

**Q&As following Attorney General Thornburgh's speech to ABA Annual Meeting, Chicago: judicial appointments and ABA participation in the process, August 6, 1990 (10:16)**

>> Thornburgh: I indicated it this morning that one of the most exciting things that is happening worldwide is the growing respect for the rule of law. I believe in the rule of law. I believe in the rule of our courts, which are the ultimate safeguards that are applied to human and individual rights. The rule of politics, however, is quite different because of partisan opposition to many of the actions that are taken by prosecutors. Some of it is prompted by defense counsel in the way that we have outlined today to hamper an effective war on crime. We find ourselves on the defensive from time to time. I would hope that Senator Kennedy and his respect for the rule of law, which I believe is strong, and his respect for the courts, would leave these controversies to the courts, where we win some, and we lose some and not attempt to politicize a very important component of the nationwide law-enforcement effort to deal with drug trafficking, which has caused so much heartbreak and despair, loss of life, and undermining of our institutions in this country.

[ Questioner speaking indistinctly ]

>> Thornburgh: Wait. Is Senator Kennedy around here?

[ Laughter ]

[ Questioner speaking indistinctly ] ...the Senate confirmation process...

>> Thornburgh: Lots of luck.

>> Questioner continues: He says, "One thing is certain -- in this day and age, the Senate will not return a blank slate to the Supreme Court of the United States."

>> Thornburgh: Nobody is asking confirmation of a blank slate. Judge Souter has a distinguished record of 12 years of service on the state courts in New Hampshire, not unlike the prior judicial career of retiring Justice William Brennan. And the only thing that we have expressed concern about, and I believe it is a well-founded concern, is any attempt to secure a commitment from any judicial nominee to rule one way or another in a case or on an issue that may come before that judge or justice while they serve in the position that they are seeking. That is simply inconsistent with the canons of judicial ethics. It is inconsistent with common

sense, which calls upon judges to bring to bear their intellectual capacity and their character and integrity upon particular cases based on particular facts and apply the law to that case. And if Senator Kennedy objects to that, I would be surprised.

>> Question: Sir, along those lines, do you think the ABA has lost some credibility as far as passing on judges because of its pro-choice stand on abortion?

>> Thornburgh: There is a great deal of concern that's been expressed to me that the ABA may be moving toward litmus tests for judicial nominees. Let me say in fairness to the Standing Committee on the Judiciary and its chairman, Ralph Lancaster, with whom we have worked on judicial nominations over the last year and a half, that no such litmus tests have been in evidence. Nonetheless, credibility of that work will suffer, in my view, if the American Bar Association chooses to take positions on every hot button, emotional political issue of the day, because it will create in the public's view the notion that if someone as a prospective judicial nominee does not sign on to those views, they may be viewed with disfavor. Again, we see no evidence of that. But it creates, in my view, a perception problem for the American Bar Association, and I believe they are wisely undertaking a reconsideration of that position.

[ Reporters shouting questions ]

>> Questioner: Thank you, sir - -Do you think there are efforts to remove the ABA role in confidentially evaluating their position on - -

>> Thornburgh: We value the input of the Standing Committee on the Judiciary when it comes to matters about which they can express their expertise, that is to say gathering the views of lawyers with whom prospective judicial nominees may have practiced or judges before whom they may have argued cases or fellow members of the bench -- things that would not necessarily come to our attention in processing recommendations for the president. But when the ABA, as in my view, extends its inquiry into judic-- beyond judicial and into political and philosophical issues, their reach exceeds their grasp, and their credibility on those issues is not entitled to the same respect that we have given it when it comes to assessing judicial temperament and qualities of intellectual ability and character and integrity that would recommend someone for the bench.

>> Question: Do you have a position ...[question indistinct]

>> Thornburgh: We'll cross that bridge when we come to it.

>> Question: Senator Paul Simon said he would ask the Justice Department to investigate petroleum distributors who he claims "is gouging the public by raising gasoline prices 2 to 15 cents a gallon -- gasoline already in the pipes and already paid for." Your reaction?

>> Thornburgh: Any specific allegations of that type of wrongdoing would, of course, come under the jurisdiction of our antitrust division and would be investigated.

>> Question: General, When you consider abortion ...to be a political hot button issue rather than a people issue, does that mean that the Justice Department would not be filing briefs in the future on abortion cases in the Supreme Court?

>> Thornburgh: None whatsoever. We are the legal representatives of this administration and express this administration's policies when those policies are called into question in the courts.

[ Questioner speaking indistinctly ]

>> Thornburgh: What we're saying is the administration has expressed its policy opinion, which, if translated into action in the courts, requires that we represent the administration views in the courts. What we're also saying is that the American Bar Association has no basis upon which to express policy positions in areas that are beyond its field of expertise. They become simply like any other lobbying organization and lose their credibility, or run the risk of losing their credibility, in areas where they can speak with particular expertise.

>> Questioner: I thought you said it's not a legal issue.

>> Thornburgh: I did not say it was not a legal...

>> Question: What about the S&L situation?

>> Thornburgh: Well, I'm not gonna comment on any particular investigation, but suffice to say, as I told the Senate Banking Committee on Thursday of last week, our 27 task forces across this country, using the resources that were finally furnished to us late last year by the Congress, are now carrying out a very vigorous and relentless effort to chase down those persons who have been involved in criminal activities in connection with

savings-and-loan failures. We have indicted in less than two years 329 persons, convicted 231. 78% of those who have been sentenced have gone to prison, and we are proud of the record that's been compiled with the leadership the president has provided in giving us the additional resources that we needed to do this job.

[ Questioner speaking indistinctly ] - - - ABA says it has tried a number of months to set a meeting up, but none is set up. Why have you refused to meet with him?

>> Thornburgh: We haven't refused to meet with him. In fact, I just met with the president elect of the American Bar Association, and we jointly pledged to meet at the earliest possible date on this and a variety of other issues. What we were dealing with was a stacked deck, a section on criminal justice which was made up mostly of defense lawyers purporting to establish standards for their adversaries in the courtroom. And what we're looking for is a restructuring of that process and a reconsideration of that kind of procedure which puts us at a great disadvantage in any discussions, as we've indicated here today.

>> Question: Can you give us any insight into the options they might be considering in Washington with regard to the Iraqi invasion?

>> Thornburgh: No.

>> Question: Is there any information - - at all?

>> Thornburgh: I think the president has put it very well in saying that while he has a number of options, that it would not be appropriate to discuss those options in public.

>> Question: Has he sought your counsel?

>> Thornburgh: I have conferred with him on a number of occasions in the last week. Thank you all.

>> Question: One last question. Would you specifically recommend to the attorneys gathering here to vote to rescind... [ Speaking indistinctly ]

>> Thornburgh: I will watch with considerable interest what action they take.

>> Question: Are you going to vote that way?

>> Thornburgh: I'm not gonna be here to vote.

>> Question: For the record, do you think that they should have to take a stand on --

>> Thornburgh: I think it would be appropriate for this association to be neutral on every issue that does not fall within the ambit of their area of expertise. That has been the traditional role that the American Bar Association has taken. I'm heartened by the fact that the current president and the incoming president agree with that view. I hope that those who vote on this issue will keep in mind the credibility of this great association and its ability to continue in areas where it does have expertise.

>> Question: Does that include gun control?

>> Thornburgh: Thank you.