

# Saxbe, State Officials at Odds

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Attorney General William B. Saxbe appears to be on a collision course with groups of local and state officials over his efforts to bring their representatives under the federal lobbying act.

City and county officials have retained Charles S. Rhyne, an attorney with close ties to the Nixon administration, in an effort to head off threatened criminal prosecution for violation of the lobbying act.

The nation's governors, who had joined in Rhyne's effort, switched to a tougher course last week and ordered their representatives to refuse to register.

"Let the federal government file a criminal action against the 50 governors," said Rhode Island Democratic Gov. Philip W. Noel, a leader in the dispute. "If that's their idea of New Federalism, let them do it."

Despite the challenge, Saxbe shows no signs of backing down. An aide said yesterday that Saxbe is waiting to see whether there will be voluntary compliance with the registration order or whether prosecution will be required.

At issue in the dispute is the 28-year-old federal statute, requiring "any person who shall engage himself for pay . . . for the purpose of attempting to influence the passage or defeat of any legislation by the Congress" to register as a lobbyist and file regular reports of his expenditures.

The 1946 federal regulation of lobbying act specifically exempts "any public official acting in his official capacity," and for 27 years there was no effort to enforce it against the men and women who worked Capitol Hill on behalf of groups like the U.S. Conference of Mayors, the National League of Cities, the National Association of County Officials, the National Legislative Council or the National Governors' Conference.

Now, however, Saxbe is insisting that the U.S. Conference of Mayors and the National League of Cities must register their seven current lobbyists and supply records on their lobbying activities for the past five years, or face the criminal penalties of a \$5,000

fine and a year in jail provided by the act.

The same precedent, it was expected, would be applied to the other associations.

What triggered this action is in some dispute. Some sources in and out of the Justice Department say that a reporter's inquiry caused the department to look into the nonregistration of the city, county and state lobbyists.

But others, citing the Senate Watergate committee's report that the mayors' conference was one of 54 "hostile" organizations tabbed for investigation by some White House officials, think there may have been an element of political retaliation against the group's opposition to parts of the Nixon domestic program.

Justice Department officials strongly deny this.

John Gunther, executive director of the mayors' conference, said that group was audited by the Internal Revenue Service in 1971 for the first time in its history.

Last autumn, according to Gunther and Allen Pritchard, director of the League of Cities, FBI agents visited their offices and, after informing staff members of their legal rights, began interviewing them on their legislative activities.

A followup order from the Justice Department said the two groups would have to register their lobbyists.

None of the associations dispute the fact that some of their employees lobby. But, as Pritchard said, "the view of counsel has been that as instrumentalities of elected officials, we were simply extensions of those officials and their governments," who are exempted by the act.

In addition, Pritchard said, "it seemed to us inconsistent with the concept of the federal system to erect any barriers to the free flow of information between officials of different levels of government."

The Justice Department view, on the other hand, was that the exemption applied only to the public officials themselves, and not to the staff members of their associations.

When Justice Department officials told Pritchard and Gunther they were prepared to prosecute unless the registrations were completed, the

municipal groups decided to comply, rather than ask their employees to risk fines or jail sentences.

But, Pritchard and Gunther said the other associations of public officials objected to the precedent that would be set, arguing it could jeopardize their tax-exempt status and cause other problems.

So the groups decided to retain Rhyne, a veteran of years of litigation on behalf of cities and states who also happens to have been President Nixon's law professor and is now attorney for the President's secretary, Rose Mary Woods.

Rhyne entered the case only a few weeks ago and persuaded the Justice Department to withhold prosecution while he prepared for a possible civil action, seeking a declaratory judgment from the courts on the constitutionality of applying the lobbying registration act to agents of the states and localities.

No such suit has been filed, but the prospect of that action has served to freeze the prosecution.

Originally, the National Governors' Conference joined the county and city associations in retaining Rhyne, but at their annual meeting in Seattle last week the governors decided to force a showdown on the issue independently.

Noel and Washington Republican Gov. Daniel J. Evans, the outgoing conference chair-

man, phoned Saxbe and strongly urged him to abandon his efforts to force the public officials' groups to register. Saxbe, in what was described as a heated exchange, said, according to both governors, that he would review the case but did not expect to change his position.

Noel and Evans then obtained a unanimous vote from the governors' executive committee to withdraw from the possible Rhyne law suit and instead to refuse unilaterally to let their conference's legislative representatives register as lobbyists.

Evans, in a letter to Saxbe, said, "I consider it my duty to accentuate the point . . . that the governors totally reject the ideas that employees . . . who are supported by legislative appropriations from the several states, be required to register as lobbyists . . ."

As of yesterday, the impasse continued, with neither federal nor state officials willing to back down.