

Justice Department's New No. 2 Man Shares a Lot With His Boss

# Civiletti Is Bell's Designated Hitter

By ANTHONY MARRO



Associated Press  
Benjamin R. Civiletti

WASHINGTON — When the five lawyers who had been investigating break-ins by agents of the Federal Bureau of Investigation resigned in a bitter policy dispute with Griffin B. Bell, the Attorney General, Mr. Bell called in Benjamin R. Civiletti, then head of the criminal division, to take over the case.

When the investigation into Korean influence-buying in Washington appeared to be stalled, it was Mr. Civiletti whom Mr. Bell sent to South Korea, first to negotiate for permission to interview the central figure in the case, Tongsun Park, and then to supervise the questioning.

And when an uproar erupted over Mr. Bell's decision to remove David W. Marston, the Republican United States Attorney in Philadelphia, it was Mr. Civiletti whom Mr. Bell assigned to reassure Marston assistants that their investigations of Democratic politicians would be allowed to continue. "They've got him running around like a volunteer fireman putting out all the fires," one former Justice Department official says. "Bell ought to buy him a dalmatian."

The Attorney General has not yet come up with a dalmatian, and Mr. Civiletti, a supremely business-like man, probably might well not appreciate the joke. But Mr. Bell demonstrated his trust in a more straightforward manner, by naming Mr. Civiletti as deputy attorney general, the department's No. 2 job.

On Tuesday, the Senate Judiciary Committee will take up the nomination, and Mr. Civiletti can expect some rough going, mainly because of questions about what he knew in the Marston affair and when he knew it. He is not likely to be denied the job. But just as the Democrats used the 1972 confirmation hearings of Richard G. Kleindienst to explore the ties between the Nixon Administration and International Telephone and Telegraph, committee Republicans might use the Civiletti hearings to examine the reasons for the Marston firing and allegations of Administration attempts to "politicize" the Justice Department.

There may be another reason for close scrutiny. In recent years, more than one deputy has gone on to become Attorney General — Nicholas deB. Katzenbach under President Johnson, and, under President Nixon,

Mr. Kleindienst, and for a few minutes during the "Saturday Night Massacre," William French Smith.

Mr. Civiletti's nomination surprised almost no one in Justice, where speedily he has mastered the Federal bureaucracy and gained Mr. Bell's confidence. "Watching him work is like watching a great fencer: No matter what move [the opponents] make, he's right on top of it, all day, every day," says Paul Michel, who heads the department's Korean investigation. "Here's a guy who was trying civil cases in Baltimore one year ago, and ended up negotiating a deal with the Koreans that all the experts in the State Department kept insisting couldn't be done."

Not everyone is delighted with the arrangement that Mr. Civiletti negotiated. Some critics note that the Justice Department could not ask Mr. Park about the possible involvement of Korean Government officials, and that the statute of limitations had run out on many crimes about which Mr. Park was testifying. But few in the department question Mr. Civiletti's competence or intellect. "He's very nonbureaucratic," says one official. "He won't put off a decision by having five people review 10 memos, and he doesn't engage in some of the buck-passing that some of his associates do."

It is a question about possible buck-passing that is likely to give him the most trouble at the confirmation hearings. The basic dispute is whether an assistant told him last November that Mr. Marston had reported to have under investigation Representative Joshua Eilberg, a Pennsylvania Democrat who had been pushing hard for Mr. Marston's removal. Mr. Civiletti says he was told no such thing.

His involvement in a political controversy is some-

what ironic because Mr. Civiletti is regarded as one of the least political — and certainly one of the more conservative — of Mr. Bell's important appointees. Mr. Civiletti was a Democrat in Maryland, where he helped organize the campaign of Paul S. Sarbanes, now a United States Senator. But he had no reputation as a "politician," and was known mostly as a trial lawyer with a prominent firm (Venable, Baetjer & Howard), who specialized in antitrust work and civil cases. Unlike Mr. Bell, he was not a friend of the President, and unlike his predecessor, former Pittsburgh Mayor Peter F. Flaherty, he has shown no interest in elective office.

Mr. Civiletti came to the department with the backing of Charles Kirbo, Mr. Carter's close friend and Mr. Bell's former law partner. But he says he met Mr. Kirbo only a few times, on work that his firm was doing for Mr. Kirbo's Atlanta firm, and he did not know until later that Mr. Kirbo had mentioned his name to Mr. Bell. "I had no particular interest in the Justice Department at all," he says. Still, when Mr. Bell asked him to join the department, he agreed.

He did not try to bargain for a choice spot. In fact, he has said that he offered to take even a job in the lands division, which has had a reputation as an enclave of lawyers whose political connections often exceed their legal skill. Instead, he was given command of the criminal division, the second largest (behind the anti-trust division) and most prominent section.

There was initial concern about the selection. Mr. Civiletti's only experience prosecuting criminal cases had come 15 years before as a low-level assistant United States Attorney in Baltimore for 2 years. But within six months it was clear that he was moving the criminal division in the direction Mr. Bell wanted it to go, with more emphasis on prosecutions for fraud and white-collar crime, and was becoming the person to whom Mr. Bell turned for advice on sensitive cases.

One reason, according to persons who know them both, is that Mr. Civiletti's trial-lawyer background is closer to Mr. Bell's than that of other top department officials, many of whom had worked in public-interest law firms. Another, they say, is that Mr. Bell likes Mr. Civiletti's self-confidence. But his decisive manner also unnerves assistants at times. "He scares them with his brilliance," one official says. "He had half the section chiefs scared that he was going to fire them."

It is not premature to speculate about Mr. Civiletti as Attorney General one day. Mr. Bell has indicated he would like some day to return to Georgia, and friends say he might like a seat on the United States Supreme Court.

Mr. Civiletti says he has not discussed the subject with Mr. Bell, and does not speculate about the future. He was content in the criminal division, and believes he could be content as deputy, he says, and "when my service is no longer needed, I expect to return to Baltimore and practice trial law."

But first comes the Senate Judiciary Committee. As Mr. Bell's firefighter, he must convince the committee that his own role in the Marston affair involves much less fire than smoke.

*Anthony Marro is a reporter in the Washington bureau of The New York Times.*