



Department of Justice

QUESTION AND ANSWER SESSION

OF

ATTORNEY GENERAL WILLIAM B. SAXBE

WITH

MEMBERS OF

THE CITY CLUB OF CLEVELAND

12 NOON

FRIDAY, JUNE 28, 1974

CLEVELAND, OHIO

The Attorney General responded to questions in the following areas:

<u>TOPIC</u>	<u>PAGE</u>
Separating the Justice Department from the Executive Branch	2, 3, 12
The Attorney General as a Cabinet officer	4, 5
Illegal aliens	5, 6, 9, 10
Combating revolutionaries	7, 8
Numbers of wiretaps	8, 9
Foreign security wiretaps and domestic wiretaps	10, 11
Plea bargaining	11, 12, 13
The President and his Cabinet	13, 14
Providing the President's legal counsel	14, 15, 16
Support for the Special Prosecutor	16
White House electronic surveillance	17
The SLA killings	18
The Patricia Hearst case	18
Kent State and Jackson State Grand Juries	18, 19
The free press and the right to privacy	19, 20

P R O C E E D I N G S

1
2 MODERATOR: Now your questions for Attorney
3 General Saxbe.

4 QUESTION: There has been a great deal of discussion
5 concerning the Department of Justice being different than
6 another Cabinet position, because of its relationship to the
7 courts and so forth. There has been talk of a proposal
8 for changing the role of the Attorney General with respect
9 to his relationship with the President, separating it from
10 the Executive Branch, and debates along this line.

11 I would be interested in your thoughts concerning
12 this, and your thoughts, having been a Cabinet member now
13 for six months, your responsibilities to your President,
14 your responsibilities to your Department, and so forth.

15 ATTORNEY GENERAL SAXBE: The suggestions that we
16 can correct the faults that caused Watergate by institutional
17 changes were taken quite seriously some time ago.

18 Recently, you haven't heard of it so much.
19 And one of the reasons is, if you take the Department
20 of Justice out of the Executive, where are you going
21 to put it?

22 It doesn't fit into the Judiciary, because if you
23 get the judge as both the prosecutor and the judge, that
24 isn't going to work.

25 And the Legislative area is certainly not the

1 place to put it.

2 And if you camp it out as a separate agency, you
3 run the risk of losing any kind of executive control over it.
4 If we have one area where there's been great dereliction of
5 duties, it's in the so-called independent governing
6 boards, like the ICC, the FCC, that become captives of the
7 people they are supposed to control.

8 So I would suggest that the weaknesses that have
9 been exposed in the Watergate and related affairs are not
10 weaknesses of the institutions, but are weaknesses of men;
11 that this country has done rather well with the
12 establishment that we have; and that we should approach
13 changing our institutions, for instance, as removing the
14 Justice Department from the Executive, rather gingerly.

15 For one thing, a President runs on a platform,
16 and he's elected on that platform. Suppose it's a law-
17 and-order platform, then it's almost wholly dependent
18 upon the Justice Department for him to deliver.

19 I don't think that he would be able to with
20 an independent Justice. And, frankly, I think that an
21 independent Justice could become tyrannical, because with
22 the authority to not look to anybody but themselves,
23 they could adopt radical policies that could be very
24 embarrassing.

25 Now, as to my relationship with the Administration,

1 yes, I am a Cabinet officer, as well as the head of the
2 Justice Department, which is a double job, really.
3 Initially this did not exist. When the Attorney General was
4 established, as the fourth Cabinet position, he was the
5 lawyer for the President, really; but the power of the United
6 States in criminal matters was vested in the U. S. Attorneys.

7 Later, as the Justice Department was put together,
8 almost a hundred years ago, but long after the initial
9 establishment of the office of Attorney General, he was
10 given the direction over that. So there is a dual
11 purpose.

12 Now, however, as the Presidents have built up
13 within the White House a body of lawyers, less and less of
14 that responsibility falls upon the Attorney General as the
15 President's legal adviser; he has his own attorneys.

16 Since I have been there, and probably because of
17 the difficulties of the Watergate and the fact that there's
18 a substantial group of lawyers built up within the White
19 House, I have served less as a legal adviser than probably
20 any Attorney General; and I'm left to run the Justice
21 Department, which is fine with me.

22 The relationship as a Cabinet officer, though,
23 continues, and I report on what we're doing and on general
24 over-all policy discussions, and clear it through the White
25 House. So that relationship exists. But as a legal adviser

1 to the President, it has tapered off while I've been there.

2 QUESTION: Mr. Attorney General, some time ago
3 you made the statement, "President Nixon lost his senses."

4 Later you gave up your Senate seat to accept his
5 appointment to your present post.

6 It must have occurred to you that he regained his
7 senses, when he delegated you to that post.

8 [Laughter; applause.]

9 ATTORNEY GENERAL SAXBE: If there was a question
10 there, I fail to --

11 [Laughter.]

12 A VOICE: "When did he get his senses back?"

13 ATTORNEY GENERAL SAXBE: What?

14 A VOICE: "When did he get his senses back?"

15 ATTORNEY GENERAL SAXBE: Oh! Well, I suppose the
16 day he appointed me.

17 [Laughter; applause.]

18 QUESTION: I hesitate to change to a more serious
19 note, but I feel I should. My question pertains to the
20 enforcement of the U. S. immigration laws.

21 Everyone knows that the United Farm Workers are
22 striking some of the grape and lettuce growers in California,
23 and I understand that some of those growers are bringing in
24 aliens in violation of the U. S. immigration laws, to act as
25 strike-breakers.

1 I also understand that roughly 80 percent of these
2 strike-breakers in California are illegal aliens.

3 If my understanding is correct, why are the
4 growers not being prosecuted for violating the U. S. immigra-
5 tion laws? Why are not the laws being enforced?

6 ATTORNEY GENERAL SAXBE: I'll tell you in a hurry.
7 Because the Congress will not pass a law making that a felony
8 to hire an illegal alien.

9 We've got it through the House. We can't get it
10 through the Senate. And if we can get that, and make it a
11 felony, you're not only going to get rid of a lot of illegal
12 farm workers; you're going to get rid of a lot of illegal
13 waiters, cooks, and others, right here in Cleveland.

14 This is the only answer. We cannot prosecute
15 an employer who hires an illegal alien. We want that power.
16 And the House has passed the bill.

17 Now, Mr. Chavez and his group have not given us
18 the kind of support that we would like to have on this,
19 because many of his members are illegal aliens.

20 [Laughter.]

21 Now, we feel if we can get this law through, to
22 make it a felony for the City Club or anybody else to hire
23 an illegal alien as a waiter, we can put a stop to
24 this business. It's before the Senate, and I suggest
25 that you all write any Senators you know and suggest

1 they get on the ball; because we haven't had the
2 support that we'd like to have from some quarters where
3 you would think we would be getting it, like some of the
4 unions.

5 QUESTION: Mr. Attorney General, approximately
6 two hundred years ago the Boston Massacre took place up in
7 New England. With this in mind, do you feel that the
8 suppression of any demonstration, such as Kent State, Jackson
9 State, by gunfire, and considering those at the Black Muslim
10 headquarters, and recently in Los Angeles, and all throughout
11 the country, do you feel that this will effectively squelch
12 any embryonic revolutionary movement in the nation today?

13 ATTORNEY GENERAL SAXDE: Well, it never has.
14 I don't think you are ever going to suppress a revolution
15 by killing people. I think it's something that, if we can
16 judge from history, has never worked.

17 That's not the purpose of policemen, firing on
18 the Symbionese Army; it's not for the purpose of suppressing
19 revolution; it's trying to maintain order and to keep the
20 peace of the community.

21 Now, if we are going to have organized groups
22 armed with weapons, certainly the history of Cleveland
23 indicates that we must look to the properly constituted
24 authority to defend the citizenry from those groups. It's
25 not a question of revolution; it's a question of violence.

1 It's a question of people who are armed and are determined
2 to exercise their will, not for revolution but for any
3 kooky idea they may come up with, by shooting somebody.

4 QUESTION: Mr. Attorney General, from the figures
5 given to you by the telephone company of 163 wiretaps from
6 10,000 requests for checks on phone lines, this would mean
7 that in excess of 326 -- excuse me, 326,000 phones in the
8 United States are wiretapped at any one period, from this
9 860-odd court-approved wiretaps, and then from that figure
10 the very modest number of wiretaps by the FBI, where would you
11 say the balance of these wiretaps are attributable to?

12 ATTORNEY GENERAL SAXBE: Your mathematics elude
13 me.

14 [Laughter; applause.]

15 Now, you say we've got 10,000 complaints, and
16 therefore you apply that to everybody that has got a telephone.
17 I think that's ridiculous.

18 QUESTION: Well, sir, if 163 from 10,000 would be
19 a representative sampling --

20 ATTORNEY GENERAL SAXBE: Yeah, but you've got
21 millions that didn't complain.

22 I can't follow that. And I think that the telephone
23 company made a genuine effort in these cases to determine the
24 number of taps. But if you try to extend this mathematically,
25 it gets ridiculous.

1
2 And, frankly, practically every one of these taps
3 was not government: it was for domestic problems or car
4 selling; it was for things other than government. The
5 government has to have a warrant, and the telephone company
6 is notified. It's no secret to them.

7 QUESTION: Mr. Saxbe, relating back to the immigra-
8 tion question before, you would like to see Congress pass a
9 law making it a felony to employ illegal aliens.

10 ATTORNEY GENERAL SAXBE: Correct.

11 QUESTION: When illegal aliens are identified to
12 the Justice Department as being in this country at specific
13 locations, why is there no enforcement just to remove these
14 people from the country and --

15 ATTORNEY GENERAL SAXBE: Would you appreciate
16 it if I told you we're removing 75,000 a month?

17 QUESTION: 75,000 a month?

18 ATTORNEY GENERAL SAXBE: 75,000 a month. And the
19 complaints are that our camps are so full in California that
20 we're going to have to back off.

21 Some of them we catch every other day.

22 QUESTION: How many do come back, Mr. Saxbe?

23 ATTORNEY GENERAL SAXBE: I would guess that we're
24 getting about one out of three; the rest of them are coming
25 in. They come through the border. We've got sensor

1 devices, we've got border patrols; but as long as you've got
2 a person starving to death and his family is starving in
3 Mexico, they are motivated to come across that border, and
4 they do. They also come through the Canadian border; they
5 come through the Eastern and Western Seaboard.

6
7 We can't run these people down and catch enough
8 of them. As I say, we're catching 75,000 a month. We can't
9 do it, but we could put a stop to it if it is not going to
10 be to their advantage to come in here and get a job. That's
11 what they are here for.

12 And if we make it a felony for a farmer, a restaurant
13 man, or anybody else, to employ an illegal alien, we could
14 put a stop to it.

15 QUESTION: Mr. Secretary, on the question of wire-
16 tapping under the label of security, national security,
17 with the Attorney General being the final arbiter on the
18 question and the Attorney General being under the Executive,
19 is there anything wrong with a committee of Congress, such as
20 the Foreign Relations or some other pertinent committee
21 joining with the Attorney General on these questions, to
22 pass upon these wiretaps supposedly for national security?

23
24 ATTORNEY GENERAL SAXBE: No. Not at all. In fact,
25 I told Congress I could live with any kind of a law they

1 wanted to pass.

2 But I don't think Congress would want to work that
3 hard, to tell you the truth.

4 [Laughter; scattered applause.]

5 Frankly, on the foreign security I've made a
6 rule that it has to be organized, directed, and paid for
7 by an agency outside of this country. And by that I think
8 it's easier to separate in the average person's mind the
9 difference between the domestic, which requires a warrant,
10 just like a warrant for an arrest, and the foreign security
11 which is not directed against anything but the outside
12 influence, outside this country.

13 QUESTION: Mr. Attorney General, I ask you a
14 double-barreled question.

15 No. 1, would you favor creating an Attorney General
16 or Minister of Justice independent of the Executive Branch,
17 as used in foreign cities for this function?

18 No. 2, I'd like to hear your comment about the plea
19 bargaining system. I read an article in the New York Times
20 by Mr. William, who said this is a bad system, and he cited
21 that the Attorney General wants to see Jaworski and the Court
22 throw the book at the Watergate defendants.

23 Is this your opinion? We have to cut out this plea
24 bargaining in order to enforce our system of justice, or is
25 that detrimental to our system of justice, the plea bargaining?

1 ATTORNEY GENERAL SAXBE: Well, on the first, I
2 think I answered that, about a separate Justice Department.
3 I just don't know where you would put it, and I don't think
4 the people want it beyond the power of the ballot box.

5 On the second, no one likes plea bargaining.

6 And yet it's something that we're all pragmatic, about, those of
7 us that are lawyers, to realize what must be done. Unless we re
8 going to load the courts up to the extent that we can never
9 get any quick trials, we're going to have to plea bargain.

10 You have instances where you have six, eight
11 charges -- indictments -- against an individual; you've
12 got one or two good cases, you've got three or four losers;
13 you know that if the judge sentences he will give concurrent
14 sentences, so you say: Well, why tie the court up for all
15 this period of time?

16 On the other hand, we've got a system now where
17 our federal courts are loaded, and we cannot get cases tried
18 that should be tried.

19 We have asked the Congress for additional judges,
20 so that we can handle this. They have not seen fit to grant
21 this.

22 Therefore, we're in the position that you can't
23 back down on charging criminals. But certainly you can try
24 to see that justice is performed.

25 Now, the complaints that I have on plea bargaining

1
2 are simply this: the expediency of the thing, you have to
3 be pragmatic about; the unfairness of it in the eyes of the
4 public is something that we should be aware of, because today
5 we see people going into courts and their pleas being
6 bargained in such a manner that the appearance of unfairness
7 comes across strong to people.

8 After all, it's the non-lawyers that form the
9 greatest bulk of our people in this country. And it seems
10 to me that by plea bargaining, by some of the activities that
11 we as lawyers engage in reasonably, and sometimes without
12 any deep thought, have brought discredit upon the courts
13 and upon the bar.

14 Therefore, I want us to all take a new look at it.
15 I'm notifying my U. S. Attorneys and others that fairness
16 isn't enough, that we must have the appearance of fairness.
17 To plea bargain away the individuals that come up before
18 them gives the appearance of unfairness that the public
19 just doesn't accept. Therefore, we should perhaps re-examine
20 our attitudes.

21 QUESTION: We have heard that President Nixon makes
22 too little use of his Cabinet as an advisory and consultative
23 body. As a Cabinet officer, what has been your experience
24 on that score?

25 ATTORNEY GENERAL SAXBE: I can't really give you
a good opinion on this.

1 The reason that I cannot is because I've only been
2 there six months, and during that period of time the President
3 has been deeply involved in the Watergate, which I am not.
4 I'm not involved in the prosecution or in any part
5 of the investigation and I have resisted his discussion
6 with me on anything except those things that are removed
7 from it.

8 Therefore, I don't think that I can be a fair judge
9 of it.

10 I do know this, that in foreign affairs he has been
11 so actively engaged that he and Mr. Kissinger talk daily,
12 almost hourly, on these matters. I know that during the
13 energy crisis and the problems of inflation, that he and
14 Mr. Shultz and now Mr. Simon are closely involved; and I
15 know that he and Mr. Schlesinger are deeply involved in many
16 matters.

17 Because of the rather unusual situation of the
18 present, I don't believe I can adequately judge that.

19 QUESTION: Mr. Saxbe, in response to an earlier
20 question, you referred to the Attorney General's role as
21 being an adviser to the President, and you also alluded to
22 the establishment within the White House of a now rather
23 large group of attorneys to provide that role for the
24 President.

25 Several months ago the question arose as to whether

1 the taxpayer ought to pay for this legal counsel to the
2 President, or whether it was not properly Mr. Nixon's
3 responsibility.

4 Mr. Nixon replied that he would pay for his lawyers
5 if the Attorney General determined that was appropriate.

6 Have you considered this question? Have you
7 determined who should pay for Mr. Nixon's legal counsel?
8 If so, what was that determination; if not, why not?

9 [Laughter.]

10 ATTORNEY GENERAL SAXBE: Well, I did make a deter-
11 mination. I felt that it was entirely proper for the lawyers
12 there to represent Mr. Nixon. He has, as you know, a number
13 of calls every day for information from the Jaworski
14 Committee and from the Committee of the House. They are ask-
15 ing for files; they are asking for information. If the public
16 would not provide this, I suppose they would hold him in
17 contempt. I think he has seven or eight lawyers down there
18 assisting him.

19 Now, the same instance has come before the Congress.
20 The budget, you probably noticed, is now before the House of
21 Representatives, and the question as to whether or not they
22 should pay for those people on the White House payroll is
23 now before the House.

24 It would appear that that is about as near as you
25 can come to a legislative determination on this.

1 My determination has been that it is proper that
2 he be allowed to represent himself and defend himself and
3 to provide that information, up until the point of impeach-
4 ment.

5 It also seems to follow that the House is going
6 along and is going to authorize the money for these functions.

7 QUESTION: Mr. Saxbe, as the chief legal officer
8 of the land, and charged with the responsibility of enforcing
9 court decisions, what action would you take in enforcing a
10 favorable Supreme Court decision in support of Mr. Jaworski's
11 demand for material necessary to conduct his investigation,
12 should there be noncompliance on the part of the President?

13 ATTORNEY GENERAL SAXBE: I would take no part in
14 that, because this is a matter for the Special Prosecutor.
15 He has, if you will examine his charter, as much or even more
16 power than the Attorney General in regard to these areas
17 which he is investigating.

18 He has my complete support. And his procedure is
19 independent, however, this is the nature of the charter that
20 established the Special Prosecutor. He will have my support,
21 and I am sure that the determination as to any action he
22 takes will be made after the Supreme Court gives their
23 decision.

24 QUESTION: Mr. Attorney General, in your principal
25 talk you gave a very thorough and excellent analysis of the

1 legal aspects of electronic surveillance. May we have your
2 comments on the legal aspects of the electronic surveillance
3 which occurred until last summer at the White House?

4 ATTORNEY GENERAL SAXBE: Are you talking about
5 the 17 wiretaps of the newsmen and the White House per-
6 sonnel?

7 QUESTION: Well, I meant the question very generally,
8 because I think it was announced in July of 1973 that all
9 electronic surveillance within the White House be --

10 ATTORNEY GENERAL SAXBE: Well, now you've got your
11 tapes and your surveillance mixed up.

12 The tapes were consensual. In other words, they
13 were not involved in the discussion that I had today,
14 just as you can put your tape recorder in your office and
15 tape-record what goes on in your office without violating
16 any law. This was the tapes of the office conversations.

17 However, the 17 cases that were the great concern
18 of the Foreign Relations Committee, as to whether Mr.
19 Kissinger had any part in it, that was another matter.

20 But I would like to point out to you that those
21 things happened before the Keith decision, the landmark
22 decision of June of 1972, which has changed the whole
23 procedure in electronic surveillance.

24 QUESTION: Mr. Secretary, you did mention the
25 Symbionese Liberation Army. Has there -- and these are two

1 sharp questions, I hope -- has there been any charge, to
2 your knowledge, filed in your Department relative to the
3 manner in which those six persons were killed by 500 police?
4 One question.

5 The second question: What can you tell us --
6 the recent information relative to Patty Hearst?

7 ATTORNEY GENERAL SAXBE: There were not 500 police.
8 You've got a wild figure because Mayor Bradley of Los
9 Angeles says that there were three SWAT teams, that's special
10 weapons teams. They are the only ones that did any firing
11 in the whole affair.

12 And I think in the words of Mayor Bradley, whose
13 police department did the firing, that they were proper in
14 what they did; and, in his words, the SLA got exactly what
15 they deserved.

16 Now, as to Patty Hearst, I have no information
17 since the last tape came in.

18 QUESTION: My name is Nancy Brown. I'm the
19 Socialist Workers Party candidate for Governor of Ohio.

20 VOICES: No. No. No.

21 QUESTION: I just wanted to ask a question.

22 Following the Kent and Jackson murders of students
23 by the National Guard in 1970 there was a tremendous cover-up
24 by the news media and by the government, and I think that
25 the Grand Jury that was convened in Cleveland has continued

1 that, and I would like to know what your proposals are in
2 coming out with the truth about what happened in Kent and
3 Jackson State in 1970?

4 ATTORNEY GENERAL SAXBE: At Kent, at Jackson,
5 there was a Grand Jury, a Federal Grand Jury, and they
6 had their proceedings and made their findings.

7 I, as a lawyer, and I think anyone who's a lawyer,
8 would not presume to comment on the proceedings of the
9 present Grand Jury and of the trial jury that would follow
10 here in Cleveland on Kent State.

11 QUESTION: The beginning of your speech, your
12 "right to be let alone" struck a responsive chord, I think,
13 in every American's heart.

14 Now, with the recent decision of the Supreme Court,
15 with a 9-to-0 decision, what effect will that have on you,
16 where you handled your case very well, Woody Hayes, where
17 he handled his case very well, and what protection does Mrs.
18 Nixon have from what I liked to term the vultures of the
19 media, the news media?

20 What protection does the average person have from
21 the news media?

22 ATTORNEY GENERAL SAXBE: Well, this last case that
23 came up, I really don't understand it. I haven't been back,
24 and I don't understand the opinion.

25 The Sullivan case, as you know, which is the landmark

1
2 case, does give unlimited right of comment to the press.

3 I think everybody recognizes that there will be
4 other cases which will more narrowly define this. Whether
5 or not this case is one of those, I don't know.

6 But I do know that I would rather see an unfettered
7 press than any danger of our loss of the right under the
8 First Amendment of free speech.

9 [Applause.]

10 But when you come to privacy, this is something
11 else, because it involves more than the media, it involves
12 the right to invade the life of an individual.

13 The question is whether a politician who offers
14 himself for public acceptance foregoes some of those
15 rights.

16 Now, the Court has said that they do.

17 But for the private citizen who only wants seclusion,
18 this is the case that we're going to have to have. He asks
19 nothing from the public, all he wants is to be left alone.

20 What right does he have to be left alone? I think
21 this is the next follow-up case that we're going to have to
22 have.

23
24 - - -
25