect the minority, often a small and unpopular one, from the will of the majority itself. The Bill of Rights prohibits the Congress, that is, the representatives of the majority of the people, from interfering with free speech, freedom of religion, freedom of assembly, and other liberties. That objective requires for its achievement officials not directly responsive to a transient majority, who have the capacity to safeguard fundamental rights in the face of intensive political or emotional pressures. The impartial enforcement of statutes and court judgments likewise requires decisionmakers who are immune from lobbying, promises, and threats.

The judges were meant by the framers to play these roles, and they are able to do so because, unlike others, they are not dependent upon the electorate for their continuation in office. The public is not well served by suggestions or actual efforts to eviscerate that vital function.

The nature of our government — with three separate, independent branches and a division of authority between the federal government and the states — renders some disagreement and conflict inevitable. The framers of the Constitution wanted it that way. They distrusted an all-powerful, monolithic government, believing that the liberties of the citizens are best protected when power is dispersed.

I end where I began. Just as the body politic benefits, and our freedoms are more secure, when there are several centers of authority, so the American economy is most likely to flourish when in the world of commerce and trade no one can dictate and all must compete on equal terms. I believe that the decree that broke up the Bell System has led, in one industry, to such a system, and I expect to continue to enforce that decree to the end that this advance is not frittered away.