



Department of Justice

PRESS CONFERENCE

of

THE HONORABLE WILLIAM B. SAXBE

ATTORNEY GENERAL OF THE UNITED STATES

with

MEMBERS OF THE PRESS

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ATTORNEY GENERAL'S CONFERENCE ROOM

THURSDAY, APRIL 11, 1974

10:00 a.m.

Attorney General William B. Saxbe responded to questions in the following areas:

TOPIC	PAGE
Civil Division-New Assistant Attorney General	2,3,
Departmental Reorganization	4,5
FBI-New Left Program (COINTELPRO)	6,7
Sobell Suit-Rosenberg Evidence	7,8,9
Subversive Organization List	9,10,11,12,20
Jaworski-President's Taxes	12,13,14,15,16, 17,18,19
Presidential Contempt or Subpeona Study	19,21,21
Senator Weicker Documents	20
Libel Legislation	21,22
Presidential Prosecution Immunity	22,23
Wiretapping Authority & Approval	23,24,25,26,27, 28,29
Freedom of Information Act & FBI Release Under the Act	29,30,31,32,33, 34
Sperling Ground Rules-Other Reporters	34,35,36,37

1
2 ATTORNEY GENERAL SAXBE: Good morning.

3 I've asked you to come here this morning to give
4 you a release on recidivism.

5 But some of you have had the opportunity ^{to} meet Carla
6 Hills, and we're very proud to have her in this very important
7 job.

8 The Civil Division is the lawyer for the rest of
9 the government, and for some of the Justice Department
10 agencies as well. And they have 220 --?

11 MRS. HILLS: 237.

12 ATTORNEY GENERAL SAXBE: 237 lawyers over there.
13 And most of the major cases originate--that go to the
14 Supreme Court--originate in the Civil Division.

15 She has as clients every other government office.
16 And, as you know over the years, the empire building that
17 happens in any government, one of the first things that a
18 government department wants to do is to build their own legal
19 section and argue their own cases.

20 We have to combat this, constantly, by providing
21 better service than they can provide for themselves, and to
22 have a client relationship that they not only accept but
23 appreciate.

24 Carla Hills has the background of big firm law
25 practice, experience in big cases, handling subordinates, and

1 we think that the Civil Division should be very great.

2 Carla, do you have anything you want to say this
3 morning to these distinguished people of the press?

4 MRS. HILLS: Delighted to be here, gentlemen.

5 ATTORNEY GENERAL SAXBE: Carla has four children,
6 as you know, and we were just talking about her weekend
7 job: she has to go home Friday night and start coloring
8 Easter eggs.

9 [Laughter.]

10 ATTORNEY GENERAL SAXBE: Just like everybody else!

11 QUESTION: Are we supposed to call her General?

12 ATTORNEY GENERAL SAXBE: Sure. She's an Assistant
13 Attorney General.

14 It's like I ran into, at a diplomatic reception,
15 Mrs. Shaw, the wife of the Ambassador
16 from Australia. And she was telling us about getting credit
17 cards at the department stores in Washington. He was
18 knighted recently and she's a Lady.

19 So she came in and was filling out this form, she
20 put in her name as Helen Shaw; and the girl said, "Well now,
21 is it Mrs. Helen Shaw?" She said, "No, it's Lady Helen Shaw".

22 Well, anyway, it wound up she gets her credit card,
23 and it's "Mrs. Lady Helen Shaw."

24 [Laughter.]

25 ATTORNEY GENERAL SAXBE: So she's known in Washington

1 as Mrs. Lady Helen Shaw.

2 So she will be known as Mrs. General Carla Hills!

3 [Laughter.]

4 QUESTION: Are you ready for questions?

5 ATTORNEY GENERAL SAXBE: One other thing --

6 [Laughter.]

7 -- I know you're not much interested in what goes
8 on in the Department, but we've had another reorganization,
9 which we think is permanent this time. We have an Associate
10 Attorney General who figured himself out of a job.

11 He finally came to the conclusion after making a
12 genuine effort to make this system work, that it was designed
13 for people who are no longer here. And the office of
14 Associate is not really necessary. It divides responsibility
15 and slows down the flow of important chain-of-command things.

16 We're going to a very simple -- the chart isn't here --
17 but it's a very simple streamlined chain-of-command
18 responsibility. We hope that it's going to do away with
19 some of the dissension that we've found here. We discovered
20 that it was adopted without really the support of most of
21 the section chiefs.

22 While this chart is very firm, its not going to change
23 the relationship between the Attorney General and some of the
24 close support agencies, such as Office of Legal Counsel and the
25 governmental relations--that's Legislative Affairs, and so on.

1 Nor reject relationship with the FBI.

2 Probably the biggest impact is going to be in the
3 administrative affairs downstairs. When this plan was
4 adopted last summer, they had a layering of administration
5 put into the legal litigating sections that just seemed to be
6 wasteful, a duplication of people.

7 We think that we can save a lot of money on this
8 deal and also get more effective work done.

9 Now, do you have any questions?

10 QUESTION: Is there any estimate, General, on how
11 much the reorganization cost in the first place, and how much
12 the dismantling of the reorganization is costing?

13 ATTORNEY GENERAL SAXBE: I don't think it's cost a
14 lot because we didn't implement the whole program.
15 For instance, on the administration, we only had acting heads,
16 we never made those permanent.

17 The Associate certainly earned his money because
18 he's the man who performed the study. We would have had to
19 have employed outside people to have done this. And there's
20 no great expense.

21 I think there was a laying [on] of a lot of people
22 in administration, but that was a build-up over a year or
23 two, rather than anything that just happened.

24 These reorganization plans are not new, they go
25 back to 1967.

1 QUESTION: General, the month is about up in which
2 Mr. Petersen was supposed to assemble a report for you on
3 COINTELPRO, the FBI COINTELPRO program. What did
4 he report to you?

5 ATTORNEY GENERAL SAXBE: I haven't got it yet.

6 QUESTION: Is he -- has his deadline been extended
7 or when do you expect to get that report?

8 ATTORNEY GENERAL SAXBE: No, it's in the works.

9
10
11 QUESTION: Obviously we don't expect to see it before
12 you do, but after you see it, will we be so privileged?

13 A VOICE: He's already on the record as saying that.

14 ATTORNEY GENERAL SAXBE: I expect to do that.

15 QUESTION: Well, to whatever extent it can be
16 expedited.

17 ATTORNEY GENERAL SAXBE: I'm anxious to see it too.

18 QUESTION: Was there any input from the White House
19 on this change?

20 ATTORNEY GENERAL SAXBE: No, but we carefully
21 cleared it with the OMB, which is the area of supervision in
22 these, and they agreed with us.

23 QUESTION: Have you talked to the President about
24 it?

25 ATTORNEY GENERAL SAXBE: No. We didn't. Because

1 this is an area of responsibility of OMB over there, they're
2 the ones who worked with it in setting it up, and they also
3 were the ones who worked with us on the dismantling.

4 QUESTION: When was last --

5 ATTORNEY GENERAL SAXBE: They were disillusioned
6 also.

7 QUESTION: When was the last time you talked to
8 the President?

9 ATTORNEY GENERAL SAXBE: I haven't talked with the
10 President since before he went to the funeral; it's been
11 almost two weeks.

12 QUESTION: I don't know if you're up on this, it's
13 a question from my New York desk. They have been following
14 the Sobell case there, and apparently Mr. Sobell's lawyers
15 have claimed that some evidence in the Rosenberg trial many
16 years ago was forged, and now the evidence has disappeared,
17 and the question they wanted me to ask was: What's being done
18 to find out what happened to the evidence, and what regulations
19 are there with respect to keeping such evidence?

20 ATTORNEY GENERAL SAXBE: I'm interested in the same
21 thing. I don't know.

22 I know that this is primarily a job for the
23 prosecution, the evidence that is entered into a court case
24 becomes a matter of record. The actual instrument, I don't
25 know.

1 I notice that they said in that story that they
2 just couldn't locate it. They don't know whether it was
3 stolen. They didn't say it was stolen or missing or anything,
4 they just couldn't locate it.

5 I have also observed in my visit to a lot of
6 courthouses, when you walk in these property rooms -- well,
7 you've seen the same thing. My God, I don't know how they
8 can find anything.

9 QUESTION: Well, what steps occur next?

10 ATTORNEY GENERAL SAXBE: Well, I want to find out
11 if there is any responsibility, and keep it.

12 QUESTION: Well, apparently they had been signed out
13 to the U. S. Attorney's office in New York. That's what the
14 people who are in charge of the records say.

15 ATTORNEY GENERAL SAXBE: I don't know. I don't
16 know.

17 QUESTION: I mean mechanically, do you have someone
18 whom you've asked in your office to take responsibility to
19 ascertain the facts in this case, or what physically have you
20 done?

21 ATTORNEY GENERAL SAXBE: The only thing I've asked
22 is: what is the responsibility for evidence? It has nothing
23 to do with this particular evidence, or the circumstances
24 surrounding it.

25 QUESTION: In other words, the Justice Department

1 itself is not pursuing an inquiry at this time as to what
2 happened to that particular --

3 ATTORNEY GENERAL SAXBE: I understand that the
4 U. S. Attorney there --

5 QUESTION: In New York.

6 ATTORNEY GENERAL SAXBE: He's part of the Justice
7 Department.

8 QUESTION: Last week you told us that you were
9 working on a -- trying to make a decision on what to do about
10 the list of subversive organizations. Do you have any
11 decision on that yet?

12 ATTORNEY GENERAL SAXBE: We have a -- we have a
13 recommendation prepared. It's now being circulated amongst
14 the departments or the sections of the Department of Justice,
15 and it will go to the White House. I can't tell you what it
16 is, because if I do then it removes any option the White
17 House might have. But we expect it to go to the White House,
18 who will make the final decision.

19 QUESTION: Well, can you characterize it in any way,
20 General? In terms of whether it reduces the list, or
21 weeds out --

22 ATTORNEY GENERAL SAXBE: No.

23 QUESTION: -- any organizations?

24 ATTORNEY GENERAL SAXBE: No.

25 QUESTION: Does it expand it?

1 ATTORNEY GENERAL SAXBE: I can't give you any
2 information. As I say, if I would, why, I'm leaking to you
3 things that are basically a White House decision. I didn't
4 even realize that it was when I started talking about it,
5 but I'm glad it was raised. I'll send it over there, we
6 hope -- when -- in another week. And it will go to the White
7 House and I'm sure that we'll get quick action.

8 QUESTION: Have you determined whether or not you
9 have legal authority to establish and maintain such a list?

10 ATTORNEY GENERAL SAXBE: I think that that was
11 under Executive Order.

12 QUESTION: The validity of that has been questioned.
13 I wondered if a decision within the Department had been made
14 on that question.

15 ATTORNEY GENERAL SAXBE: Well, I think the question
16 you raise is even deeper than that. As you may have noticed,
17 the FBI is requesting from other agencies just exactly what
18 the role is, of information gathering on subversive
19 organizations, so-called subversive organizations.

20 This includes today's terrorists and others. And
21 I think perhaps legislation is needed. The FBI feels that
22 way.

23 QUESTION: What kind of legislation? You mean just
24 setting out the guidelines for what kind of material should
25 be --

1 ATTORNEY GENERAL SAXBE: Exactly what they are
2 expected to do.

3 QUESTION: Is it fair to say that at least you're
4 changing the list from what it is now, or recommending
5 changing the list from what it is now?

6 ATTORNEY GENERAL SAXBE: It will be a week --
7 I can't -- there's such a little bit of it left that anything
8 that I would say would whittle it away to nothing.

9 [Laughter.]

10 QUESTION: Well, is that what you did?

11 QUESTION: You said you hadn't talked to the
12 President since before the Pompidou funeral, have you
13 attempted to talk with the President at all?

14 ATTORNEY GENERAL SAXBE: No. No.

15 QUESTION: Well, you said also that you learned,
16 after talking with us last week, that this was a White House
17 or presidential authority on the list, did someone at the
18 White House communicate that to you?

19 ATTORNEY GENERAL SAXBE: No.

20 QUESTION: How was that determined?

21 ATTORNEY GENERAL SAXBE: The Office of Legal
22 Counsel set out exactly the way it is operated, the way it
23 was put together, and if it's going to be changed it has to
24 be changed by the White House.

25 And if we make a recommendation, why, it has to go

1 over there for action.

2 QUESTION: Then you think that new legislation is
3 needed in this field?

4 ATTORNEY GENERAL SAXBE: Yes, this is not connected
5 with the list that we're talking about. We're talking about
6 a continuation of the role. And I think everybody
7 expects the investigatory agent to keep track of terrorists,
8 subversives. We seem to have quite a few irresponsible
9 people in the world today, and I think the American people
10 expect some part of the government to have knowledge on it.
11 If it's going to be the FBI, which is the traditional
12 depository, the FBI in turn should be given exact guidelines
13 as to what they're to do.

14 QUESTION: Can you update us at all, General, on
15 the story today of Mr. Jaworski being asked to form a
16 grand jury to look at a possible conspiracy in preparing the
17 President's tax returns? You had mentioned the other day
18 that --

19 ATTORNEY GENERAL SAXBE: I don't know anything
20 about it.

21 QUESTION: -- some of the stuff had gone over there.
22 Did you not know that it was for that purpose, or for that
23 request?

24 ATTORNEY GENERAL SAXBE: I read that, but I don't
25 know anything about it.

1 QUESTION: Well, which way did the President's
2 tax stuff go; did it come from a Jaworski request, like it
3 does in others you mentioned, or did it come from Mr.
4 Alexander to Jaworski, unsolicited?

5 ATTORNEY GENERAL SAXBE: I can't tell you. I just
6 -- I don't recall.

7 QUESTION: You don't remember --

8 ATTORNEY GENERAL SAXBE: No.

9 QUESTION: -- which way.

10 ATTORNEY GENERAL SAXBE: The -- as I said the
11 other day -- you probably know more about these affairs than
12 I do, because I'm trying to concentrate on a day-to-day
13 routine of the Justice Department.

14 QUESTION: Right.

15 ATTORNEY GENERAL SAXBE: And I feel that the
16 Justice Department is adequately represented by Mr. Jaworski.

17 QUESTION: Right. But he --

18 ATTORNEY GENERAL SAXBE: And now, as the House
19 Committee gets their steam up, it's going to be, I think,
20 shifting more and more over there.

21 QUESTION: Who are some of the people that he asked
22 you to get tax records for? You said there were about a
23 dozen.

24 ATTORNEY GENERAL SAXBE: Oh, if I said a dozen,
25 I meant this goes back to the time of the original, beginning

1 of the -- of Mr. Jaworski.

2 QUESTION: You mean Jaworski himself or the
3 Special Prosecutor? We're talking about Hunt, Liddy, that
4 group as well? Haldeman, Ehrlichman, Colson?

5 ATTORNEY GENERAL SAXBE: I can't recall, but what
6 I'm saying is this goes back to when he took over -- in
7 November, whenever it was.

8 QUESTION: Oh, at the beginning of his investigation.

9 But you don't recall whether the tax return of the
10 President, which was sent to Jaworski, came at Mr. Alexander's
11 recommendation or --

12 ATTORNEY GENERAL SAXBE: Oh, I have no information
13 on the President's tax returns.

14 QUESTION: Wouldn't you remember that?

15 ATTORNEY GENERAL SAXBE: No.

16 Well, there's nothing that -- there's no presidential
17 tax material that I know of. There is none that I know of.

18 QUESTION: That went to Jaworski?

19 ATTORNEY GENERAL SAXBE: That went to Mr. Jaworski.
20 That's what we're talking about, the piece in the paper.
21 I know I have no information to either support or deny the
22 piece that was in the New York Times or the Post this morning.

23 QUESTION: Okay. Well, you see, we're in another
24 one of those little round-robins, where maybe we asked one
25 too many questions.

1
2 Because the other day you said to your
3 knowledge it had gone over to Jaworski, the President's tax
4 return, vis-a-vis the investigation of DeMarco. Is that
5 right?

6 At least that's what I recall.

7 ATTORNEY GENERAL SAXBE: I read that, but I -- that
8 wasn't my intention to say that any presidential tax returns
9 had gone to Mr. Jaworski.

10 QUESTION: But you said at the time that the
11 material with Mr. DeMarco's hand in it, of the President's
12 taxes for the year 1969, or whatever it is Jaworski has.
13 Is that what you did mean?

14 ATTORNEY GENERAL SAXBE: No, I didn't.

15 I read that, and we'll have to go back to the tape.
16 But the gist of what we're talking about is that these are
17 investigatory files and I think it's unfair to even comment
18 on any kind of an investigatory file.

19 Now, to my knowledge, Mr. Jaworski is not involved
20 in the President's returns.

21 QUESTION: You mean directed toward the President?

22 ATTORNEY GENERAL SAXBE: That's correct.

23 QUESTION: You made that clear, I thought, the other
24 day, but --

25 ATTORNEY GENERAL SAXBE: Yes, I did.

1 QUESTION: -- but Mr. DeMarco's handling of it in
2 1969 was -- or in 1970 for the '69 return, was what we under-
3 stood you to say was sent over,

4 ATTORNEY GENERAL SAXBE: Well, I can't even verify
5 that. I haven't gone back and looked at it, and, frankly,
6 I just don't want to comment on it.

7 QUESTION: Well, General, the Times story said
8 that you had given Mr. Jaworski, as an Attorney General's
9 opinion, apparently to allow him to look into individuals
10 who were personal employees of the President.

11 ATTORNEY GENERAL SAXBE: This boils down to the
12 question of the extent of the powers of the Special Prosecutor.
13 And they are so broad that I don't think there's any room for
14 arguing that whether he should handle them or whether regular
15 Justice Department people should handle them on anything that
16 arises out of the years from '69 on, in regard to campaign
17 contributions; and anything connected with the Watergate.

18 I wish you'd go back and read that charter, it's
19 rather broad.

20 QUESTION: Well, I think what we're trying to get at
21 is that there's a clause in the charter that says that he may
22 investigate these specific things you've mentioned and anything
23 else referred to him by the Attorney General.

24 The Times story this morning said that you had
25 referred a matter, apparently not covered by the other parts of

1 the charter. That's what we're trying to find out.

2 ATTORNEY GENERAL SAXBE: Yes.

3 QUESTION: Has there been any new referral?

4 ATTORNEY GENERAL SAXBE: There was a request from
5 -- for an opinion -- not an opinion, rather to refer certain
6 areas to Jaworski, and we felt that it was clearly within
7 his area of responsibility.

8 Now, this was things that arose, as I said the other
9 day, beginning clear back when I came on board. The dozen
10 people that I mentioned were the total of this. I considered
11 that a sizable group, and I said the other day a sizable
12 group. Most of these people are under indictment. Some have
13 been tried.

14 I felt it was just a part of a total investigation
15 of individuals, and that it couldn't be held up.

16 QUESTION: Well, the Special Prosecutor doesn't
17 have any real tax experts, you've got a considerable number
18 of them in this building. Why should this matter, whether
19 Mr. DeMarco or others who acted in a culpable manner, be
20 referred to Mr. Jaworski's staff.

21 ATTORNEY GENERAL SAXBE: Well, I just don't think
22 that the Justice Department can -- I think that if you
23 approach it from that, you'd have a proliferation, to say
24 this little area and that little area.

25 I don't think that he's in any danger of being

1 short of people there to perform this function.

2 QUESTION: Can we pin this question of referral
3 down again? As I understand, you're now saying that there's
4 been no recent referral of new authority to Mr. Jaworski.

5 ATTORNEY GENERAL SAXBE: I don't consider that
6 there has been, no.

7 QUESTION: That's what the Times story said this
8 morning. You're saying that that's not correct?

9 ATTORNEY GENERAL SAXBE: I thought that -- to me
10 that story just didn't make much sense, because it starts
11 off as a headline and says that the -- Alexander has stated,
12 or indicated that he sent all this stuff to Jaworski for
13 prosecution. If he has, I don't know about it.

14 QUESTION: Would you necessarily know?

15 ATTORNEY GENERAL SAXBE: Not necessarily, but I
16 think I would.

17 QUESTION: Mr. Saxbe, what I was trying to get at
18 with my previous question is in the sense of the cutting edge,
19 in deciding what stuff goes to Jaworski and what stuff stays
20 here; not so much a matter of finding a Watergate connection.
21 But now it is whether it has become something involving the
22 President or those close to the President, so as to insure
23 that there will be no public doubts about the independence
24 of the probe, but that kind of material; anything involving
25 the President and his fellows gets kicked over to Jaworski.

1 Isn't that really about what it amounts to?

2 ATTORNEY GENERAL SAXBE: You've got several things.
3 You've got the timeframe, you've got the place of employment,
4 and you've got the nature. You've got three things that
5 fit within that charter. And I don't think that the tax area
6 is eliminated, simply because we may have more tax people
7 than they have.

8 QUESTION: Your OLC did an enterprising job of
9 putting a study together on the impeachment question. I was
10 curious whether anyone has asked them to put together a
11 similar study with respect to Congress' contempt authority or
12 Congress' ability to subpoena materials from the President,
13 from a reluctant President?

14 ATTORNEY GENERAL SAXBE: No, that isn't likely,
15 either, because they really weren't too enthusiastic about
16 our impeachment study.

17 [Laughter.]

18 QUESTION: So nothing is being done along that line?

19 ATTORNEY GENERAL SAXBE: Not now.

20 QUESTION: Who wasn't enthusiastic?

21 ATTORNEY GENERAL SAXBE: The Congress. The Congress
22 wasn't. We did this, it was under way when I came here, and
23 I thought it was a good study. And when it was ready, we
24 offered it to them, and they accepted it rather reluctantly,
25 but indicated they felt they had better -- better sources.

1 And since that time we've had no request for another
2 one. So we haven't.

3 QUESTION: Senator Javits made some public
4 statement about this issue of the conservative, or the
5 subversive control list last week. Have you talked to him
6 since last Friday? Have you gotten his views about whether
7 there should be a reactivation or a change?

8 ATTORNEY GENERAL SAXBE: I have not.

9 QUESTION: Have you obtained all the documents
10 yet which Senator Weicker released the other day? You said
11 on Tuesday morning that you would study them.

12 ATTORNEY GENERAL SAXBE: I don't know. I haven't
13 personally seen them. He said that he was sending them down.

14 Now, as I understand it, what he talked about was
15 information that he had received as a member of the Watergate
16 Committee, and I would guess that this would go to Mr.
17 Jaworski.

18 QUESTION: What would you do if, down the road,
19 Congress were to vote a contempt citation against the
20 President, under the statutes 2 USC 192 et seq. The
21 U. S. Attorney must present that sort of matter to a grand
22 jury, yet there are those who believe that the grand jury
23 has no power to indict a sitting President, and therefore the
24 whole thing is silly.

25 What would you do in that sort of situation?

1 ATTORNEY GENERAL SAXBE: It is, it's a -- we've
2 made no decision, and, to my knowledge, no study on it.
3 It's a classic confrontation on separation of powers.

4 QUESTION: Have you read Jack Chester's brief on
5 the subject of whether the Congress can subpoena the
6 President?

7 ATTORNEY GENERAL SAXBE: Yes.

8 QUESTION: Do you think that bears on this question?

9 ATTORNEY GENERAL SAXBE: I read part of it.

10 QUESTION: Do you think that bears on this question?

11 ATTORNEY GENERAL SAXBE: Part of it bears on that.

12 QUESTION: You said to your knowledge you didn't
13 have any study on this. Have you got studies going on other
14 things that we would be interested in?

15 ATTORNEY GENERAL SAXBE: Not -- not in this area.
16 The Office of Legal Counsel, as you know, does these things.
17 We also have an Office of Criminal Justice, which we
18 hope to get carved up to do these kind of studies. They
19 are not at the present time going into this kind of thing,
20 they're working on the NCIC and computerized general history
21 and conflict between NCIC and inlets, and this kind of thing.

22 There are no in-depth studies on these things
23 going on.

24 QUESTION: Could you tell us what progress has been
25 made on the libel legislation that I believe OLC is drafting?

1 ATTORNEY GENERAL SAXBE: None to my knowledge.
2 That is, I have nothing new to report.

3 As I told you last week, the hang-up is trying to
4 interpret what malice is. And to my knowledge they've made
5 no progress. It's a tough area.

6 QUESTION: Several weeks ago I asked, and while your
7 Deputy seemed to have a judgment in the matter I didn't think
8 that you did at that time; I asked whether you thought that
9 Congress had the authority to pass a law which would, in
10 essence, exempt the President from prosecution for alleged
11 crimes if he resigned. And we talked about whether that would
12 be sort of a bill of attainder in reverse, and so on.

13 Have you thought about that matter any further?
14 Do you have any thoughts as to whether that's --

15 ATTORNEY GENERAL SAXBE: I've thought about it,
16 but I don't have any conclusions. It's a tough one -- again,
17 it's confrontation on the separation of powers. And what
18 you're talking about is what someone suggested -- who was it,
19 Mills -- who said that if the President would resign, that
20 they would give him an exemption from any prosecution.

21 One of the difficulties is that even on a commutation
22 of a sentence or a pardon, and so on, Congress doesn't
23 have the authority to do this. It resides in the President.

24 Now, whether they could assume by statute something
25 like this, I'm just not ready to answer. It doesn't seem

1 readily possible to me. What do you think?

2 DEPUTY ATTORNEY GENERAL SILBERMAN: I didn't
3 hear the question.

4 QUESTION: The same question I asked about four
5 weeks ago, and you were sitting behind Mr. Saxbe, and you
6 were kind of shaking your head no on that date, so I assumed
7 that you had studied the issue. The question being whether
8 Congress could exempt the President from prosecution --

9 ATTORNEY GENERAL SAXBE: Criminal prosecution.

10 QUESTION: -- in exchange for resignation.

11 DEPUTY ATTORNEY GENERAL SILBERMAN: I refuse
12 the question.

13 [Laughter.]

14 QUESTION: That's one way to get out of it!

15 QUESTION: Is anybody studying this question for
16 you, to help you make a decision?

17 ATTORNEY GENERAL SAXBE: No.

18 QUESTION: Are you going to have anybody study it?

19 ATTORNEY GENERAL SAXBE: I don't think it will come
20 to me for a decision.

21 QUESTION: May I ask a question about wiretapping
22 authority? About three years ago I asked here at the
23 Department whether in fact Attorney General Mitchell was the
24 czar for all wiretaps, that is, any wiretapping conducted by
25 a federal agent against a citizen of the United States, no

1 matter what agency that federal agent worked for.

2 Would that come through the Attorney General's
3 desk? Would he -- is he in the central position? I was as-
4 sured that was true, that no wiretaps would be installed without
5 his permission.

6 And then a short time later I found out that, for
7 example, DOD was doing wiretapping, and it never crossed
8 their minds to bring that matter to the attention of the
9 Attorney General.

10 What is the status of that? Are you the czar or
11 ain't you the czar?

12 ATTORNEY GENERAL SAXBE: Well, I think so.

13 But I know that under the Keith decision there are
14 absolutely no Category III wiretaps without my authorization,
15 and a judge. I don't believe that -- well, except the states,
16 as you know, for the 10 states.

17 QUESTION: Well, I'm only talking about federal
18 employees.

19 ATTORNEY GENERAL SAXBE: All right.

20 I don't believe there's any other federal agency
21 that ever goes into court, although I think that Treasury
22 could. I'm talking about Alcohol, Tobacco, Firearms -- but
23 I don't believe that they do.

24 QUESTION: Well, we see those showing up, though,
25 in the report to the office of the Administrator of U. S.

1 Courts. For example, if the Secret Service was wiretapping
2 F. Donald Nixon's telephone at the request of the President,
3 I seem to recall that we've been told that somewhere along
4 the line, I don't see that that ever showed up in the
5 report to the Office of the Administrator of the U. S. Courts.
6 I don't understand how it didn't show up.

7 ATTORNEY GENERAL SAXBE: To my knowledge, the
8 Secret Service was not used for wiretap for this Administration.
9 Now, that's --

10 QUESTION: Except for the Donald Nixon installation?

11 ATTORNEY GENERAL SAXBE: Well, was that Secret
12 Service?

13 QUESTION: That's what he said, as I recall, that's
14 what the President said.

15 QUESTION: Well, I wasn't a witness, so I can't
16 swear to it first person, but that's what we had understood.

17 ATTORNEY GENERAL SAXBE: Well, of course, under
18 the Keith decision, that wouldn't be possible, would it?
19 Unless you fall back on the national security, which we have
20 very narrowed.

21 QUESTION: Well, are you satisfied that no federal
22 agency is conducting wiretaps without your approval?

23 ATTORNEY GENERAL SAXBE: I can't say that I'm
24 satisfied, but I have no knowledge, I have no knowledge,
25 and I do not believe that there are any domestic wiretaps

1 except those authorized by the Department of Justice.

2 QUESTION: Now, some of the Army wiretapping is
3 overseas, and thus they claim some sort of an extraterritor-
4 iality about them. Yet a wiretap by the U. S. Government
5 against a U. S. citizen, even if it takes place on the moon,
6 I suppose is covered by the Fourth Amendment, wouldn't you?

7 ATTORNEY GENERAL SAXBE: I'm not at all sure that
8 they are engaged in those services.

9 QUESTION: Well, they reported it to Senator Ervin.

10 ATTORNEY GENERAL SAXBE: I think that at
11 one time there were widespread intelligence operations
12 within the Army, and Fort Holabird and Fort Monroe and
13 computers, and all of this. But I've been led to believe
14 that this is no longer done.

15 QUESTION: Well, just as a matter of principle,
16 would you expect that if DOD, if Military Intelligence in
17 let's say, Europe wanted to run taps on certain American
18 servicemen suspected of trafficking in drugs, would you
19 anticipate that their requests for that tapping in Frankfurt,
20 West Germany, would be approved by you?

21 ATTORNEY GENERAL SAXBE: If they had need for it,
22 their recourse would be to work through the authorities in
23 the country. And I'm talking about drugs or any of this,
24 and to work through the regularly constituted -- now --

25 QUESTION: Authorities in which country, sir?

1 ATTORNEY GENERAL SAXBE: In France and Germany,
2 wherever they are. And I'm led to believe that this is
3 what happens.

4 As you know, we have 400 agents of the DEA, Drug
5 Enforcement Agency, around the world. They have no authority
6 to wiretap Americans, --

7 QUESTION: Well, even --

8 ATTORNEY GENERAL SAXBE: -- but you are also
9 probably aware it's estimated there are 70,000 wiretaps in
10 France.

11 The procedure would be to go to the police of the
12 country where you're working, if you're worried about drugs
13 or whatever it is, it's their problem.

14 Now, as to whether it's American citizens, they're
15 being wiretapped in France by France; that's a question that
16 has just never come up.

17 Whether they are entitled to Fourth Amendment
18 protection while they are in France.

19 QUESTION: Well, can I leave that with you as a query,
20 then, for your judgment? My question being whether a tap
21 by U. S. agents overseas against U. S. citizens is covered
22 by the Fourth Amendment?

23 ATTORNEY GENERAL SAXBE: All right.

24 QUESTION: It's a judgmental question. I don't
25 think it's ever been litigated.

1 ATTORNEY GENERAL SAXBE: And my initial answer
2 is I don't believe there's any of it going on. As a
3 theoretical situation, why, we'll try and do it.

4 As an American citizen, does he have any constitu-
5 tional protection against being wiretapped by, say, in a
6 Russian hotel?

7 QUESTION: Well, that wouldn't be covered by the
8 Fourth Amendment if it's a Russian doing the tap; but the
9 Fourth Amendment does seek to regulate the conduct of the
10 U. S. Government and its agents, it seems to me, whether
11 they are operating in Mexico or France or whatever.

12 ATTORNEY GENERAL SAXBE: Well, if it's the
13 military placing the wiretap in that hotel, then the question
14 arises.

15 QUESTION: Now, in your answer to his question,
16 you said that you didn't think there were any domestic
17 wiretaps, Title III wiretaps conducted without your knowledge.
18 Do you think there are any other kinds of wiretaps, any
19 national security taps that do not flow through the Justice
20 Department?

21 ATTORNEY GENERAL SAXBE: I don't believe so.

22 QUESTION: Are there any orders or rules or
23 instructions to everybody else, telling them to come to you
24 first?

25 ATTORNEY GENERAL SAXBE: Yes. They're channeled.

1 QUESTION: And that -- and you do get requests from
2 other agencies?

3 ATTORNEY GENERAL SAXBE: Right. And they meet the
4 same standard as any other.

5 QUESTION: The other day, testifying up on the Hill,
6 Ramsey Clark said that there had been requests during his
7 time here from the State Department to tap the phones of
8 visiting delegations with whom the State Department was going
9 to negotiate, sort of a mirror behind the other guy's
10 poker hand.

11 Have you seen any of that kind of request?

12 ATTORNEY GENERAL SAXBE: I can't comment on that,
13 but I have no knowledge -- but I wouldn't comment on it if
14 I did.

15 I mean, you're talking about the bug in the
16 chandelier and all this business in the meeting room and so
17 on.

18 QUESTION: Yes.

19 QUESTION: Is Mr. Saloschin working full time to
20 kill the FOI amendments on the Hill?

21 ATTORNEY GENERAL SAXBE: No, Mr. Saloschin is trying
22 to strengthen the bill. One of the problems we just can't under-
23 stand is how in the hell are we going to get the money, the
24 various departments going to get the money to comply with
25 some of the things. Some of them are going to be very

1 expensive.

2 QUESTION: You mean the indexing thing?

3 ATTORNEY GENERAL SAXBE: The -- and a quick
4 recovery. Ten days is -- and I liken it to, if you're
5 going to get criminal prosecution, if you make a mistake
6 it's going to keep going down the line until you get down to
7 a GS-5, who's going to make the decisions. And I think it's
8 self-defeating.

9 Now, we support the bill. We just think that it
10 can be a much more effective bill if it's put together in
11 such a way, first, that there is money provided to handle the
12 additional cost. Some say that the additional cost runs
13 as high as a billion dollars.

14 Their projections are very unrealistic. And the
15 suggestions that he's making are being given careful
16 consideration. We're not being summarily dismissed, as
17 one would believe on this. The people of Mr. Kennedy's
18 staff and others have given careful consideration to this
19 recommendation. They want this bill to work, and we do, too.

20 QUESTION: What's your position -- you've probably
21 stated it but I haven't caught up with it -- on the Exemption.
22 One problem, the Patsy Mink problem, that they are
23 attempting to cure, to give the courts authority to, shall
24 we say, whether to review whether a national security
25 classification is properly attached to sought-after documents?

1 ATTORNEY GENERAL SAXBE: We're not hung up on that.
2 We're living with that right now. It's not a great problem.

3 QUESTION: In other words, you don't believe that
4 the courts -- I'll be more specific. One of your predecessors,
5 Attorney General Mitchell, in a speech, expressed his doubts
6 about the ability of federal judges to look into such
7 questions and resolve them, and thought they would be
8 improper inasmuch as they didn't have Q-sigma, something or
9 other, clearance.

10 Do you have any problem with that?

11 ATTORNEY GENERAL SAXBE: No. I think that that's
12 a fact of life, and we go along with it.

13 Now, our hang-up, if we get away from the financial,
14 we don't think that you can urge citizen participation in
15 law enforcement. Now, this is a big thrust right now to
16 get people to cooperate with the police, and to call -- we
17 post telephone numbers every place: Call the police.

18 We're afraid that if at any time -- and we're not
19 saying this bill does it, but it's got to be explicit that
20 it doesn't -- if at any time that a citizen is going to read
21 about his testimony the next day in the paper, it's going to
22 make it more difficult to get citizen participation in
23 criminal law enforcement.

24 Right now the people just say, "I don't want to
25 get involved." They see a burglary, they see a robbery, they

1 see violence, and they say, "I don't want to get involved".

2 Unless you get people to call up the police and
3 tell them about violations, well, you've lost all your
4 greatest sources of information for law enforcement. And
5 I don't think the police can operate under a whole lot more
6 handicaps.

7 Now, I think we've got to protect those persons,
8 the citizens.

9 QUESTION: When Chief Kelley came in office down
10 the hall -- this is another subject -- he indicated, in
11 response to a question as to how he would handle requests
12 from the White House, he said he felt he would do it just by
13 operating through channels, that he would insist that such
14 requests funnel through the AG's office and then to him and
15 so on.

16 Have requests for FBI investigative files come
17 from the White House through you to Director Kelley?

18 ATTORNEY GENERAL SAXBE: Have not. And those
19 investigative files are strictly on a need-to-know basis in
20 law enforcement. And we've gotten no such requests from the
21 White House.

22 QUESTION: Some of the historians who have been
23 trying to get FBI records under that order that Richardson
24 signed last summer have said, have complained, about the
25 slowness with which the FBI is processing the material.

1 I think at least one has written you once or twice.
2 Professor Weinstein from Smith College.

3 Are you satisfied with the progress that the FBI
4 is making in answering these requests, or --

5 ATTORNEY GENERAL SAXBE: Generally I am. Some of
6 these problems are personality problems that go back a long
7 time, and if there's danger of people being involved in
8 changing their life, of being disturbed, I think we have an
9 obligation to them.

10 QUESTION: But is there any intention on your part
11 to either amend that order or to -- well, just to scrap it
12 in any way, or not?

13 ATTORNEY GENERAL SAXBE: No. We release things
14 every day that can be released. There are a great many
15 more released than are refused.

16 I think it's working. The people that they turn
17 down are the people that they think would actually -- there
18 are informants, there are people involved whose identity
19 cannot be clothed if the information is released.

20 QUESTION: Is there any comparison between the FBI
21 files and the Census records?

22 ATTORNEY GENERAL SAXBE: And what?

23 QUESTION: And the Census records.

24 ATTORNEY GENERAL SAXBE: No.

25 QUESTION: You can't see the Census records past

1 about 1900. They were just made available this year.

2 The Census records, the door-to-door census.

3 ATTORNEY GENERAL SAXBE: Well, that's covered by an
4 entirely different set of statutes.

5 QUESTION: Have there been any developments in the
6 Hearst case?

7 ATTORNEY GENERAL SAXBE: None that I know of.

8 QUESTION: Mr. Saxbe, can we talk for a minute on a
9 parochial matter that you reminded me of --

10 ATTORNEY GENERAL SAXBE: All right.

11 QUESTION: -- with your first reference. The other
12 day you went to Godfrey Sperling's breakfast press conference.
13 As you probably know, this is an invitation-only group. And
14 they very specifically exclude the wires and, I think, the
15 broadcast people.

16 ATTORNEY GENERAL SAXBE: Unh-hunh.

17 QUESTION: At 5:00 p.m. on that day, my Bureau
18 called me and said, could I get the announcement that you had
19 made that day on the Hearst case. And I said, Well, he made
20 no announcement, I understood he went to a private gathering
21 of reporters.

22 ATTORNEY GENERAL SAXBE: Unh-hunh.

23 QUESTION: But I went to the Information Office and
24 asked if there was a tape. I was told there was a tape, and
25 I was told, however, that I could not hear the tape because

1 assurance had been given to Mr. Sperling that it would not
2 be used for news release purposes.

3 Now, I, don't really see why the Attorney General
4 in that statement should be -- have these conditions imposed
5 on him by one or more newsmen.

6 ATTORNEY GENERAL SAXBE: You've just got to have
7 your own breakfast, that's all!

8 QUESTION: Well, I think the rule of reason would
9 be --

10 [Laughter.]

11 ATTORNEY GENERAL SAXBE: Jack, tell him. I asked
12 Jack the same thing.

13 QUESTION: Well, my thinking, sir, is that once
14 anybody at that breakfast has published what was said at
15 the breakfast, there is no longer any reason for Jack to
16 keep a tight sphincter on this thing. He can -- as far as
17 I'm concerned, he ought to be able to let that tape go.
18 And I think, in future, this would be a very sensible policy,
19 and I would urge it on you strongly.

20 ATTORNEY GENERAL SAXBE: Well, you're talking
21 about something that I know very little about, and that's
22 press relations. So I -- and I depended on Jack for this,
23 and Jack get up and defend yourself.

24 JACK HUSHEN: It was their affair, we were their guests.

25 QUESTION: Yes, but I mean, do they need you or do
you need them? I mean, I don't see why any reporter should

1 tell a Cabinet member that: You gotta do it this way, Buddy;
2 or else we won't have you back.

3 Something like that. That's silly. I mean -- and
4 when the Attorney General says something --

5 ATTORNEY GENERAL SAXBE: I have not -- I had no
6 idea that any of these kind of restrictions were on when I
7 went there --

8 QUESTION: Well, that's what I say; next time you
9 get into one of these, why don't you make sure that, you know,
10 sweep the field for mines first.

11 ATTORNEY GENERAL SAXBE: Well, stand up and tell
12 him something.

13 [Laughter.]

14 A VOICE: Express yourself.

15 QUESTION: Can we find out what that bulletin is
16 on the table -- about the public lawyers --

17 A VOICE: No tape for anyone.

18 QUESTION: No? Fair enough.

19 ATTORNEY GENERAL SAXBE: Herbert Porter was
20 sentenced to thirty days, in a federal corrections -- "sic" --
21 institution --

22 [Laughter.]

23 QUESTION: Which wire service is that?

24 ATTORNEY GENERAL SAXBE: I don't know, but they've
25 got to get a new printer.

A VOICE: Thank you, Mr. Saxbe.

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