



# Department of Justice

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PRESS CONFERENCE

OF

WILLIAM B. SAXBE

ATTORNEY GENERAL OF THE UNITED STATES

BEFORE

MEMBERS OF THE PRESS

GREAT HALL

DEPARTMENT OF JUSTICE

January 11, 1974

The Attorney General Responded to the following questions:

Impeachment of President Nixon	(pages 2, 3, 4, 5, 6, 7, 8, 10, 13, 14, 16, 17, 25, 26)
Indictment of President Nixon	(pages 8, 12, 13, 14, 22)
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Attorney General William B. Saxbe made the following statement today at his press conference:

Ladies and gentlemen, I'm not in the practice of having a news conference where I don't have news, and I really don't have any today. But in an effort to get acquainted and get started on a regular basis, I did want to have you in.

I've been very busy this week on housekeeping matters. I've been busy trying to get a handle on various sections of the Attorney General's Department. And I have met with the heads of various sections; I've reviewed their problems, their plans, their administrative areas, and I've talked to them about some of the recommended changes internally within the Department.

As you know, the reorganization plan was signed into effect by Mr. Richardson on the day that he left and a great deal of the implementation has not been done. There's a lot of consultation to be accomplished. There's a great fear among many of the Department heads that they're going to lose their ability to do certain things that they have done traditionally, and in many of these areas, I'm inclined to agree with them. Certainly, they should be consulted on these areas so any friction in the transition can be avoided. This is all rather mundane when it comes to the

kind of national news that most of you are interested in, but very necessary.

I have not had the opportunity to visit with various sections as I wanted to do. I spent the morning today down at Quantico going through the Academy. They have a tremendous layout down there to train police officers from all over the country, and their own people.

So, all in all, it's been an extremely busy week, one that I've enjoyed, but also one that has given me so much information and data that I haven't really digested it all. I haven't formed many of the opinions that I'm going to have to form before I take any policy steps. But all these things are items that will have to be filed away in my head to be used when I confront the specific problems of these various divisions.

I am impressed by the dedication and also the quality of the people within the Department. I haven't had the privilege in the past of knowing most of them, so it's been a process of getting acquainted. I wasn't entirely familiar with the type cases that they handled or the type of problems in regard to service and administrative areas, these have been much more vast than I anticipated. But again, I am very much impressed by the grasp that most of these people have on their several Divisions. Not only the grasp, but the dedication that they have and the determination to do a good job.

Everyone comes into a law office with the question of whether there is any injustice, whether there is adequate fairness -- and adequate means

complete -- and in my few days here, I've convinced myself that if there is unfairness, it's certainly not programmed or planned and results rather from misunderstanding and lack of communication. This is something I am particularly interested in seeing and am most gratified to find.

Now, as to what little we've done here in a week -- I can't point to any startling things or innovations that I've brought about in the Attorney General's office. And this is as it should be, because while I have a reputation for shooting from the hip, we're in pretty serious business here, and it is my intention not to take any move, not to make any personnel changes, not to do any of these things, without adequate cause. I certainly feel that it is going to take more than a day, a week, a month, maybe, to understand the very intricate workings of a Department such as this. I have had full cooperation from every Bureau and every section of the Attorney General's Office, and this is most gratifying.

I have been free from any White House pressure or any White House influence of any kind as to actions to take, people to hire, or anything of that nature. I only mention that because this seems to be a question that has come up when I've talked to a number of you individually.

As you know, we're all involved in this energy situation. There's a great deal of emotionalism involved and it's one that lays itself open to making spectacular moves and grandstand plays. I certainly anticipate being a part of the energy action in this country and the small things that we have done, such as moving against filling station operators and so on are almost insignificant in the big picture of the thing. Some dozen cases, perhaps, rather than for a wholesale sweep of malfactors in this area. This is an area that is sensitive to people and certainly the U.S. Attorneys are responding to it with interest in seeing that this area is handled.

Now, as to the bigger picture of whether the shortage is artificially created, this is something that you hear a great deal about. So far, the Antitrust Division reports that there has been no evidence of connivance or collusion in regard to this. But this investigation is continuing, and, as you know, we've had an antitrust investigation long before I came -- it will continue and the purpose, of course, is to determine if there have been any areas where collusion has prevented the free flow of fuel -- not only gasoline, but other types of fuel that are furnished to this country. And I assure you that as soon as we either find a clean bill of health or find something wrong, it will be reported to you.

Now, those are generally the things that I have done this week, and I'm the first to agree that there's no great solid news in this, so if I can, I'd be happy to answer any questions you might have.

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QUESTION: Mr. Attorney General, I am rather surprised that you say that there is no evidence at all of the antitrust activity; because after having talked to a number of the people in the Antitrust Division, as you may recall, they were ready to file a suit against the pipeline, the joint ownership of the pipeline, some time ago; and this suit was mysteriously stopped; and there was also the start of some action against the Colonial pipeline and the Alaskan pipeline.

ATTORNEY GENERAL SAXBE: If they have any such evidence, it hasn't been presented to me; and I will inquire further about it.

QUESTION: Mr. Attorney General, how do you envisage your role in the continuing House impeachment investigation; and if it gets to the Floor of the House, what will your role be?

ATTORNEY GENERAL SAXBE: I have looked into this both before I came over here and since I have been here; and I find no role for the Attorney General in this area.

Now, certainly, any evidence that Mr. Jaworski comes up with, working under the Department of Justice, which

1 is a part of this office, will be involved. But other than  
2 that, I see no role, either on the prosecution, if it happens,  
3 or on the defense.

4 Traditionally, as you know, the Attorney General is  
5 the official lawyer for all agencies of government, including  
6 the President. But in this particular area, a situation  
7 arises which divorces itself from the traditional role of  
8 government.

9 QUESTION: You would be entirely neutral?

10 ATTORNEY GENERAL SAXBE: I don't think I have any  
11 choice; and I think that I have to draw the line very care-  
12 fully, and I intend to.

13 The Department of Justice is -- could be in a  
14 prosecutorial situation if the Jaworski Committee or if the  
15 impeachment committee comes up with crimes that would have  
16 to be prosecuted.

17 Now, the services that can be afforded the White  
18 House under the role of the lawyer available to all govern-  
19 ment agencies is not going to be shirked.

20 At the same time, if it reaches that point, of  
21 impeachment, I think that it would traditionally and should  
22 go to independent defenders, defenders of the President.

23 QUESTION: Sir, can I ask you to elaborate on that?

24 I believe there are three Justice Department lawyers now  
25 working in the so-called legal group in the White House, which



1 would defend the President if impeachment proceedings go  
2 forward.

3 Are you saying those three will be pulled out of  
4 that group?

5 ATTORNEY GENERAL SAXBE: As I recall these -- and  
6 this is something that I have learned of this week -- these  
7 are three lawyers that are not -- they are research lawyers  
8 that are doing research and are being supplied -- and I am  
9 not even sure they are in the White House -- but they are  
10 doing work over there and have been there for some time.

11 QUESTION: Well, my question is, are they going  
12 to help the President in his defense in impeachment proceed-  
13 ings?

14 ATTORNEY GENERAL SAXBE: I think not. I think not;  
15 if it reaches that point.

16 QUESTION: May I then ask you about other lawyers  
17 from other agencies of the government, the Department of  
18 Justice -- of Defense and such. Would it be proper for them  
19 to be loaned to the White House to defend the President?

20 ATTORNEY GENERAL SAXBE: I think when it comes down  
21 to defense, you are presuming that it proceeds to impeach-  
22 ment. I think at that time, there will have to be set up an  
23 independent defense lawyers group; and it would not be proper  
24 to take them from any other department of government.

25 QUESTION: Pardon me, sir.

1 And finally, is it proper for the taxpayers to pay  
2 for those lawyers through the White House budget?

3 ATTORNEY GENERAL SAXBE: At the time of impeachment,  
4 of an impeachment trial?

5 QUESTION: Yes, sir.

6 ATTORNEY GENERAL SAXBE: No; and I don't think  
7 they would be.

8 QUESTION: You mean the President would have to pay  
9 it out of his own pocket?

10 ATTORNEY GENERAL SAXBE: I think there would have  
11 to be established a defense fund.

12 QUESTION: Could you give us some idea of how this  
13 public defender, if that's the term -- the concern of how you  
14 might function or how you envision this sort of office or  
official --

15 ATTORNEY GENERAL SAXBE: A public defender?

16 QUESTION: That seemed to be what you were pointing  
17 to in the case of possible impeachment.

18 Now, how --

19 ATTORNEY GENERAL SAXBE: Oh.

20 QUESTION: Now, how -- what type of man himself is  
21 that?

22 ATTORNEY GENERAL SAXBE: Well, at the time of our  
23 only Presidential impeachment, which was Andrew Johnson, the  
24 then Attorney General resigned from his office as Attorney  
25 General and as a private citizen, put together a defense

1 group that were not paid by the government, and operated  
2 separately.

3 QUESTION: Now, how could you see that function as  
4 of today? Do you think that it would still be private?

5 ATTORNEY GENERAL SAXBE: I would think so, at that  
6 point of an impeachment trial; yes.

7 QUESTION: Mr. Attorney General, would you consider  
8 resigning yourself and set up the President's defense and, if  
9 so -- if not, why not?

10 ATTORNEY GENERAL SAXBE: Well, for one thing, I am  
11 not qualified to be that kind of a lawyer, I don't believe.  
12 I think that this is a particular area of law which demands  
13 substantial experience. I have usually been involved in  
14 the side that I am in right now. My -- I have had criminal  
15 trials, but I am certainly not qualified to go into an  
16 impeachment trial, nor would I feel called upon to do so.

17 QUESTION: So you would not consider resigning?

18 ATTORNEY GENERAL SAXBE: No.

19 QUESTION: On another topic, sir, are you aware  
20 that the FBI has made any progress in their investigation in the  
21 the shooting of Colonel (inaudible), the Israeli diplomat that  
22 was murdered last June?

21 ATTORNEY GENERAL SAXBE: I am not aware.

22 QUESTION: Do you plan to intensify the investiga-  
23 tion in any way?

24 ATTORNEY GENERAL SAXBE: Well, I will have to  
25 inquire about it first. That is one of the items I haven't

1 even gotten to; and I will find out about that.

2 QUESTION: Is it true, General, if the special  
3 prosecutor develops information relative to the President,  
4 should that information be referred to the House Committee,  
5 the impeachment committee, or should it be retained in the  
6 Grand Jury?

7 ATTORNEY GENERAL SAXBE: I think that this is going  
8 to be a matter to be worked out when they finally come to  
9 the House hearing. I would think that Mr. Jaworski would  
10 cooperate with the House Committee on information. It would  
11 certainly save developing the same information again; and  
12 I don't think there is going to be a conflict there.

13 QUESTION: You don't think he is bound by the  
14 Grand Jury secrecy rule to keep it within the Grand Jury?

15 ATTORNEY GENERAL SAXBE: I think this is something  
16 for the judge to decide. Now, if they proceed to indictment,  
17 of course, there is something that will have to be worked  
18 out with the judge at that time; but I think it can be; it  
19 is not under my control nor Mr. Jaworski's control once it  
20 goes into that court.

21 QUESTION: Mr. Saxbe, as a result of your study of  
22 the subject of impeachment, do you believe that high crimes  
23 and misdemeanors would have to be proved against the Presi-  
24 dent, or would something less, so-called political offenses,  
25 be sufficient for impeachment?

1           ATTORNEY GENERAL SAXBE: I think that high crimes  
2 and misdemeanors, within the meaning of the impeachment  
3 clause of our Constitution. And I think that this is going  
4 to have to be adjudicated as to exactly what high crimes  
5 and misdemeanors are.

6           Now, if there are no felonies developed that would  
7 fit, without a judicial interpretation, and they would want  
8 to proceed on impeachment on the basis of, well, he has lost  
9 the confidence of the country, I think it would be a mistake  
10 to try to pull that under high crimes and misdemeanors.

11           QUESTION: Specifically, do you think it requires  
12 an indictable offense?

13           ATTORNEY GENERAL SAXBE: I do on the high crimes  
14 and misdemeanors; and I think anything else would have to be  
15 adjudicated, determined by a court.

16           QUESTION: In a brief submitted in the Agnew  
17 criminal case in Baltimore in early October, Messrs. Richard-  
18 son and Bork indicated that while sitting Vice Presidents  
19 could be indicted, a sitting President could not be indicted.

20           Do you hold to that view?

21           ATTORNEY GENERAL SAXBE: I think that it is the  
22 general opinion of lawyers who have studied this question  
23 that with the impeachment, process available, that would be  
24 expected to proceed.

25           Now, simply because the proliferation of actions

1 that could result could make the President incapable of per-  
2 forming the function that they set out for him, and this is  
3 one of the areas of claimed immunity, that the harassment  
4 proceedings that could arise in every 94 District Courts in  
5 the country would make it impossible for him to perform  
6 his functions. This is the primary reason.

7 QUESTION: Has the court communicated that view,  
8 or is Mr. Jaworski in agreement with you on that view?

9 ATTORNEY GENERAL SAXBE: No.

10 QUESTION: Have you discussed it with him?

11 ATTORNEY GENERAL SAXBE: No.

12 QUESTION: Do you plan to?

13 ATTORNEY GENERAL SAXBE: I didn't.

14 QUESTION: What type of contact do you have with  
15 Mr. Jaworski?

16 ATTORNEY GENERAL SAXBE: I have had none.

17 QUESTION: None at all?

18 ATTORNEY GENERAL SAXBE: None at all.

19 QUESTION: Do you object to having any kind of  
20 repeated contact?

21 ATTORNEY GENERAL SAXBE: At any time that he wants  
22 to talk to me, he can. But I am not going to call him; I  
23 think this is the best arrangement that we could have. This  
24 is the understanding that I had with the Senate on my  
25 confirmation; and I expect to live up to it.

1 Now, on housekeeping functions, something like that,  
2 there has been contact, but not with me.

3 QUESTION: General, I am still not quite clear as  
4 to what your position as to the proper role of the Justice  
5 Department either in the defense or the prosecution of the  
6 President on a matter that might be considered indictable  
7 or impeachable.

8 ATTORNEY GENERAL SAXBE: Are you talking about both  
9 impeachment and the special committee?

10 QUESTION: Yes.

11 ATTORNEY GENERAL SAXBE: Well, the special committee  
12 of the Justice Department has a role because Mr. Jaworski  
13 represents the Justice Department. He is clothed with even  
14 more authority than the Justice Department; but he is part  
15 of it, appointed by the Attorney General.

16 So the Justice Department would be involved and  
17 deeply involved in this.

18 As to the impeachment, this is a separate proceed-  
19 ing and would originate and run through the rules of the  
20 House and, of course, if impeachment were voted, through the  
21 rules of the Senate.

22 I see no role for the Department of Justice in this  
23 area.

24 QUESTION: General, Assistant Attorney General  
25 Henry Petersen, who is head of the Criminal Division,

1 as you know, testified before the Ervin Committee last  
2 summer and told it that if he found any evidence on the Presi-  
3 dent, he would waltz it right up to the House of Representa-  
4 tives. Would you expect Mr. Jaworski to do the same thing  
5 if he found any evidence on the President?

6 ATTORNEY GENERAL SAXBE: Within the limits put  
7 upon him by the rules of the Grand Jury.

8 QUESTION: What limits were put upon him?

9 ATTORNEY GENERAL SAXBE: Well, if it is evidence  
10 that has been presented to the Grand Jury, I think he has  
11 to consult with the judge before he does anything like that.

12 QUESTION: Mr. Attorney General, you said a little  
13 earlier -- are you aware of a council at the White House on  
14 any antitrust policy; has it been discussed with you; is it  
15 a likely idea, now or then?

16 ATTORNEY GENERAL SAXBE: The answer is no.

17 QUESTION: I am referring now to the statement  
18 made, the President's statement on the ITT case, which was  
19 in reference to the formation of a council on policy.

20 ATTORNEY GENERAL: No. There has been no discussion.

21 QUESTION: You are not aware of this, of its exis-  
22 tence, or if it exists?

23 ATTORNEY GENERAL SAXBE: I am not sure I understand.  
24 I can't hear you very well.

25 QUESTION: What the President statement said was



1 approval given for formation of the Council on Antitrust  
2 Council to discuss or determine White House policy on antitrust  
3 cases? People contacted at that time were not aware, they said,  
4 of the council, and said that the FTC and a few other agencies  
5 deal in this area.

6 I was asking whether or not you were familiar with  
7 such a council, and whether it existed and whether you liked  
8 the idea.

9 ATTORNEY GENERAL SAXBE: No; I am not familiar with  
10 it.

11 QUESTION: General, now, what role specifically will  
12 you take? Mr. Jaworski developed evidence against the Presi-  
13 dent?

14 Would you --

15 ATTORNEY GENERAL SAXBE: I believe that Mr. Jaworski  
16 would take it to the Grand Jury and seek an indictment.

17 QUESTION: But what you said that in the case his  
18 office came up with the evidence, that the Justice Department  
19 would be deeply involved. How?

20 ATTORNEY GENERAL SAXBE: Through him. Through him.

21 QUESTION: Not through your --

22 ATTORNEY GENERAL SAXBE: No; no.

23 QUESTION: -- his independence --

24 ATTORNEY GENERAL SAXBE: That's right.

25 But he is part of the Justice Department, even

1 though he is operating separately and on a separate charter;  
2 nevertheless, he is acting as part of the Justice Department.

3 QUESTION: It would be his decision, not yours.

4 ATTORNEY GENERAL SAXBE: That's correct.

5 QUESTION: Mr. Saxbe, a little earlier—

6 ATTORNEY GENERAL SAXBE: Just a minute.

7 QUESTION: Mr. Saxbe, didn't you say earlier that  
8 this (inaudible) should be divided?

9 ATTORNEY GENERAL SAXBE: I think when you reach  
10 this point, the question is whether he is taking his  
11 information to the impeachment committee or to the Grand Jury.

12 QUESTION:

13 ATTORNEY GENERAL SAXBE: I think there is serious  
14 question whether he could successfully support an indictment  
15 in the District Court. I think he would then have to decide  
16 if he found a criminal violation, a felony, whether he did  
17 take this to the Grand Jury or took it to the House Judiciary  
18 Committee.

19 QUESTION: General Saxbe, a little bit earlier you  
20 said that you didn't think that the taxpayers should have to  
21 foot the bill for the President's defense for impeachment?

22 Aren't we so close to that, with the inquiry going  
23 on the House Committee now; and isn't it true that the lawyers  
24 for the President are really working on his own personal  
25 defense to such an extent that perhaps the taxpayers shouldn't

1 be paying for them right now?

2 ATTORNEY GENERAL SAXBE: I don't think so; no. I  
3 don't think we have reached that point.

4 QUESTION: How do we make that distinction, though,  
5 between them?

6 ATTORNEY GENERAL SAXBE: I just think you have to  
7 make a distinction and that the whole question resolves  
8 around whether we are discussing something that was a  
9 function of the Office of the President or whether it was not.

10 This is a problem that arises constantly, whether  
11 the acts were taken in performance of the office or whether  
12 they were outside that office and illegal.

13 QUESTION: If we could get out of the area just  
14 for a minute of indictment and/or impeachment, could you tell  
15 us a little bit about what type of legislation or other  
16 policies eventually you see coming out of the department,  
17 whether they would involve criminal law or privacy considera-  
18 tions..?

19 ATTORNEY GENERAL SAXBE: Well, I am particularly  
20 interested in this privacy area; and I recommended and I  
21 hope the President includes something in his message concern-  
22 ing this.

23 I think that we not only have the big brother but  
24 as Safire wrote I think yesterday or the day before, we also  
25 have little brother. I mean, privacy invasion is not just

1 from the government, but it is an invasion of the mailing  
2 list people, the invasion of the door-to-door salesman, the  
3 invasion of the credit people, the invasion of the compilers  
4 of data, and so on, and even maybe the Census Bureau, who  
5 sell their services, for the most -- varied services, I find.  
6 And I think that perhaps we should delineate those areas in  
7 which the individual should expect to be protected.

8 Now, I think at the same time, from the standpoint  
9 of the information gathering by the government, that we have  
10 to determine those techniques which are acceptable to the  
11 American people and discard those which are not. Now, this is  
12 a pretty big order.

13 Because we have grown up in kind of a hodgepodge  
14 way of information collection that some now seem quite  
15 surprised to find has been going on. These are things that  
16 I am interested in.

17 Now, the other things that we come up for is the  
18 implementation of the drug and narcotics area. We have got  
19 a conglomeration now resulting from taking people from the  
20 Treasury Department and mixing them with our people; and we  
21 have a drug education and we also have a drug enforcement  
22 all mixed up. I am not so sure that that is a good idea.

23 And this is something that we will have to move  
24 along on.

25 I can't give you all the things that I expect to

1 develop; but this is some of them.

2 QUESTION: With regard to the ITT White Paper that  
3 was put out by the White House raises again some of those  
4 questions about possible perjury with regard to the investiga-  
tion. What is the status of that investigation?

5 ATTORNEY GENERAL SAXBE: I can't give you any  
6 current report on that. I just haven't had time to get  
7 around to it. It's --

8 QUESTION: Do you intend to push it?

9 ATTORNEY GENERAL SAXBE: Yes; if there is anything  
10 there to push, I certainly intend to. If it has been  
11 developed, why I want to find out about it.

12 QUESTION: Mr. Saxbe, if the President should be  
13 impeached for an action that was clearly seriatim to his  
14 duties as President and he has done it with the advice of  
15 perhaps one of your predecessors, or whoever was supposed  
16 to give him advice, is it your position now that he has no  
17 right to call on the Executive branch of the government for  
18 the aid in his defense?

19 ATTORNEY GENERAL SAXBE: No; I appreciate your  
20 bringing that up.

21 This is the gray area that would have to be decided  
22 on an individual case basis. I think anybody that ever  
23 served in the office of Attorney General, whether it be at  
24 the State level or the national level, has this problem in  
25 that gray area.

1           At the State level, it arises when a highway  
2 patrolman does something not in direct association with his  
3 duties as a highway patrolman and commits a crime. The ques-  
4 tion is, do you defend him.

5           When the Governor is sued, on the other hand, on a  
6 strictly governmental function, do you defend him?

7           The answer is Yes.

8           And when the state auditor is sued, you obviously  
9 defend him; because what he was performing was a governmental  
10 function.

11          When a game warden, in a state, is arrested for  
12 trespass on something that he obviously was attempting to  
13 enforce the law, you defend him.

14          When that same game warden is arrested for theft,  
15 you don't represent him; because it is obviously not within  
16 the scope of his authority.

17          And these are areas that you have to call as they  
18 arise; and certainly in the President's case it is no  
19 different.

20          If it is obviously outside any scope or imaginable  
21 scope of his authority, you can't represent him. And crimes  
22 are beyond that.

23          If on the other hand it is performing a statutory  
24 duty, he is sued every day, thousands of times. I am sure  
25 that you are aware of that; and the Department of Justice

1 represents him in these duties, in performing a function  
2 that is set out for him by statute to perform.

3 Back here.

4 QUESTION: Do you have plans for a change of your  
5 major officers and have you decided on your Deputy Attorney  
6 General?

7 ATTORNEY GENERAL SAXBE: On the vacancies that  
8 exist -- and there are several and important vacancies --  
9 for the vacancies that exist, we are working on trying to  
10 fill that.

11 Now, as to the deputy, as to two or three other  
12 vacancies that require confirmation by the Senate, it is  
13 the policy, I understand, that these people's names, after  
14 they have been investigated and decided upon and they have  
15 agreed, that their name is then sent to the White House,  
16 and the White House, through their mysterious ways, which I  
17 am not entirely familiar with, then duly announces that this  
18 man is being nominated; because the President is the only one  
19 who can nominate this person.

20 Now, there are two or three people in this limbo  
21 at the present time. I am not at liberty to announce them  
22 because I can't appoint them; and it would be a bad thing  
23 for me to mention somebody's name and then the White House  
24 did not name that person. It would be embarrassment not  
25 only to me but particularly to that person.

So I am sure those of you more familiar with

1 government bureaucracy than I am understand this situation;  
2 but it is one that I am obliged, and willingly, to follow.

3 QUESTION: Mr. Saxbe, was Mr. Silberman's name on  
4 the list of potential deputies sent to the White House?

5 ATTORNEY GENERAL SAXBE: I think so; but I am not  
6 sure.

7 This was not in any way a limitation. In fact, I  
8 had originally, as I think some of you knew, thought about  
9 other people, and I have agreement with the White House if I  
10 could get them to come along. It didn't work out that way;  
11 so there was no -- nothing came of it. But I wasn't  
12 certainly limited to a list.

13 QUESTION: Mr. Saxbe, do you attach any  
14 significance to the fact that you are one of the few, if not  
15 the only, Attorney General in recent times who was not sworn  
16 in in the presence of the President?

17 ATTORNEY GENERAL SAXBE: Yes; and the President  
18 originally suggested that I wait until he came back into town;  
19 and I was anxious to get started, to take my reduction in  
20 pay --

21 (Laughter).

22 ATTORNEY GENERAL SAXBE: -- and he agreed to -- for  
23 me to go ahead.

24 But it was his suggestion that they expected to be  
25 back obviously before Congress came back. He thought it would



1 be nice to wait until Congress came back; but I did want to  
2 get started; and I don't feel affronted or anything else  
3 about it. I was just glad to get on with it.

4 QUESTION: General, did you discuss this matter of  
5 Justice Department neutrality on Watergate except Mr.  
6 Jaworski's group with the President before you were sworn  
7 in, or with any of his aides?

8 ATTORNEY GENERAL SAXBE: I did not.

9 QUESTION: Did you discuss the Watergate matter at  
10 all with the President or any of his aides?

11 ATTORNEY GENERAL SAXBE: Oh, yes. I talked to Mr.  
12 Haig about it; and at that time, Mr. Laird. And this is one  
13 of the things that came up in our initial discussion.

14 If you will recall, this came up before Mr.  
15 Jaworski was appointed; and I first met Mr. Jaworski when  
16 they were about to name him. I didn't know anything about  
17 him. And so I was relieved when they did have a successor  
18 ready to appoint.

19 I think this is a great convenience to me; because  
20 with all of the other problems, of getting acquainted with  
21 the department, if I were involved in the investigation, I  
22 have a feeling I wouldn't be able to handle my job over here.  
23 And this is one of the real problems that I am sure Mr.  
24 Richardson had, trying to do the many necessary things here,  
25 at the same time being involved to the degree he was in the

1 Watergate investigation.

2 This young lady here.

3 QUESTION: Sir, if the President were to give you  
4 an order, as he did Messrs. Richardson and Ruckelshaus  
5 October 20th, would you as a member of the Ohio National  
6 Guard have to obey your Commander-in-Chief?

7 (Laughter.)

8 ATTORNEY GENERAL SAXBE: No.

9 QUESTION: Mr. Attorney General, when would you  
10 expect to be notified by Mr. Jaworski if he did develop some  
11 evidence that would perhaps be worth sending to the Grand  
12 Jury for indictment, or to the House impeachment committee?  
13 At what point would you expect him to clue you in?

14 ATTORNEY GENERAL SAXBE: I hadn't given it any  
15 thought. I would guess when he wanted to.

16 QUESTION: Mr. Saxbe, do you know any legal basis  
17 for affording Mr. Spiro Agnew Secret Service protection?

18 ATTORNEY GENERAL SAXBE: No. I don't know. There  
19 could be; but I just don't know.

20 QUESTION: Do you think the taxpayers should foot  
21 the bill for that?

22 ATTORNEY GENERAL SAXBE: I don't know. There could  
23 be a legal basis. There could be -- I just don't know. We  
24 haven't looked into it.

25 QUESTION: The General Accounting Office can't find

1           ATTORNEY GENERAL SAXBE: Well, the General Account-  
2 ing Office can also cut him off, if they are so inclined.

3           QUESTION: General, you said today that you feel  
4 that under the law a sitting President cannot be indicted.  
5 You also said --

6           ATTORNEY GENERAL SAXBE: I think there is a serious  
7 question there is a serious question there, simply because of  
8 the continuity of his office; but I am not going to make  
9 that decision. I think that -- if it comes to it -- will have  
10 to be made by the Supreme Court; and to second guess the  
11 Court on something like that, I just --

12           QUESTION: Well, that is what I was going to ask  
13 you: Do you -- you mentioned that should the special  
14 prosecutor develop evidence on the President, he ought to go  
15 ahead and present this to the Grand Jury and probably seek  
16 an indictment.

17           Do you favor then him doing that and facing the  
18 prospect of legal tests later on?

19           ATTORNEY GENERAL SAXBE: I think for me to indicate  
20 what he should do would be a serious interference with the  
21 liberties that he has been granted. He has complete freedom  
22 to make those kinds of decisions, and if I would indicate  
23 one way or the other, I think it would evidence an attempt to  
24 influence him; and I am not going to do it.

25           QUESTION: Mr. Saxbe, the FBI has revealed that for

1 a three-year period -- between 1968 and 1971 -- it conducted  
2 surveillance in an attempt to disrupt not only the New Left, but  
3 number of other groups in this country. Mr. Bork asked the  
4 FBI to conduct an investigation of its own behavior during that  
5 period, do you think that is appropriate, to investigate their  
6 own -- and what actions are you going to take in regard to that?

7 ATTORNEY GENERAL SAXBE: None; and I think on that  
8 committee that he put together, there are people other than  
9 the FBI on that. And I want this committee to continue.  
10 This is something that needs to be aired; and I have dis-  
11 cussed it with Mr. Kelley -- the other Mr. Kelley-- and I  
12 hope that we will be able to give you more information on  
13 that.

14 QUESTION: Will you provide that information to us  
15 so we can see it?

16 ATTORNEY GENERAL SAXBE: Oh, yes. It may not be  
17 easy, but I will --

18 (Laughter.)

19 QUESTION: Along that line, sir, you mentioned  
20 earlier that you think that there needs to be legislation  
21 in the area of privacy. As you know, the FBI has a  
22 computer bank of criminal history files. Do you think that  
23 legislation ought to deal with those files?

24 ATTORNEY GENERAL SAXBE: In what way?

25 QUESTION: Making it a -- possibly making it a

1 Federal offense to divulge any of that information to  
2 unauthorized people, spelling out who unauthorized people are.

3           ATTORNEY GENERAL SAXBE: It could be. Because this  
4 is something that worries anybody that has criminal informa-  
5 tion files; and it is always discouraging to me to find that  
6 such information is used by employment, by companies, by  
7 credit bureaus and so on. And when I first took office as  
8 Attorney General out in Ohio, I found that we were running  
9 a service, and for 25 cents, we would give you a readout  
10 on anybody you were considering as an employee; and it was --  
11 so I want you to understand that this change that has come  
12 about has been a rather revolutionary change.

13           We think today that -- we always thought like this;  
14 but years ago, in most states, that information was avail-  
15 able to anybody who wanted to come in. Either fingerprints  
16 or a name, and they would give you the guy's criminal record.

17           QUESTION: Mr. Saxbe, if and when a challenge  
18 comes to the constitutionality of your holding office, what  
19 will be the Justice Department's role in defending you?

20           ATTORNEY GENERAL SAXBE: I think the Justice  
21 Department will defend that because obviously I am performing  
22 an office within the scope of my duties; and I don't think  
23 anybody questions that what I am doing is outside the scope;  
24 and I think this is a pretty good example of the way these  
25 things should work.

1 QUESTION: Mr. Saxbe, I am still confused about the  
2 status of the President, should there be an impeachment pro-  
3 ceeding, an impeachment as directed against him in office.

4 Are you saying that he then becomes just a private  
5 citizen, once the impeachment proceeding started?

6 ATTORNEY GENERAL SAXBE: No.

7 Suppose the only grounds that they come up with  
8 for impeachment are that they don't like him. I think then  
9 obviously it would be within the scope of the Justice  
10 Department to represent the President. In other words, if  
11 it is obviously a strictly political or based upon things  
12 that are not malum in se, as it is generally referred to.

13 If on the other hand, it is based on indictments  
14 or based upon solid charges of criminality, I think then that  
15 you have reached the point where you are beyond the scope  
16 of his duties as President.

17 QUESTION: But isn't impeachment itself beyond?

18 ATTORNEY GENERAL SAXBE: Yes; and when it gets to  
19 the Senate, I think whatever the reason, that then the  
20 Justice Department is beyond -- if it reached the Senate  
21 for any reason, even based on they don't like him; I think  
22 at that time, then the Justice Department is out of it,  
23 regardless.

24 QUESTION: And he is a private citizen at that  
25 point?

1           ATTORNEY GENERAL SAXBE: No; he is not a private  
2 citizen. He is still the President of the United States; but  
3 his defense, obviously, would be in the hands of his personal  
4 attorneys.

5           QUESTION: Mr. Saxbe, would you favor any deal with  
6 John Ehrlichman? And what do you think of the general pro-  
7 cess of plea bargaining?

8           ATTORNEY GENERAL SAXBE: I will have no part in  
9 that. This is another area of Mr. Jaworski's authority.  
10 Plea bargaining is a necessity in many areas of the law today.

11           If you took out plea bargaining in the courts of  
12 New York, you would throw them into the most chaotic situation,  
13 even worse than they are today, simply because they can't  
14 try the cases.

15           If they can't compromise some of these claims; if  
16 they can't adjust and get guilty pleas on charges that they  
17 can prove and nolly the ones that they can't, you have got  
18 to remember that many times -- and I don't think this happens  
19 at the level of Federal attorneys, but it certainly happens  
20 at the lower levels of prosecution in State courts -- they  
21 will throw the book at a guy.

22           They will try and sometimes do get indictments on  
23 a whole array of things which they cannot hope to get a jury  
24 to find a man guilty on. Now, it may be that these allega-  
25 tions are true when the indictment is true , but there is

1 a difference, as you know, between what you can get a jury to  
2 find -- bring in a verdict on and others that you can't.

3           When you reach that point, I think that any know-  
4 ledgeable prosecutor sums up his case and says, well, I can  
5 get a conviction on this; I can't on this. Maybe it is a  
6 good charge; maybe it is a good indictment. But through  
7 his knowledge of the way the juries in that particular area  
8 operate or for some other reason, he knows he can't get a  
9 conviction.

10           So if he takes a plea, he will take it on those  
11 things which he believes are sound and he nollis those which  
12 are not.

13           Now, what's lost by this?

14           Well, generally, if you are looking for punishment,  
15 the guy gets the same amount of punishment whether he is  
16 found guilty on ten counts or whether he is found guilty on  
17 two counts; and if you don't think so, look at the sentencing  
18 records and the time served.

19           Because concurrent sentence and the probation and  
20 so on -- it tends to clear the docket.

21           Now, if a man who is like Mr. Agnew's situation,  
22 where he is forever damned, regardless of whether it is 20  
23 counts or one count, and the big problem that he has to face  
24 is the bar association and his means of livelihood, the  
25 penalty is about as severe as you can get, whether it is all



1 of them or one of them.

2 So on plea bargaining, I think you have to  
3 recognize that it serves the function.

4 QUESTION: You say you are satisfied then with the  
5 Agnew punishment went in that case?

6 ATTORNEY GENERAL SAXBE: I think that the purpose  
7 is achieved and the ends were satisfactory in the Agnew  
8 thing.

9 Now, for those people who want to put him under  
10 the jail, I find that most of those same people, who say,  
11 well, he should have been given 20 years, are the same ones  
12 who bellyache about giving a guy six months here for mugging.

13 There is a definite conflict that street crime is  
14 because the poor man is misunderstood and any white collar  
15 crime, you can't ruin him or bury him deep enough.

16 Well, I think the ruination that has come to Mr.  
17 Agnew exceeds the six months in jail that comes to the  
18 street mugger.

19 QUESTION: Mr. Saxbe, there is a sort of a  
20 revisionist school that has developed lately in which the  
21 people have said that Vice President Agnew wasn't even  
22 guilty, that he was railroaded by the Justice Department into  
23 making that plea.

24 Do you think he was guilty?

25 ATTORNEY GENERAL SAXBE: I can only go by his plea;

and when he pleads guilty, he is a lawter, and he certainly knew what he was doing.

QUESTION: Well, he has pointed out that he pleaded nolo contendere, and he said -- and some of --

ATTORNEY GENERAL SAXBE: No. And at the same time, the judge said, "Now are you aware that by pleading nolo contendere that you are admitting this act?" The judge asked him that from the bench. And he hund his head, and he said, "Yes."

So I don't think he can now say that "I didn't know what was going on."

QUESTION: Mr. Saxbe, given your image to prosecute, and given the fact that the figures on electronic surveillance which the Department gave to Senator Kennedy's committee which are at a variance with the figures which the Solicitor General gave to the Supreme Court, also at a variance with the figures which President Nixon has put out in many of his press conferences, and others which include the recently revealed wiretappings, do you have any plans (a) to launch an investigation as to how much electronic surveillance is going on, and (b) is this the rigid practice of prior Attorneys General authorizing warrants for this surveillance in the foreign espionage and national security areas?

ATTORNEY GENERAL SAXBE: Yes. I intend to follow up on that, to get a handle on it, to determine exactly how many there are. It is my intention to personally sign any

authorizations of national security tapping, and to understand what these cases are and the purpose for it; and if there is a discrepancy between those reported and those that I know about, I intend to find out why.

As I have said, I am not willing to give up wire-tapping as a weapon to be used by law enforcement people. I think that it is something that is effective and can in many instances save lives and protect property and in all kinds of ways serves the purposes of justice.

QUESTION: Will you seek warrants --

QUESTION: Will you seek warrants for authority for national security taps in those cases where you feel the interests of the nation will not be compromised by informing the judge the way you do in criminal case warrants?

ATTORNEY GENERAL SAXBE: I don't think that that problem is going to arise at the present on anything that I have seen. If it does come up, then I wouldn't hesitate to go to a judge on it.

QUESTION: Thank you, Mr. Attorney General.

(Whereupon, the press conference was concluded.)