

Saxbe Shows Independence

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Attorney General William

B. Saxbe passed a small, unnoticed milestone yesterday. It was the day his tenure as head of the Justice Department equaled the entire term served by his predecessor, Elliot L. Richardson.

Saxbe's defenders in the department don't like to talk about the milestone because they say it conjures up an unfair comparison between the down-home, tobacco-chewing, shoot-from-the-hip incumbent and the urbane, pipe-smoking, cautious Richardson.

They argue that Saxbe never had any executive department experience before becoming Attorney General on Jan. 4, while Richardson

was steeped in it—having been Secretary of Defense and of Health, Education and Welfare before taking over the Justice Department last July.

And if the press, religious groups, the Randolph A. Hearst family and the FBI have pounced on Saxbe for various headlong remarks about such diverse subjects as Patricia Hearst and Jewish intellectuals, well, his defenders insist, at least he's open and candid. Certainly, they note, he's more accessible to the press than any other Attorney General, including Richardson.

Saxbe and his defenders want another five weeks before he is assessed. "Just wait till he's been in six months," said one, "and

you'll really see some accomplishments."

The Attorney General underlined that desire by starting a recent interview with this comment: "I kind of set six months as an arbitrary figure that it would take me to get acquainted with the office, and I think I was about right."

Interviews with him and other high-level department officials lead to the conclusion that despite his unfortunate attacks of foot-in-mouth virus and his admitted failure to grasp all the problems of his complex department, he has begun to make some important contributions.

Under Saxbe, the department is probably freer of

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White House domination than it has EVER been—a situation that may be due more to White House preoccupation with saving President Nixon from impeachment than to any action of Saxbe's.

Nevertheless, the Attorney General has shown strong independence on several important issues—he insisted on public release of a department study on impeachment despite White House reluctance; he has strongly supported Watergate Special Prosecutor Leon Jaworski, and he has ruled that while the Internal Revenue Service may refuse to give the House Judiciary Committee the President's tax audit, the committee can get it in other ways.

Saxbe's decisions are seen in the department as fair. Deputy Attorney General Laurence H. Silberman said, "He calls each decision in a neutral, professional fashion without regard, as much as possible, to political impact."

The Attorney General is seeking to raise professional standards in the department by starting an in-house training program to improve the presentation of cases in

court, by visiting U.S. attorneys across the country to learn their problems, and by upgrading the U.S. marshals into a career service.

He has established a personal relationship with FBI Director Clarence M. Kelley and is working to make the bureau a cooperating part of swerable to no one.

Earlier this year, when the FBI balked at a federal judge's order to turn over files in the trial of two Indian leaders of the occupation of Wounded Knee, S.C., Saxbe reportedly told bureau officials, "Damn it, turn over the files."

The bureau had objected because the files contained the names of informants the FBI had promised to protect. Ultimately, the files were turned over with the names deleted. FBI officials felt they had won a victory, but department officials saw the incident as an example of Saxbe's effort to assert his dominance.

Without much discussion, Saxbe has continued Richardson's proscription against campaigning or partisan speeches by top department officials.

When William Bart Saxbe, a former Republican Senator from Ohio, became the Nixon administration's

fourth full-time Attorney General, he found the department in low public esteem. Two of his predecessors, John N. Mitchell and Richard G. Kleindienst, had been tainted by the Watergate scandal, and Richardson had resigned rather than obey President Nixon's order to fire former Watergate Special Prosecutor Archibald Cox.

Saxbe has often said his main goal is to restore public confidence in the department, which he has called "the heart and soul of the country" in as much as it administers federal law enforcement programs and gives legal advice to all other U.S. agencies.

Asked the other day if he thinks he has succeeded, he replied, "Not yet. But I

think it's a long haul, and I think we've got a start."

Several high officials, however, are not so optimistic. One said flatly that Saxbe has not restored confidence in the department. "It's regrettable," he said, "but his foot-in-mouth problems have had the opposite effect."

Another remarked, "Candor is admirable . . . but lawyers' candor is controlled. They're not country-boy candid. They're sophisticated candid, and a guy who uses his words loosely is looked upon almost as dangerous."

Saxbe's words have sent shudders throughout the department and cries of outrage throughout the country.

Last February he said that if law authorities knew where kidnap victim Patricia Hearst was being held, "we'd go get her," and that her family should not acquiesce in the demands of her captors, the Symbionese Liberation Army. These remarks came when the Hearst family, backed by the FBI, was in delicate negotiations with the SLA.

Later he said the SLA is a bunch of "common criminals" and "Miss Hearst is a part of it" in that she was not a reluctant participant in an April 15 SLA holdup of a San Francisco bank.

That pronouncement, two days after the holdup, may

turn out to be correct, but most high officials in the department feel that the Attorney General of the United States had no business saying it.

Though Saxbe later claimed otherwise, one knowledgeable official said flatly, "He didn't have the facts at the time to make that statement."

FBI Director Kelley stated publicly his fears that Saxbe's "common criminal" charge might stimulate the SLA to "additional activities" to try to show it was a political, rather than a criminal, group.

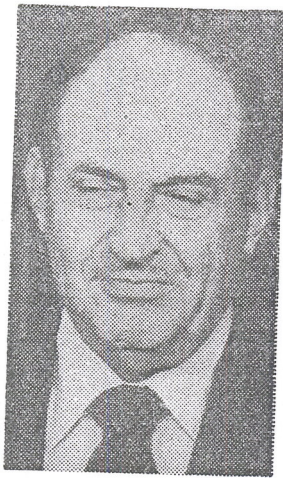
Another time Saxbe revealed he had postponed a trip to Mexico because a young American diplomat there, John Patterson, had been kidnaped. After Saxbe's disclosure March 27, an outraged State Department supplied details of the kidnaping, including the fact that it had been kept secret to comply with the captors' demands.

Saxbe may have taken undue blame one aide said, because an Office of Management and Budget official had told the Attorney General of the Mexico crime but had not warned him that it was secret.

Early the next month he told reporters that in the McCarthy era the "Jewish intellectual" was "very enamored of the Communist Party." When Jewish and other religious organizations objected, Saxbe issued a clarification that offended them even more, a statement that Jewish intellectuals' sympathy for the Soviet Union has waned "because of the Soviet posture toward issues of importance to Jews."

That remark led an aide to Sen. Jacob Javits (R-N.Y.) to wonder if the Attorney General was taking "dumb pills."

As a result of the criti-



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... a small milestone

cism, the Attorney General ended the forum in which most of his controversial comments had been made a weekly coffee-and-donuts session with reporters who regularly cover the department.

Saxbe said he "thoroughly enjoyed" the sessions, but "the editors of the country just descended on me" and "the (Washington Star-News) said the Attorney General was making such a clown of himself by those coffee sessions."

At each session Saxbe would have a statement about a certain department program or problem, but it would be ignored, an aide said, because the press was more concerned with "how is he going to stick his foot in his mouth this week."

Saxbe saw the meetings turning into cross-examinations but said, "I liked the pull and haul, the matching-of-wits part of it."

However, he stopped them because he saw the constant controversy over his remarks as "harmful to the department," he said.

"Also, I had a son running for office in Ohio," he explained, referring to Charles

R. (Rocky) Saxbe, who won the Republican nomination for a seat in the state legislature last month.

"I knew it was difficult for him wherever he went because he'd be asked, 'What do you think about' some statement I had made," Saxbe recalled. The "Jewish intellectual" remark must have caused special problems "because his wife's Jewish. But he toughed it out. He didn't call me or anything, but I was embarrassed to have put him on the spot."

Saxbe said he still has a feeling of "bafflement" over the flak he took for his Hearst statements. "If it had been some poor black girl who had gotten in with toughs and held up a bank, I couldn't imagine anyone saying, 'Oh, what an outrage to condemn this girl.'"

"Every prosecutor has to make a decision [on probable guilt] or no one would get arrested," he insisted.

It is this quality of mind, this tendency to equate himself with a county prosecutor and not with the loftiest law enforcement official in the country that causes no small concern within the Justice Department.

One high official said of Saxbe, "He's a very likeable person—direct, open, candid. But what is he open about? He's not a heavy thinker at all... [he] has no personal conception of the nature of the problem of restoring confidence in the administration of justice. It's really one of tone, of spirit. Elliot Richardson, in words and actions, set a standard that was high."

As an example of the quality of mind that they find disturbing, Saxbe's critics point to his knack for inconsistency.

At a coffee session with reporters March 13 Saxbe began a discussion of gov-

ernment wiretaps by stating flatly that journalists were wiretap targets during the Kennedy and Johnson years as well as in the Nixon administration.

When pressed for details, he backed off, and finally concluded, "I can't say that for certain."

On May 1, delivering a Law Day address in Columbus, Ohio, he said his previous statement that Patricia Hearst was a willing participant in the San Francisco bank robbery was based on "substantial and supportive evidence." But just before giving the speech, he had told reporters, "It could be she hit on this device as the only way she could stay alive."

Saxbe is also criticized for not spending much time on the job. "There aren't many weeks that he's in the office more than three days," one staffer said. "He gives a lot of speeches around the country, and when he's out on speaking trips, he takes time for golfing or hunting. When Kleindienst was here, he'd go out for a speech and break his butt to fly back to the department the same day."

"When Saxbe is in the office, it's mostly 9 to 5 except for Wednesday afternoons, when he meets with the assistant attorneys general. Then he stays till 6, but that's because the meetings break up around 5 and they open up the bar."

Reports from those meetings indicate a lack of depth in Saxbe's understanding of department problems.

"In one meeting, Saxbe told why we had to give up our Mercury limousines and go to smaller cars and why the phones were taken out of our cars," one official said. "The tone was one of housekeeping."

The Feb. 13 meeting was

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devoted to a presentation by Glen Pommerening, head of the Administrative Division, on "management by objectives." When Pommerening had finished his long discourse, the Attorney General, according to a written report, said:

"If everybody in this room thinks this is a lot of bull . . . I'll abandon it, but there may be something we can learn from it, so let's give it a little try." The report added, "No one responded to that."

At the March 27 meeting "all that was discussed was the increase in crime," one memo says. At the April 3 meeting, "General [Leonard] Chapman [head of the Immigration and Naturalization Service] talked of border issues. There was no significant general discussion," says another memo.

"Kleindienst and Richardson used the weekly meetings as a way of lecturing and teaching about issues," said an official who attended them. "They were really engaged in Justice Department policy."

On May 8 the Attorney General made the assistants happy by promising not to interfere with their "professional judgments."

One said later, "He has not turned me down on any cases, but I don't think he's read them."

Another said, "I don't clear anything with him. It's a waste of time. He doesn't focus intelligently on anything you bring him."

That assessment is not shared by other Justice officials. One insists that when Saxbe is being briefed by his aides, "He's sharp, very quick on the uptake." Assistant Attorney General J. Stanley Pottinger, who heads the Civil Rights Division, noted that when the department sued the state of Maryland in April, charging that its facilities for the mentally retarded were inadequate, "Saxbe really turned on. He even knew the ratio of staff to residents."

Another aide said that the Attorney General "now seems to be changing, trying to become knowledgeable about the department."

But he will have to hurry if he is to achieve his goal of restoring confidence in the department, because, as one official said, "Public opinion is really its perception of the department of the Attorney General. Saxbe is not a mean or evil man, but there is a widespread feeling in the department that he may not measure up to the requirements of the job."