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INTERVIEW
OF
THE HONORABLE WILLIAM B. SAXBE
ATTORNEY GENERAL OF THE UNITED STATES

WITH
BOB WEBB
OF
THE CINCINNATI ENQUIRER

10:00 a.m.
Friday, August 16, 1974
Attorney General's Office
Washington, D. C.

The Attorney General responded to questions on the following topics:

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P R O C E E D I N G S

1
2 ATTORNEY GENERAL SAXBE: . . . and we're getting
3 feedback -- John can give you more about it. He knows. But
4 I wish you would talk to Modlin while you're here.

5 MR. WEBB: Who?

6 MR. RUSSELL: Phil Modlin, who is --

7 ATTORNEY GENERAL SAXBE: He's the coordinator for
8 all U. S. Attorneys.

9 The concept originated when, over a year ago,
10 just a year ago, at the American Bar convention, the Chief
11 Justice made a pretty strong speech that the quality of
12 advocacy was deteriorating in the courtroom. And he suggested
13 perhaps a return to the old English system of having
14 solicitors and barristers, because they waste so much of the
15 judge's time by not knowing how to proceed and not having
16 the ability to present what they do have. It was pretty
17 strong. I'm sure you can get it if you're interested.

18
19 MR. WEBB: I think I've got it. I think I picked
20 that speech up at the Supreme Court.

21 ATTORNEY GENERAL SAXBE: Yes. So I've been
22 thinking about this, and when I came over here I originated
23 the idea here that the best way I knew to combat this was to
24 have a concentrated effort in the Justice Department to raise
25 the level of our attorneys.

1 Now, the Justice Department traditionally has a
2 turnover, because we have to depend on young attorneys that
3 come in and get experience and then leave, primarily for
4 financial reasons.

5 We make a tremendous effort to get the best we can
6 through our Honors Program. You might talk to Phil or John
7 about that. This is an effort we make to hire
8 attorneys. We visit the law schools and we get the top
9 students, and we also get the editors of the bar journals and
10 so on, the student bar.

11 Well, anyway, I talked to the U. S. Attorneys about
12 it and the people here, and they were enthusiastic. So we
13 went ahead, and what made ours different than anybody else's
14 we investigated some private schools, there's one right out
15 in Colorado Springs, but we found that they just didn't fit
16 our program. They were expensive; they charged a thousand
17 dollars for two weeks. And so we decided to have our own.

18 What made ours different was that we used federal
19 judges in every courtroom. John, will get you a copy of
20 the schedule; it's a real crusher on the list of
21 subjects. And I was afraid it was a little too ambitious,
22 because we really piled it on for two weeks.

23 But we used federal judges, and then we used U. S.
24 Attorneys and their assistants as the defense attorneys.
25 And then we used DEA people and FBI people as witnesses.

1 So they were dealing with people well experienced in
2 every field. And we concluded it a week ago Friday -- two
3 weeks ago today.

4 The judges were most enthusiastic. They really
5 appreciated it, and some said they learned a lot. The students
6 all agreed that it was about the most worthwhile experience
7 that they had had.

8 So it just went over extremely well. Now we're
9 setting up others. We used Georgetown University, or George-
10 town Law School during a break in their semesters, because
11 we needed ten courtrooms at one time; and we just don't have
12 anything around like that. We had ten courts.

13 MR. WEBB: You mean at the Law School they have
14 that many courtrooms?

15 ATTORNEY GENERAL SAXBE: We used classrooms.

16 MR. WEBB: Oh, yes.

17 ATTORNEY GENERAL SAXBE: So it isn't easy to get
18 space for it. We're going to do it every time we have a
19 break over there, and we also hope to use the FBI facilities
20 at Quantico when they have a break between classes.

21 We had a hundred, approximately, in this class.
22 Sixty percent, or 60 of them, were from U. S. Attorneys'
23 offices scattered around the country. And the others were
24 from our Litigating Divisions.

25 Now, I'd also suggest, if you really want to get

1 into it, that we find one of those students that you can talk
2 to. I think there are some here who went through the course.

3 We're trying to boil it down as to what we can
4 continue and what was the most worthwhile. We had three
5 trials: we had a bank robbery; we had a drug sale; and we
6 had a tort case, a civil case.

7 And the rest of it was using the best people we
8 could get to come in and lecture. We had U. S. Attorneys,
9 and we had our Section Chiefs.

10 MR. RUSSELL: We had some of our better U.S.
11 Attorneys: Jim Thompson from Chicago; George Beall from
12 Baltimore.

13 MR. WEBB: What is the potential in students for
14 this type of training? How many?

15
16 ATTORNEY GENERAL SAXBE: Well, it's unlimited.
17 We've got 3500 attorneys, and I don't think it would hurt
18 anybody. In fact, I would have liked to have taken the
19 course myself, because, even though I'm not apt to be in the
20 courtroom, it's just damn good training for a lawyer.

21 MR. WEBB: What could --

22 ATTORNEY GENERAL SAXBE: We had our Solicitor
23 General talk on appeals. And Judge Burger himself was going
24 to open it, but he had to go to Brussels, so he couldn't be
25 with us.

1 He sent a letter -- I'll get you a copy of
2 that -- opening the school.

3 MR. WEBB: Could this concept be applied, say,
4 with prosecuting attorneys on the local and State govern-
5 ment level?

6 ATTORNEY GENERAL SAXBE: Well, I've talked to
7 the prosecutors about this. We couldn't begin to do it, for
8 all of them, but we could give them the guidelines, the
9 how-to.

10 Now, we are going to have a seminar for the
11 States' Attorneys General and prosecutors. But this is
12 mainly going to be on interrelated matters, not necessarily
13 advocacy.

14 Now, some of our bigger offices do this as a
15 routine, where they have an office like Silbert's here, or
16 the Southern District of New York, where they've got two or
17 three hundred attorneys. They run their own. But they don't
18 have the advantage of having federal judges; they run
19 theirs more on traditional training.

20 But the rule over the years is the firsthand
21 experience; they just throw a young attorney into the court-
22 room, on-the-job training. And these judges resent that.
23 To give an example: I attended these and visited them.
24 They have a class of ten. They divide it down and
25 they have ten classes, ten attorneys. And they will
open the court and the judge will say, "You give the opening

1 statement" and just point to a guy.

2 So the guy gets up and gives an opening statement.
3 In the meantime they will select another one and send him
4 out of the room.

5 Well, I was in one where the guy got a mistrial on
6 the opening statement.

7 [Laughter.]

8 MR. WEBB: These were your younger attorneys
9 in this school?

10 ATTORNEY GENERAL SAXBE: Yes. And the judge
11 says, "Well, you got a mistrial; you're out of business."

12 But he said, "You aren't going to get off that easy.
13 Now come back and do it again and do it right."

14 And some of these federal judges just really lecture
15 them. And the federal judges were, I was surprised, they were
16 really enthusiastic about it.

17 MR. WEBB: These were the judges from the District?

18 ATTORNEY GENERAL SAXBE: From all over the country.

19 MR. WEBB: Oh, from all over the country.

20 ATTORNEY GENERAL SAXBE: I think we had 31 federal
21 judges here during that period.

22 MR. WEBB: Any from Ohio?

23 ATTORNEY GENERAL SAXBE: Yes, Bob Krupansky.

24 You might call one of them, you could call Bob,
25 you know Bob.

1 We had Judge Stern, whose court I attended. We had
2 several older judges from down -- you know, we tried to pick
3 well-known judges, so these guys would really know that this
4 was the real thing.

5 MR. WEBB: You picked judges who had a good bit of exper-
6 ience rather than those who had just been appointed to the bench.

7 ATTORNEY GENERAL SAXBE: That's right. That's right.

8 MR. RUSSELL: But that would be helpful to a new
9 judge.

10 ATTORNEY GENERAL SAXBE: Yes. Well, we didn't
11 have any real new ones, we had some that had been on for
12 three or four years, something like that. We also had some
13 with 25 years.

14 MR. WEBB: Do you think one effect of this might
15 be to increase the faith of the FBI agents and others who are
16 involved in investigation, that their cases will be prosecuted
17 properly?

18 ATTORNEY GENERAL SAXBE: That's part of it. They
19 or the DEA agents are usually the witnesses in these type of
20 cases. And, oh, we had some Marshals who were witnesses, but
21 we had guys that were pros.

22 And we didn't try to throw them curves. I mean,
23 we had some very interesting problems. We had a
24 drug-buy case where a fellow had a warrant on another matter.
25 But when they picked him up, he had drugs on him, which is

1 a very complicating factor when you go on the witness stand.
2 Because if you say, "Well, I arrested this man for so-and-so,"
3 it's prejudicial, see.

4 MR. WEBB: Unh-hunh.

5 ATTORNEY GENERAL SAXBE: And they talked about how
6 to get around that.

7 MR. WEBB: I'd be interested to know: how did they
8 get around it?

9 ATTORNEY GENERAL SAXBE: Well, most of the judges,
10 said the time to settle it is before you get into questioning
11 the witness. You approach the bench and say, "I've got a
12 problem." And they all agreed that you would say that "in the
13 process of a legal arrest."

14 You don't say that you're after the guy for a bank
15 robbery, which is what the warrant was for.

16
17 MR. WEBB: Is there any, like meetings with the
18 attorneys after their classroom sessions, to discuss what
19 went on and how they could improve their --

20 ATTORNEY GENERAL SAXBE: Oh, yes. They were very
21 keen on it, too. Oh, they had critiques after every one.
22 For instance, the guy that would make an opening statement, they
23 would critique it right there, right at the time: "You did
24 this, you didn't do that."

25 In the meantime, the other guy is waiting outside,

1 they call him in and say, "Now you make an opening statement."

2 So that the guy that was just in there could observe.

3 And so, the next -- he'd point out, you send the guy out of
4 the room, you examine the witness.

5 So the guy gets up and examines the witness.

6 Then they critique what he did, and they bring in the other
7 guy and let him examine the witness.

8 And the whole trial: the opening statement, the
9 examination of the witnesses, the closing statement.

10 MR. WEBB: Well, this really gets at the heart of
11 what the Justice Department's main function is, I mean --

12 ATTORNEY GENERAL SAXBE: Well, it's one of our
13 important functions. We've got so damn many functions,
14 but this is one where it's extremely important. That's
15 what most of the U.S. Attorneys are involved in. Now we
16 try to cover also civil cases, which are the others that --
17 we have tax cases one week, too.

18 MR. WEBB: Do you have IRS people in on that one?

19 ATTORNEY GENERAL SAXBE: Yes.

20 MR. WEBB: As witnesses --

21 ATTORNEY GENERAL SAXBE: Yes.

22 MR. WEBB: I don't guess you've had a chance to get
23 much reaction from law school deans and that sort of thing,
24 as to this idea?

25 ATTORNEY GENERAL SAXBE: Well, we didn't have them

1 involved in this. But what we're dealing with is the guy
2 after he's out and in practice. They don't get this in law
3 school.

4 Now, we had a judge from New Haven, who annually
5 sits on the moot trials up at Yale Law School, and he said
6 there was no comparison. Because we had U. S. Attorneys as
7 defense witnesses, we had -- he said it was just a total --
8 this was "for real" almost.

9 MR. WEBB: Was it a very expensive undertaking,
10 other than the time of the people?

11 ATTORNEY GENERAL SAXBE: No, it wasn't. We didn't
12 have to pay anybody extra. And the travel would have been
13 the same on any kind of a school. We used all people, the
14 judges and the prosecutors, the U. S. Attorneys and so on,
15 that were already on the payroll.

16 MR. WEBB: And most of your U. S. Attorneys did
17 come from here -- oh, you mentioned a few came from the --

18 ATTORNEY GENERAL SAXBE: No, from all over the
19 country.

20 MR. WEBB: -- district offices out --

21 ATTORNEY GENERAL SAXBE: Sixty of them came from --

22 MR. WEBB: Sixty; right.

23 When will the next school likely be?

24 ATTORNEY GENERAL SAXBE: Well, I'm leaning on
25 Modlin to give me a date right now.

1 But our statement was that if it turned out well,
2 it was going to be continued, be institutionalized.

3 MR. WEBB: Unh-hunh.

4 We've probably mentioned --

5 MR. RUSSELL: I'll give you his speech and also I'll
6 get you a copy of Burger's speech, and there's one other
7 piece of material, I'll get that for you.

8 ATTORNEY GENERAL SAXBE: The schedule.

9 MR. RUSSELL: The schedule.

10 MR. WEBB: Okay. Good.

11 MR. RUSSELL: And I'll take you down to talk to
12 some of them.

13 MR. WEBB: Very good.

14 Can you think of any other point that we need to
15 discuss?

16 ATTORNEY GENERAL SAXBE: The other thing that I was
17 impressed with was the enthusiasm that everybody entered into
18 it.

19 MR. RUSSELL: I get very enthusiastic response just
20 talking to U. S. Attorneys, you know, calling about my
21 problems, everyday problems, and they really --

22 ATTORNEY GENERAL SAXBE: Well, I had a little
23 party for every group of judges that came in. I met
24 with the entire group the first day they were here, had a
25 little party for them over at, where most of them stayed over,

1 the Quality Inn. And I was anxious to start off with them,
2 because I wanted to see that they had sent good people in.
3 I was afraid they would send guys they keep around just to go
4 to meetings. But they sent real good quality people in,
5 which reflects on the good quality of the U. S. Attorneys
6 generally.

7 MR. WEBB: How would you assess the potential
8 long-run benefits to the American people?

9 ATTORNEY GENERAL SAXBE: Well, the American
10 people will be better represented, because that's what they're
11 doing.

12 MR. WEBB: Be more likely to get convictions on
13 justified cases --

14 ATTORNEY GENERAL SAXBE: Not only that, but to
15 expedite trials and get convictions, and to bring out the
16 principal issues of the case. That's how they would be
17 better served. And to prevent criminals going free, because
18 of the inefficiency of a prosecutor.

19 MR. WEBB: Because they're often thrown in the
20 courtroom with some very experienced defense counsel.

21 ATTORNEY GENERAL SAXBE: That's it.

22 MR. WEBB: And not getting on-the-job training.

23 ATTORNEY GENERAL SAXBE: And that's why we had
24 as defense counsel the U. S. Attorneys, who've been there;
25 they've been there for a long time and been up against the best.

1 MR. WEBB: Have you had any further thoughts about
2 the --

3 ATTORNEY GENERAL SAXBE: Now, we're making an
4 emphasis on LEAA and on prosecution, anyway. We think that
5 we've stepped up the means to apprehend criminals, and we've
6 stepped up a lot of the technical things and so on, but we
7 haven't had a corresponding increase of effectiveness of
8 the prosecutor's office. Now, I'm not just talking about
9 federal, I'm talking at all levels. And we think the
10 prosecutors need help in this country.

11 Because many times they're outgunned, they're over-
12 worked, and in trying to overcome the evils of plea
13 bargaining and this type of thing, the best way to do it is
14 to beef-up the prosecutors, that they can work off backlogs
15 of cases.

16 And the courts. We're giving more attention to the
17 prosecutors and the courts now, because they've been neglected.

18 In New York City, to give you an example, there are
19 25 murders for every prosecutor. So they just can't give it
20 the attention that's necessary.

21 And murder is not their principal crime -- I mean
22 numerically. It is for the seriousness of it, but not numeri-
23 cally.

24 MR. WEBB: Have you had any --

25 ATTORNEY GENERAL SAXBE: And that leads to plea

1 bargaining.

2 MR. WEBB: Have you had any further thoughts as to
3 whys of the crime increase, after it seemed to be dropping off
4 a bit?

5 ATTORNEY GENERAL SAXBE: Yes, I'm going to have
6 quite a bit to say about that. I'm working on some, but
7 the gimmicks are out; I mean, we're down to the nitty-gritty
8 on this right now.

9 What we're tending to more and more is to get away,
10 from the idea that society is at fault with crime, and
11 to emphasize that the main cause of crime is the criminal,
12 not society. It isn't because his daddy didn't take him to
13 see the Redskins play.

14 MR. WEBB: I find it hard to resist the opportu-
15 nity to ask you if you've seen any changes in the new
16 Administration, as far as your operation is concerned.

17 ATTORNEY GENERAL SAXBE: Not yet.

18 MR. WEBB: Well, I think the President would be
19 very supportive of your efforts.

20 ATTORNEY GENERAL SAXBE: He is. And he's interested
21 in what we're doing.

22 MR. WEBB: Have you followed the ABA meeting in
23 Honolulu?

24 ATTORNEY GENERAL SAXBE: Not too much.

25 The ABA is important, but it's a very small segment

1 of the attorneys in this country.

2 MR. WEBB: I was just wondering what you might have
3 thought about the resolution they passed yesterday on --

4 ATTORNEY GENERAL SAXBE: I don't know. I'll have
5 to wait until the Deputy gets back and tells me about that.
6 My experience with resolutions at conventions is that they're
7 sometimes just purely cosmetic.

8 But I have no fault to find with any that they've
9 passed out there; to my knowledge, I just don't know.

10 MR. WEBB: Like the one that said, you know,
11 nobody should be involved in law, et cetera.

12 ATTORNEY GENERAL SAXBE: Well, this is the kind of
13 resolution that would fit that kind of a meeting; and it's
14 probably something that needs to be said.

15 MR. WEBB: Well, I thank you very much.

16 ATTORNEY GENERAL SAXBE: Okay, Bob.

17 MR. WEBB: I sure appreciate it.

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