



Department of Justice

INTERVIEW

OF

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

WITH

EDWIN NEWMAN

"SPEAKING FREELY"

Thursday, May 30, 1974

Washington, D. C.

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P R O C E E D I N G S

MR. NEWMAN: Hello, I'm Edwin Newman. Speaking Freely today is William Saxbe.

William Saxbe is Attorney General of the United States. He was nominated by President Nixon to that post last November. Before that he had been the Republican Senator from Ohio, having been elected in 1968. Before that he was, for ten years, the Attorney General of the State of Ohio.

He has also been in private practice, and he has a farm in Ohio where he breeds cattle.

Mr. Saxbe, you have said that you regard yourself as a hard-liner on law enforcement. Does that really mean anything, "hard-liner"? Is there such a thing as a hard-line and a soft-line?

ATTORNEY GENERAL SAXBE: Well, what it means to me is that I don't believe that the law enforcement people can do a great deal about the social problems that create the conditions for crime. This is something that some people believe that we should be doing.

I believe that we have to meet it head on. Under the assignment that we have from the Congress of the United States, and the respective police departments all over the country have from their States and cities, and have to do what's expected of us.

The job of fighting crime is twofold: one, from the social side of it. That is, we know that poverty breeds crime, and we know that racism and discrimination, these things breed crime.

But in the strictly crime-fighting part of it, we can't control those factors. We have to meet it on the streets where it happens, and to do the best job we can with it.

And I think that's what is generally meant when they refer to it as the hard-line. I don't think that it's our job to change society, except where we have an occasional opportunity, such as in our prisons.

MR. NEWMAN: Well, where hard-lining is concerned in dealing with crimes, does that include, for example, the view of what a sentence should be, how long a sentence should be, how drastic the punishment should be?

ATTORNEY GENERAL SAXBE: Well, not necessarily. Although I do believe in capital punishment, I don't think that lengthy sentences are the answer to crime. In fact, sometimes the indeterminate sentence is the worst thing that could happen to a criminal, because it puts you before a second court, really, and one that may not be qualified to judge.

I believe that the certainty of apprehension and trial is a greater deterrent than the severity of it.

If a man believes that he's going to get apprehended,

and he's going to be tried, it's a deterrent to crime. If, on the other hand, he believes he can get away with it, and that's the way most criminals feel today, why, he's going to undertake it. It's just a calculated risk that he must take.

MR. NEWMAN: Now, when you say that you don't think there's anything law enforcement people can do to -- or should do to change the social situation, except in very rare instances, do you object to something, for example, like the Police Athletic League or something like that?

ATTORNEY GENERAL SAXBE: Oh, no. No. This isn't what I mean, and certainly the Police Boys Clubs and the Community Relation that they can develop, this is great. This is a part of their day-to-day activity.

What I'm thinking about is to say that a criminal is misunderstood, that he committed this crime because his daddy didn't take him to see the Redskins play. In other words, to try to push crime off as a social phenomena beyond the power of the police.

We do try to change social conditions where we can, certainly in our prisons. We do everything possible to see that the man who has been convicted, especially if he's a young man, doesn't come back.

So we are working. But I consider this as just on the periphery of the social causes of crime. The real social causes of crime are built into society: the poverty, the manner

of living. All of these things are the tough parts that, on the long haul, we can't handle.

MR. NEWMAN: Well, General, are you convinced that you are properly understood, generally, on this subject? For example, you said recently that those who account for crime by the criminal social background -- I think those are the very words you used --

ATTORNEY GENERAL SAXBE: Right.

MR. NEWMAN: -- "social background" -- are wrong; that it was simply a matter of people believing they could get away with something.

ATTORNEY GENERAL SAXBE: That's --

MR. NEWMAN: Now, but you've just talked about the social causes of crime.

ATTORNEY GENERAL SAXBE: That's true. And a great deal of money is being spent on trying to apprehend -- or not apprehend, but trying to correct these forces. But not in the Justice Department.

The Justice Department and every police department, and of course this extends throughout the country, has a pretty tough job just keeping on, day-to-day, on top of crime; and we cannot go in and reconstruct people's lives. And we think we know something about the causes of crime, and we can point that out; but we don't believe it's our job, even if we had the facility, to try to change these social things, any

more than it's a Defense Department job to try to cure unemployment in the country by war.

MR. NEWMAN: But you do believe that social background has something to do with crime?

ATTORNEY GENERAL SAXBE: Oh, I'm certain it does.

We know that the children that come from homes that have no strong personalities in them, homes that do not provide any guidance, or character guidance, religious teaching, whatever it might be that are conditioned for good, are the homes that are most likely -- not necessarily always, but are most likely -- to develop the young criminal.

The person who is thrown out with no controls except his peer group. And the peer group is not usually a good one to inspire character and good living.

MR. NEWMAN: You said in the course of an earlier answer that you believed in capital punishment. For which crimes do you believe in it? And do you consider it a deterrent or a punishment?

ATTORNEY GENERAL SAXBE: I think a deterrent. Capital punishment means very little as a punishment. As a deterrent, I believe that it prevents the kidnapping or the killing involved in kidnapping. I believe that it deters the killing of policemen in the performance of their duties, and that very narrow group of crimes which have been delineated in the bill before Congress at the present time.

And we believe that it can be properly controlled, but it is a deterrent. And we know, for instance, and we've had evidence from some of the prosecutors that they feel that it is of inestimable value to them in obtaining convictions on people involved in serious crimes. Because if a man feels that he is going to be subject to capital punishment, if he doesn't cooperate, and he's involved in these crimes, he will assist the prosecution and often does.

MR. NEWMAN: He will assist the prosecution because of fear of the death penalty?

ATTORNEY GENERAL SAXBE: That's right.

MR. NEWMAN: In short, he will bargain for his life by turning State's evidence.

ATTORNEY GENERAL SAXBE: That's right.

Even though in States where they do have capital punishment now, and they haven't had an execution in years, if it's still on the books, the prosecutors tell us that it is of effect.

In the Yablonski killing, in the Mine Workers; the prosecutor told us that the very existence of the death penalty in Pennsylvania -- even though there had been no one subject to it -- was of inestimable value to him in gaining the convictions that he did in that.

MR. NEWMAN: Is that a fair use, do you think, of the death penalty, a proper use of it?

ATTORNEY GENERAL GENERAL SAXBE: We're up against pretty serious odds on these kind of things, and getting convictions, especially in closed communities; that is, communities where we get little cooperation. And I don't think that you can say that this type of use is unfair. We're dealing with people's lives, and we're dealing with the threat to communities, and I don't think it's an unfair use.

MR. NEWMAN: General, you've mentioned the position of prosecutors. A Justice of the United States Supreme Court, Lewis Powell, said, a very short time ago, that since he'd been on the Court he had been surprised by the poor quality of State and Federal lawyers before the Supreme Court. Justice Powell said he felt that this had the effect of strengthening the position of defendants, because they often had better lawyers than the prosecutors were.

ATTORNEY GENERAL SAXBE: Yes.

MR. NEWMAN: Do you agree with that?

ATTORNEY GENERAL SAXBE: I think it's a real problem. At the State level I often said that we were outgunned. We're outgunned at the local level, and we're outgunned at the State level, and sometimes, although not as frequently, I think at the Federal level.

When you have specialists in criminal defense, who can analyze the jury, person by person, individual by individual, to make character studies of the community, and even by computer to kick out the type of a juror that you want to get, and then to come up against that with the limited facilities and the crowded docket, the over-worked people, sometimes we do feel that we're outgunned.

And I think there are times that, especially at the local level, cases are lost because of this.

MR. NEWMAN: Are you outgunned or are you out-moneyed?

ATTORNEY GENERAL SAXBE: We're both. We're out-moneyed, and, frankly, the attractiveness of criminal prosecution is not high at the present time. I have found since coming to the Department of Justice that a lot of my concepts of dealing with the media and dealing with people have had to be changed, because there is not a great spirit of cooperation with law enforcement at the present time in this country.

And it's a shame, because people are demanding more and more protection, they're demanding better apprehension of criminals, and yet the personal contribution that people are willing to make is not great.

MR. NEWMAN: Is it less now than it used to be?

ATTORNEY GENERAL SAXBE: I think so. I would like

to think that in the last two or three years it's turned around.

But, to give you an idea, in the recent SLA cases in the West. These people were in communities for weeks, we know days at a time, and nobody volunteered to inform the police of this. After they were apprehended, or after they were identified, then we began to get: "Oh, yes, they were in this store", "We saw these people on the street."

But no one came forward and volunteered.

Now, there are some in this, the Justice Department, that think people are turned off by cavalier attitude of the police, that when they come in to report a crime that they are not given the proper attention. When they're called as a witness, they're neglected. When they're called as a juror, they sit all day with nothing to do. And therefore they are turned off.

I don't think this is a valid excuse. It's just that most people don't want to get involved. They don't feel that they have an obligation to their police.

MR. NEWMAN: Well, may they also be afraid?

ATTORNEY GENERAL SAXBE: Afraid that the criminal will --

MR. NEWMAN: Exactly.

ATTORNEY GENERAL SAXBE: Yes, I think in many neighborhoods this is a genuine fear. And probably well-

founded.

But if society generally becomes this cowed, there is nothing the police can do to protect them.

MR. NEWMAN: General, you spoke of what people conceive to be the cavalier attitude of the police, and you thought that might have something to do with their attitude toward law enforcement; there's been a good deal of criticism of the attitude of the police and specifically in the SLA case, in the shooting, firing on, and burning of the house in which a number of SLA people were trapped and were eventually killed.

Did that seem to you to be a sensible way for the police and the FBI to go on? Many people thought it was quite unnecessary and people in the neighborhood, especially, thought it endangered them.

ATTORNEY GENERAL SAXBE: Well, it's pretty easy to condemn such actions after they're over. And if you've ever been involved in the heat of such a shoot-out, in trying to make decisions at this time, it's a lot different than trying to "Monday morning quarterback" the job.

The Mayor of Los Angeles made the statement that the force was not excessive. Certainly there was no intention to set the house afire, there was no fire bomb thrown in there, there was nothing like that. But in dealing with violent people, it's pretty hard to control yourself, and it's pretty

hard to say, well, really, these people aren't shooting at me, or they're not trying to shoot up the town, or they didn't do this or they didn't do that.

I have to take the firsthand view of those that were closely involved with it, and Mayor Bradley says that the force was not excessive.

MR. NEWMAN: Well, I've never been in a situation like that, and don't speak from any personal knowledge, but is it possible that the kind of conduct that was undertaken there could have some effect on the attitude of the people in that area to the police force of that city?

Because they felt that they were being endangered by what was done; some --

ATTORNEY GENERAL SAXBE: Yes, I think -- I think that that's true. But, at the same time, most who suggest what they should do, no one suggested that they shouldn't put the teargas in there. And this is usually a moderate means of getting the people to come out of a house.

In other words, here the people in there were firing at them, they opened fire, so they put teargas into the house. And the people who did come out were not shot at, the whole works could have filed out. Because the people who, even after some time, came out were not fired upon, and they made a successful escape from the house.

The people in there were determined to stay there

until they were destroyed. I'm convinced of that. And it's a horrible decision that they made.

MR. NEWMAN: The point was made that the police would have conducted themselves differently in a white neighborhood. Do you believe that?

ATTORNEY GENERAL SAXBE: I'm not at all sure of that. I'm not at all sure of that. The shoot-out was dictated by the people in the house, not by the police department. And, again, not being on the scene, I can only take the opinion of those who were.

But this always happens, and I point this out as one of the difficulties we have at the present time. There's hardly an arrest or any kind of a violent apprehension that goes on that somebody says, "Well, that force was excessive". And even though it obviously wasn't, it's a popular charge to make. And it makes the policeman appear to be the aggressor.

Now, the policeman is not out there for any purpose except to protect the community. He's not out there to -- he's not going to get a raise in pay if he shoots somebody, and he's certainly not going to work in on a point system, he's out there because the community demands that the police protect them. And that's his job. And it's a damn thankless job a lot of times.

MR. NEWMAN: General, you referred to the jury system and the advantage that defendants often have over

the prosecution, because they can employ specialist lawyers who may even analyze the community, as you said, in choosing a jury. And we have obviously entered an era in which attorneys use computers, as you said, to tell them what kind of jurors will be most favorable to their side. The Mitchell-Stans trial in New York was such a case.

What is this going to do to the jury system? What does it leave of the idea that people are going to be judged by twelve of their peers? A jury fundamentally should be a random selection, should it not, that represents the community?

ATTORNEY GENERAL SAXBE: Yes, and with our attitude of being opposed -- or, not being opposed, but not being willing to serve on juries, it destroys that aspect of it almost immediately. Because anybody who is a busy man, or anybody who has any reason at all, can usually get excused from juries.

Now, that destroys the random attitude of it.

The second part is that in England they have done away with the jury system in a great many criminal trials, simply because of the difficulty in trying to choose the jury.

Now, oftentimes in this country, and I can think of trials right now in existence, a longer time is spent choosing the jury than trying the case.

Now, it seems to me that we're going to have to

1 review this, and because it's locked in our Constitution it's
2 going to be difficult to change.

3 But if the jury system is used as a tool to escape
4 prosecution, it's going to work against our system of justice
5 rather than for it.

6 Another area, of course, is juries for juveniles.
7 Perhaps it doesn't necessarily follow that a jury is the
8 best one to determine the guilt or innocence of a child,
9 even though they are charged as an adult.

10 MR. NEWMAN: Do you have any feeling about the use
11 of computers in these things? Would it be logical to do
12 what some people have suggested, just, in effect, take the
13 first twelve people who walk in off the street and have them
14 constitute a jury?

15 ATTORNEY GENERAL SAXBE: Well, it would be at least
16 reasonable to expect that you get more of a random selection
17 that way. In private practice, I have had juries where
18 they would send the sheriff out, he'd come in with a guy,
19 a butcher with his apron on; a man from the tire shop
20 protesting loudly that he had his place full of customers.
21 This kind of thing.

22 They don't make the best juries, either.

23 There are certain practices we could adopt to cut
24 down on the peremptory challenges, to make challenges for
25 cause, very strictly construed, that would move this selection

1 along more rapidly, and remove a lot of the built-in qualities
2 that a computer can kick out for you. But surely the system
3 will be destroyed unless it's dealt with.

4 MR. NEWMAN: There's the use of psychiatrists, as
well, is there not?

5 ATTORNEY GENERAL SAXBE: Right.

6 MR. NEWMAN: Well, is it --

7 ATTORNEY GENERAL SAXBE: And they can construct the
8 profiles of the various jurors.

9 Now, this has always gone on. The success of many
10 an old-time trial lawyer, not necessarily criminal, depended
11 upon his ability to get the feel of the jury. If he was a
12 local in a rural community, for instance, he knew the people,
13 he knew their attitude towards things. And the out-of-town
14 slicker was soundly defeated many times by the cagey old
15 fellow who lived with these people, he knew their prejudices,
16 he knew their desires.

17 And so whether it's computer or whether it's a
18 built-in quality, it's always been there to some extent.
19 But we've made it rather ridiculous by unlimited challenges
20 for ridiculous reasons, that is, for cause; and then a great
21 number of peremptory challenges.

22 In Britain they've done away with most of this.
23 The jury is selected within thirty minutes, and you're in
24 business.
25

1 MR. NEWMAN: Does it have any effect on the quality
2 of justice, to do this?

3 ATTORNEY GENERAL SAXBE: They say it has. In fact,
4 the students of the matter have said that there really
5 isn't that much difference in the quality of the justice
6 whether it's tried by a judge or a jury. And many hardened
7 criminals would much rather be tried by a judge. I mean the
8 repeaters, the chaps that keep coming back.

9 MR. NEWMAN: Mr. Saxbe, you were talking a while
10 ago about the SLA case, and quite early in that case -- I
11 think it was after the bank raid -- you referred to Patricia
12 Hearst, I believe, as a "common criminal". A lot of people
13 said, -- well, if I may say so -- "there goes Saxbe again."

14 ATTORNEY GENERAL SAXBE: Unh-hunh.

15 MR. NEWMAN: "He hasn't caught on to what it means
16 to be an Attorney General, in spite of his ten years as
17 Attorney General of Ohio."

18 ATTORNEY GENERAL SAXBE: Right.

19 MR. NEWMAN: Were you wise to refer to her as a
20 "common criminal"?

21 ATTORNEY GENERAL SAXBE: Obviously I wasn't wise to
22 do that. But the circumstances around it at the time were such
23 that I had no doubt in my mind that she was not an unwilling
24 accomplice. And this was my statement, basically, that she
25 was not an unwilling accomplice. It appeared to me that she

1 was not an unwilling accomplice.

2 Someone around this table said, "Well, does that
3 make her a common criminal?"

4 Well, the obvious answer was: If she was a willing
5 accomplice, that she was a common criminal.

6 However, most policemen have to make decisions on a
7 day-to-day basis as to whether somebody is a lawbreaker or not.
8 And they do this on personal judgments. And I did it on this.

9 I have since found out that, as Attorney General,
10 I can't have any private opinions. I can have Justice
11 Department opinions, but once I say something like this I'm
12 locked in on it.

13 MR. NEWMAN: Well, is there any purpose in saying
14 something like that, for the purposes of conducting the
15 Department of Justice, is it necessary?

16 ATTORNEY GENERAL SAXBE: No, but as I say, this
17 was my personal opinion at the time, and I later found out
18 I can't have personal opinions. But if the decision was
19 made to issue the warrant that day, and I had it to do, I
20 would say, "She is guilty of this; go get her."

21 Which is the same thing, really, but the language
22 connotation is different.

23 MR. NEWMAN: But the point I'm getting at is,
24 would you say she's guilty of this or would you say she's
25 accused of it?

1 ATTORNEY GENERAL SAXBE: When I file an affidavit as
2 a policeman, I would say, "She did on a certain day commit
3 this act in violation of such-and-such."

4 I can't put in there, "I think that on this day" --
5 it would be thrown out.

6 So we have the unusual situation of: I have to make
7 a firm statement to get her into court. And I'm not the
8 judge, I'm the prosecutor, and, in some ways, the policeman.
9 So there is a difference.

10 A judge couldn't say that, or a disinterested juror,
11 or a person who is aloof from the thing. But as the one who
12 must bring the prisoner before the bar of justice, I must
13 allege, and there is the difference -- I must allege that she
14 did these certain acts in violation, or he did, or whoever
15 it was.

16 MR. NEWMAN: All of this raises a larger question,
17 perhaps, which is, what effect does it have, if any, on the
18 ability of people to get a fair trial if a great many state-
19 ments are being made, if there is a great deal of publicity
20 about them? There are cases of this kind arising out of
21 Watergate now, in which some of the defendants are saying
22 they can't get a fair trial.

23 I don't expect you to comment on those, I know that
24 would be improper, but in a general way you probably can say
25 something about it, because, among other things, you were

1 Attorney General in Ohio, you prosecuted Sam Sheppard for
2 murder. And that was thrown out because of the finding that
3 there had been excessive publicity and that he couldn't get a
4 fair trial any more.

5 ATTORNEY GENERAL SAXBE: That's correct.

6 MR. NEWMAN: What can be done about this? If
7 you want to talk about Watergate, go ahead, I don't mind.

8 ATTORNEY GENERAL SAXBE: The difficulty is somewhat
9 eased by recent cases.

10 Now, at the time of the Sheppard case -- and I got
11 into that at the habeas corpus level. I had him in the State
12 penitentiary, and it was my job to keep him there.

13 Sam Sheppard had been, as you recall, a very notorious
14 case, and the newspapers in Cleveland, Ohio, had declared him
15 the worst kind of criminal. And the coroner had made certain
16 statements, and these were all published, and they had had --
17 very unusual -- they had had public hearings, coroner's
18 hearings, these kinds of things, at which some rather bizarre
19 testimony was brought in, all publicized.

20 He served nine years on a life sentence. He was
21 convicted; he served nine years. He came up. It was an
22 opportunity for the court of that time to say that his case
23 had been prejudiced. I think it was a vehicle for them to
24 say this, because it needed saying about that time.

25 Now, since that time there have been intervening

1 cases which permit fair comment. But I think the press at
2 that time needed slowing down in being spectacular about
3 crime, and I hope that it's a lesson learned, because we can't
4 get a fair trial with the media, as broadly distributed as it
5 is today, if everyone is apprized of the most minute details
6 -- and they may not be true.

7 Now, this is the problem, of course.

8 So, in Watergate -- so far it hasn't arisen,
9 because we're dealing with the more or less obscure people
10 involved down the line. Whether it will arise or not, I
11 don't know. But I think that there are cases, these are
12 particularly localized cases, of spectacular crimes, where,
13 with the media exposure being what it is, it's extremely
14 difficult to get an impartial jury.

15
16 MR. NEWMAN: Mr. Saxbe, there's a lot to talk about
17 in the Justice Department apart from crime and the prosecution
18 of crime. However, one subject that's been much talked about
19 lately is the place of the FBI, and the question of insulating
20 the FBI from political control -- or, I should say, from
21 political exploitation.

22 Does that seem to you to be something that is
23 feasible?

24 ATTORNEY GENERAL SAXBE: Well, I think the problem
25 is a little bit different from that. I think the problem over

1 the last thirty years has been that it hasn't been responsible
2 enough to the elected officials.

3 I think that the problem has been that under J.
4 Edgar Hoover they built up an independence, where they didn't
5 look to the Congress, to the President; they lived within
6 themselves. And various practices were brought up there
7 you will hear more about that were just not -- not right.
8 And if the Attorney General had had constant and ready
9 contact, this couldn't have happened, because a political
10 office and a President and his Attorney General would not
11 have allowed it to happen.

12 Now, we have a new attitude there. We've got a new
13 Director. He realizes that the FBI must be responsible to the
14 people of this country; that they are not an entity and
15 operate outside the government; that they must open themselves
16 up to public scrutiny, tell the people what they're doing.
17 They're a very capable, efficient, dedicated group.

18 And I think with Director Kelley you are going to
19 see an openness, and you're going to see that they do operate
20 with great regard for our Constitution and the rights of
21 individual people.

22 MR. NEWMAN: Well, you said, you spoke of practices
23 that we're going to hear more about, that were carried on
24 during J. Edgar Hoover's time with the FBI; when are we going
25 to hear about them?

1 ATTORNEY GENERAL SAXBE: Well, these are involved
2 in some litigation, but it won't be too long.

3 MR. NEWMAN: So, without prejudicing any cases,
4 you would say that there was some improper conduct there then?

5 ATTORNEY GENERAL SAXBE: I'm afraid so.

6 MR. NEWMAN: Was this because of Hoover's own
7 personality or his own --

8 ATTORNEY GENERAL SAXBE: No -- well, partially so
9 and partially that over the years they had developed this
10 independence, where the Presidents were actually rather
11 patronizing to Mr. Hoover; where the Attorneys General had
12 little or no influence, and sometimes not even contact; and
13 where Congress pushed money off on them, they never had to
14 fight for a budget, they pulled a figure out of the air and
15 they got whatever they wanted.

16 In other words, he had a wealth of information.
17 Nobody knew what he had. And it was kind of spooky sometimes,
18 because Congressmen, he would drop little innuendoes sometimes
19 indicating that this proclivity of some Congressman, something,
20 was known to him, and this was rather ominous. But he was a
21 dedicated man, and even with his idiosyncrasies he built up
22 a fine department.

23 Now, during their troubled Sixties, when people were
24 saying, "Well, why don't the FBI do something about the
25 colleges, and what's doing on? And all of these desperate

1 acts of terrorism going on around the country? And the
2 Black Panthers, and so on?"

3 And the Communist infiltration, which he felt was
4 very important. He responded, and sometimes people think
5 he over-responded.

6 MR. NEWMAN: This litigation that you talked about,
7 is that initiated by the government or by somebody else?

8 ATTORNEY GENERAL SAXBE: No, this that I'm talking
9 about has to do with some of the instigated actions, and
10 some time ago, before I came here, it was disclosed that
11 during the Sixties he had ordered some activities in the
12 way of counter-intelligence. And this meant that he was taking
13 active measures to stop the violence on campus and the racist
14 activities, and what he considered Communist activities.

15 So when I came in, I appointed a committee, headed
16 by the best people I could find, including Director Kelley,
17 to review these directives and to find out just what the
18 substance of these actions were.

19 And the committee is preparing a report, and when
20 this report is ready I expect to take it before Congress, and
21 to tell Congress exactly what happened. And the people who
22 are involved in the suits.

23 MR. NEWMAN: Have the suits been brought?

24 ATTORNEY GENERAL SAXBE: Yes. One representative
25 from NBC has a suit, Carl Stern -- I believe he has. And Fred

1 Graham. People who are active newsmen, TV personalities,
2 covering the Justice Department. They're interested.

3 MR. NEWMAN: This is to bring out papers. This
4 is under the Freedom of Information Act?

5 ATTORNEY GENERAL SAXBE: That's correct.

6 And I'm doing everything I can to cooperate with
7 them. It takes time, and -- but we're going to do it.

8 MR. NEWMAN: In connection with the use of power
9 or the abuse of power, what about wiretapping? There's been
10 a --

11 ATTORNEY GENERAL SAXBE: Well, there's probably
12 no more misunderstood item. Everybody thinks there's wire-
13 taps proliferating all over the country.

14 There are no domestic wiretaps in this country
15 except those that are ordered by a court.

16 Now, before anybody can tap a telephone, just like
17 a warrant for searching your house, you have to go before a
18 federal judge, tell him why you want it, what you expect
19 to find out, and the crime that's being committed. And it's
20 only put there for the purpose of bringing a prosecution
21 against that person.

22 And when the judge reviews that and orders it, then
23 you can proceed with the electronic surveillance that is
24 authorized. That's the only kind there can be.

25 Now, there are 18 States that do this also.

1 The surprising thing is, with the ten States and the
2 federal government, there were less than a thousand in the
3 whole United States last year. All of them connected with
4 the prosecution of criminals involved in crimes.

5 Now, when you realize how thin this is, why,
6 you realize how little it is actually done. Because if there
7 is a wiretap, within sixty days after that wiretap is removed,
8 if you don't prosecute the individual you have to notify
9 them that they have been under surveillance.

10 Well, you're not going to do it unless you get a
11 conviction.

12 The only exception to this is for foreign security;
13 that is, people who are directed, paid, and controlled by
14 foreign organizations, countries, involved in national
15 security. That's the only exception.

16 MR. NEWMAN: You do not need a court authorization
17 to --

18 ATTORNEY GENERAL SAXBE: This is the so-called
19 warrantless wiretap. And the reason that we can't get a
20 warrant on those -- the fact that it goes through a court
21 doesn't disturb us -- but under the Fourth Amendment we would
22 have to allege probable cause of a crime. And on some of
23 these the crime is not apparent. It's a matter of national
24 security over a long period of time. And the notification
25 would be fatal.

1 MR. NEWMAN: Of course, these regulations or
2 restrictions on wiretapping, that you're talking about, Mr.
3 Saxbe, were not always observed.

4 ATTORNEY GENERAL SAXBE: No. And this is one of
5 the reasons that I feel comfortable at the present time that
6 they are there. There are two important factors that have
7 changed this. One is the Safe Streets Law of 1968, which set
8 up the procedure for warranted wiretapping; and the second
9 is what is called the Keith decision of June, 1972,
10 which has to do with restrictions directed by the court as to
11 the use of warrantless wiretaps.

12 And a warrantless wiretap can only be used in this
13 very narrow restriction. The rest of them all have to be
14 warrants. And that's the way it should be.

15 MR. NEWMAN: There were wiretaps, so Watergate has
16 revealed, against news people, against government employees.

17 ATTORNEY GENERAL SAXBE: That was before the Keith
18 decision.

19 MR. NEWMAN: Unh-hunh.

20 ATTORNEY GENERAL SAXBE: And of course that practice
21 went back a long time.

22 MR. NEWMAN: It's over now, is it?

23 ATTORNEY GENERAL SAXBE: It's over.

24 MR. NEWMAN: General, one of the complaints about
25 the Justice Department, particularly about the FBI, over the

1 years have been that it hasn't really done very much about
2 big crime, organized crime.

3 ATTORNEY GENERAL SAXBE: That's not true.

4 MR. NEWMAN: Not true.

5 ATTORNEY GENERAL SAXBE: The strike force concept
6 that was originated back in 1967 has worked. We
7 have 18 strike forces now in effect.

8 These strike forces are solely for the purpose of combatting
9 organized crime.

10 Now, we have successfully put most of the big
11 organized crime combines out of business. We're now down
12 at the second and third row. Organized crime has to depend
13 on gambling, on the juice racket, which is illegal loan sharking,
14 and the tendency is to become, after they make money, to turn
15 it into legitimate enterprises.

16 We've followed most of this money. The prosecutions
17 are numerous, and continuing. But we're breaking it up.

18 The difficulty that we find in gambling, which is
19 the basis of most of the beginnings, anyway, of organized
20 crime is that the average citizen just doesn't connect himself
21 with the fact that he's aiding and abetting organized crime.
22 When he goes to the local bookie and bets a hundred dollars on
23 a football game, he's involved in organized crime; because
24 that local bookie, who may be a small-timer, a Mom-and-Pop
25 operation, has to lay off to somebody. When he gets too much

1 money on the Redskins or on the Bears, on the Dolphins, he's
2 got to have a lay-off man; and that lay-off man has to have a
3 lay-off man. And then you get into the big operation, and
4 you get into millions of dollars.

5 And the respectable businessman who wouldn't think
6 of contributing to the underworld, when he is betting big on
7 sports events and working through bookies, he is involved.
8 And certainly the next step is when the desperate businessman
9 makes an illegal loan for an outrageous rate of return, he's
10 playing with real big trouble. Because the man that comes
11 around to collect it will more than likely break his arm
12 rather than attach his automobile.

13 MR. NEWMAN: But you're satisfied that you're
14 actually accomplishing -- in the field of drugs, that you're
15 accomplishing something, for example?

16 ATTORNEY GENERAL SAXBE: It's surprising that
17 drugs are no longer an object of enterprise for the big
18 organized crime. Drugs have become such a common item, the
19 nickel-dime guy, the street pusher, the guy who has a mule
20 come over from Mexico with a couple of bushels of marijuana.
21 This is so prevalent, and the risk so great, that the big-
22 timers don't want anything out of it; and they cut up the
23 money and they cut down the profits. Everybody has gotten
24 in the drug racket.

25 But we're turning this around, too. Even though we

1 can't expect to get every pusher, we are turning drug usage
2 around in this country, because heroin is so difficult to get.
3 Education is helping. Young people see what happened to
4 heroin addicts; they don't live very long. And it's not very
5 pleasant. And young people are seeing this.

6 They're going to the non-addictive drugs: the uppers
7 and downers, the cocaine, and the amphetamines, and the various
8 types of marijuana, hashish and so on.

9 And this type of drug is not the money maker for
10 the underworld.

11 MR. NEWMAN: Is it still a danger to health and well-
12 being?

13 ATTORNEY GENERAL SAXBE: It is. It's a danger to
14 health and well-being, and, probably more than anything, a
15 danger to people who have to think they rely on a crutch.

16 I am one who personally believes that alcohol is
17 just as big a risk as drugs. But we don't, in the Department
18 of Justice, have this as part of our responsibility, and
19 people have made their decision on alcohol: they want it,
20 and they want it available. Maybe some day they will make
21 the same decision on drugs.

22 But anything that is solely for the purpose of
23 providing a crutch for society is pretty dangerous to that
24 society.

25 MR. NEWMAN: What do you think about, in view of

1 what you've said about drugs, what do you think about laws
2 such as the drug laws in New York State, which are extraordin-
3 arily tough and where very heavy mandatory sentences are
4 imposed on pushers, for example, some of whom may be pushing
5 a very, very small amount?

6 ATTORNEY GENERAL SAXBE: Well, when I left the
7 legislative bodies, I determined that I wouldn't complain
8 about what they passed; and I'm here to perform as directed.
9 Our job is to enforce the laws that are given to us.

10 Their experience on this is something that I don't
11 have information about.

12 But I do know this, that society has voted, through
13 their Congress and through their Legislatures, that they
14 don't want drugs; and we know that they do undermine it,
15 and the people say, "Well, how about a little marijuana, or a
16 little cocaine or something like that?"

17 It isn't that simple. I never knew anybody that
18 wasn't looking for a little bit better quality in marijuana,
19 that used it, that didn't want to get some Panama Red, who
20 didn't want to step up the quality; and a little bit more
21 hashish, because it's concentrated. And then hashish oil.
22 This search for a stronger and stronger drink.

23 You know, at least if you're an alcoholic, you're
24 ready to settle for a glass of standard drink that you're used
25 to. You don't expect it to be needed to give you a kick that

1 is greater every day.

2 And this is one of the difficulties with drugs.

3 But the DEA, which is under the Department of
4 Justice, consists of 3500 people. We're dedicated to trying
5 to cut off the supply of dangerous drugs to this country,
6 and I mean from all parts of the world.

7 We have people in the mountains of Burma, we have
8 people in Turkey, and we have people helping the French search
9 out the illegal labs in Marseilles, and so on.

10 MR. NEWMAN: What about Turkey, General, they have
11 just, I think, declined to go ahead -- to go on with the
12 agreement that's been in existence for quite some time about
13 growing of opium. What kind of -- what caused that, and what
14 will the consequences be?

15 ATTORNEY GENERAL SAXBE: It's difficult to get
16 cooperation from countries on drugs where they have no local
17 problem, and they don't have an addiction problem, as such,
18 in Turkey. Certainly not in the rural areas where the only
19 local use they make of poppies is the poppyseed they put on
20 their bread.

21 We gave Turkey a substantial amount of money to pay
22 them for not growing it. For reasons best known to them,
23 they didn't pass all of it on to the farmers, and they find
24 it more lucrative to grow, and they're back in business.

25 Our only hope is that the education that we've been

1 involved in, and other agencies in this country, will
2 influence them not to want to use this terrible stuff.
3 Because heroin is not only addictive, but it's a poison, it
4 will kill you. And unless you get off of it, you don't
5 last very long.

6 So maybe the people are wising up. The younger
7 group that adopted it as a fad.

8 MR. NEWMAN: To go to another subject, if we may,
9 General, you said when you came into the Justice Department
10 that your first job here would be to improve, raise the
11 morale. Why do you think it needed raising?

12 ATTORNEY GENERAL SAXBE: Well, there was a
13 fragmentation, a fragmentation of various departments off on
14 their own pretty much. This -- it works both ways. The
15 Attorneys General preceding me had been very busy, involved
16 in Watergate and the Agnew matter, in things that were very
17 important to them, and to the country.

18 As a result, the segmentation, fragmentation maybe
19 of the various departments of Justice had grown to a point
20 where in some cases they were actually fighting with each
21 other. Departments within the Department of Justice. And
22 this was very disturbing to me.

23 I hope we've got that put back, and this hasn't
24 been easy to do. But some areas, like Immigration and
25 Naturalization, the Prisons, the Marshal Service, all of these

1 things might have been neglected, because there were other
2 more important things.

3 MR. NEWMAN: Well, there are divisions of this
4 Department that don't attract a great deal of public
5 attention. Antitrust does occasionally. Civil Rights did
6 for a while, but hasn't lately.

7 ATTORNEY GENERAL SAXBE: Well, our Civil Division,
8 one of the most important, with over 200 lawyers, handles
9 all the important litigation for all departments of the
10 federal government. And then the Lands Division, we have
11 millions of acres of public lands. The acquisition, you never
12 hear much about it.

13 And then, of course, we have the Tax Division.
14 Unfortunately, a lot of people hear from them, because we
15 handle the prosecution after it's certified to us by Internal
16 Revenue.

17 We do these things in addition to what we refer to
18 as our primary job.

19 MR. NEWMAN: You said that you found after you came
20 here that it was no longer proper for you to have private
21 opinions. You're a man that had a great many opinions before
22 you came here. Are you comfortable about having come here?

23 ATTORNEY GENERAL SAXBE: No. I've had to -- I've
24 had to learn to keep my mouth shut on a lot of things.

25 You know, as a Senator, you can have opinions on

1 everything, whether you know anything about them or not.

2 And it's -- you get in the custom of people ask
3 you something, you tell them. Or, anyway, I did, because I
4 always had.

5 You come down here, with the responsibility of
6 50,000 people and all these various Divisions, cases pending
7 all over the lot, you find that you can't have those kind of
8 private opinions. In other words, you're probably involved
9 on that very question in court some place.

10 And, too, I can't help but feel that there is some
11 difference between the attitude of those in law enforcement
12 and those who are not. If you're in law enforcement, you
13 have a greater degree of responsibility on what you say.

14 And I was naive when I came here, I had always been
15 rather glib, and as Attorney General of Ohio my contact with
16 criminal law was limited to -- because most prosecution is
17 at the county level; I got into it in a very narrow degree.

18 Here I had to watch, and I think I have, but
19 certainly it does cramp my style to some degree, but I think
20 it's good for me.

21 MR. NEWMAN: Well, one way in which it probably
22 cramps your style is in what you said about President Nixon,
23 because you've said some pretty juicy things about him
24 before he appointed you.

25 ATTORNEY GENERAL SAXBE: Yeah, and it was fun.

1 MR. NEWMAN: At the time.

2 ATTORNEY GENERAL SAXBE: At the time.

3 MR. NEWMAN: What's it like now?

4 ATTORNEY GENERAL SAXBE: Well, I'm in a different
5 relationship. I'm a member of the President's Cabinet.
6 My capacity as Attorney General is twofold: first, I serve
7 as head of the Department of Justice, which is for the purpose
8 of running all of these departments we've been talking
9 about, the FBI and all of these important areas; and, secondly,
10 I'm a member of the President's Cabinet.

11 Now, if I felt called upon to directly criticize
12 the President, I'd feel also called upon to resign. Because,
13 regardless of what my personal opinions are, I have to have,
14 and will have, a loyalty to the leader of this country.

15 MR. NEWMAN: What sort of personal relationship do
16 you have with the President? Because some of the things you've
17 said about him made headlines. You spoke of his Administra-
18 tion, for example, being inept. You spoke of him having
19 convulsions and specious arguments about the war in Vietnam.
20 You said once he seemed to want --

21 ATTORNEY GENERAL SAXBE: "Convolutions" is what
22 I said.

23 MR. NEWMAN: Convolutions. Sorry.

24 You said he appeared to have lost his senses; you
25 said he had a De Gaulle attitude that will not permit him to

1 consult anybody. What sort of relationship do you have with
2 him?

3 ATTORNEY GENERAL SAXBE: I think that we have an
4 excellent relationship now. I'm doing what he wants me to do.
5 I'm running the Justice Department without fear or favor.
6 I am directing it in a way which I believe he wants me to
7 do. He does not give me direction. He said: "I want you to
8 go over and take over this Department and run it and be the
9 arbiter of what it should be."

10 He realizes that because of the Watergate and
11 because of the Special Prosecutor, that we have to walk, over
12 here, the knife-edge. And for that reason he has not inter-
13 fered with the operation of the Justice Department.

14 I'm sure that they would have no hesitancy, if they
15 thought that I was not doing it right; but they have not
16 seen fit to, and I appreciate this. And for that reason I'm
17 going to walk that knife-edge.

18 I'm going to try to re-establish the prestige of
19 not just the Justice Department but the legal profession and
20 our system of law in this country, because without it we're
21 lost. And I think the very system of justice under which this
22 country operates is suspect today with the average person.
23 And I think we have to re-establish it, by showing them that
24 most of the people -- and I firmly believe this -- most of the
25 people involved in the practice of law and the operation of our

1 courts are dedicated to the belief that this country must
2 operate under a system of just laws.

3 MR. NEWMAN: Are you uncomfortable when you're with
4 the President? Or how often are you with him, maybe I should
5 ask you that; how much do you see him?

6 ATTORNEY GENERAL SAXBE: I have the opportunity to
7 see him as often as I care to. It hasn't been necessary.
8 I'm not consulted on the affairs of the impeachment, on the
9 Watergate, and this is as it should be.

10 I talk to his people almost on a daily basis, on
11 routine management of government affairs. I haven't talked
12 to the President himself in a private conversation, though
13 we had a Cabinet meeting this week, in a private conversation
14 for two or three weeks. I know I could, but I have nothing
15 particularly pressing to bring up. And obviously he has not
16 with me, or he would.

17 MR. NEWMAN: Are you, in effect, through the
18 Special Prosecutor, prosecuting in the Watergate affair?

19 ATTORNEY GENERAL SAXBE: Yes. That situation is
20 unavoidable. The Special Prosecutor operates by his
21 assignment from the Justice Department, and I think it's a
22 good arrangement, I think Mr. Jaworski has complete freedom
23 to operate. I don't interfere with him in any manner. I
24 provide him his housekeeping facilities, his room and his pay
25 for his people; and he operates from there on independently and,

1 from what I've observed, competently.

2 MR. NEWMAN: Are you called upon, either by the
3 Special Prosecutor or by the President, for opinions on
4 various legal questions arising out of Watergate?

5 ATTORNEY GENERAL SAXBE: No. We've had suggestions
6 from both sides that we might be useful in this manner, but
7 I just don't believe that we should get involved. I think
8 that we have to maintain this neutral position to maintain
9 our effectiveness in other things. Because if this goes to
10 impeachment, of course, it will be a new set of people
11 involved in the Congress, and the Watergate, so-called,
12 Special Investigator will then be involved solely with those
13 on the periphery, the people that he's been dealing with for
14 the indictments.

15 Now, if impeachment were accomplished, which I
16 don't know about, perhaps then the Justice Department itself
17 could absorb the Special Prosecutor. But until that time,
18 he must remain independent.

19 MR. NEWMAN: You could not see yourself being
20 called in for a friend-of-court brief, or anything like
21 that?

22 ATTORNEY GENERAL SAXBE: We worked -- we did see
23 fit to file a friend-of-the-court brief, an amicus brief on
24 the tapes, but only after the tapes had already been delivered,
25 and it was on a legal point which we felt should be decided

1 if it went to the Supreme Court.

2 But I hasten to point out that the tapes had
3 already been delivered up to the Watergate Committee, before
4 this point ever arose.

5 MR. NEWMAN: Thank you very much, Mr. Saxbe.

6 Attorney General William Saxbe has been Speaking
7 Freely.

8 Edwin Newman, NBC News.

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