

Testimony of

# Dick Thornburgh

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Former Attorney General of the United States  
Before the  
Committee on the Judiciary  
United States Senate  
Regarding  
The Nomination of Judge Michael Mukasey  
to be Attorney General of the United States  
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Chairman Leahy, Ranking Member Specter, and Members of the Committee on the Judiciary, it is an honor to appear before you today to offer you my views on the United States Department of Justice at this important juncture in its history and to tell you why I support President Bush's nomination of Michael Mukasey to be the 81st Attorney General of the United States.

The current situation at the Justice Department is not unlike the one that I encountered when I became the 76th Attorney General in August, 1988. Two senior Justice Department officials, the Deputy Attorney General, Arnold Burns, and the Assistant Attorney General in charge of the Criminal Division, William Weld, resigned their positions in March, 1988, because of their concerns about the ability of my predecessor as Attorney General, Edwin Meese III, to lead the Department while he was under investigation by an Independent Counsel. These resignations reflected some degree of turmoil within the Department. Although the Independent Counsel did not seek to prosecute Attorney General Meese, his report, which was issued in July, 1988, was quite critical of him and General Meese resigned from office early in August, 1988. I was sworn into office shortly thereafter, having been unanimously confirmed by the Senate.

Upon taking office as Attorney General, I established as a major priority the restoring of morale within the Department of Justice in the wake of the recent turmoil at its very top ranks. I considered it to be a unique honor and privilege to return to this great institution that I loved and still love. I had previously served as the United States Attorney for the Western District of Pennsylvania and as the Assistant Attorney General in charge of the Criminal Division under President Ford during the immediate post-Watergate era. Those experiences heightened the most profound respect I held for the Department, for its critically important and unique role in our Federal Government, and for the legal abilities, professionalism and integrity of the career civil servants who carry out its vital missions. Early in my service as Attorney General, I believe that I was able to help restore the morale of the Justice Department and, with the indispensable assistance of that distinguished cadre of career employees to whom I referred, to lead the Department in the successful execution of its law enforcement functions and in its vitally important role in the administration of justice.

Today the Department of Justice is enduring another unfortunate period of turmoil at the top. There is no confirmed Attorney General, no confirmed Deputy Attorney General, and no confirmed Associate Attorney General. There are no less than six vacancies among the Assistant Attorneys General and more than twenty vacancies among the United States Attorneys. Although I strongly commend the job that the Acting Attorney General, Peter Keisler, and the Solicitor General, Paul Clement, are doing under difficult circumstances, the Department simply cannot function at the very highest level of efficiency and effectiveness that it should with so many major vacancies in its top leadership corps.

Let me comment in particular on the importance of the Justice Department's enforcement of our Nation's criminal laws. The prosecutorial function is the unique responsibility of the Department of Justice in our Federal Government. Although I am not passing judgment on the recent controversy over the dismissal of certain United States Attorneys, I will say that it is absolutely essential that the unique prosecutorial function of the Justice Department must be carried out in a strictly non-partisan, unquestionably fair, and even-handed manner--both in fact and in appearance. In other words, Federal prosecutors must follow the evidence where it leads--without fear or favor. Nothing could be more important. The Department of Justice simply must retain its unique degree of independence because the Department, alone among the agencies of the Federal government, has the power of criminal prosecution.

I understand that a very distinguished former United States Attorney, Mary Jo White, will be testifying about the personal qualifications of Judge Michael Mukasey to be the Nation's 81st Attorney General. I do not know Judge Mukasey personally, but I, like many others, admire his record. He spent four years as a career Federal prosecutor in a very important U.S. Attorney's office, that of the Southern District of New York. It is a testament to his record of accomplishment in that role that President Ronald Reagan nominated and, by and with the advice and consent of the Senate, appointed Michael Mukasey to be a Judge of the United States District Court for that same District. In his eighteen years on the Federal bench, Judge Mukasey served with distinction, earning, in particular, a well-deserved reputation for the manner in which he conducted the proceedings of his trial court in major cases of importance to the national security of the United States.

Just as the role of Federal prosecutor is a unique, independent, and non-partisan one, so the job of United States District Judge is one that must be conducted in exactly that same manner. Judge Mukasey has a strong reputation for having done precisely that. At this critically important time for the Department of Justice, in Judge Mukasey, the salient qualities of the person and the critical needs of the moment are well matched. There is no question in my mind that Michael Mukasey is the right person at this time to fill the supremely important, singularly unique role of chief law enforcement officer of the United States.

In closing, Mr. Chairman, let me recall one of the most moving and memorable experiences of my service as Attorney General. In 1989, it was my privilege to lead the Department of Justice during the celebration of the 200th anniversary of the creation of the position of Attorney General of the United States. Nearly all of the living Attorneys General--stretching all the way back to President Eisenhower's first Attorney General, Herbert Brownell--returned to the Department of Justice for an historic commemoration of that milestone. We were also honored to have Ethel Kennedy, the widow of the 64th Attorney General of the United States, Robert F. Kennedy, in whose honor the Main Justice Department building is now appropriately named, with us that day. The group included distinguished Attorneys General appointed by Presidents of both parties, including William Rogers, Elliot Richardson, Edward Levi and Griffin Bell. I am confident that when Michael Mukasey takes office as our Nation's 81st Attorney General, the Department of Justice can and will embark on a time of healing, renewal and exemplary leadership. I am equally confident that ultimately, when he leaves office, Judge Mukasey will have earned his place among the very top ranks of our Nation's finest Attorneys General.

Thank you, Mr. Chairman. I would be pleased to answer any questions that you or the other members of the Committee may have for me.