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Some New Views at Justice

WILLIAM SAXBE had some interesting things to say the other day on at least two issues that bear directly on his approach to his job and to the law.

On the subject of the national security wiretaps that have come back to haunt Secretary of State Henry Kissinger, he said he would not have permitted them if he had been Attorney General at the time. Mr. Saxbe said on a public television broadcast ("Washington Straight Talk") that he would only grant permission to wiretap a fellow citizen if the case was one of "genuine national security, not something we guess might be." And he added that by that standard, the 17 taps placed on government officials and journalists in 1969 would not have passed muster with him. He set a rather rigid standard for what constituted national security: "The standard I apply is that the [suspected] activity must be controlled, directed, paid for by a foreign power." Any number of government officials involved in trying to keep a lid on news leaks might disagree with that standard, but what is important is that this Attorney General has at least attempted to set some minimum standard of government behavior in this very difficult area.

In yet another difficult area of law and propriety, Mr. Saxbe implicitly chided President Nixon for his behavior in dealing with Assistant Attorney General Henry Petersen during April 1973. As Mr. Saxbe pointed out, Attorney General Richard Kleindienst had previously

taken himself out of the Watergate matter, leaving Mr. Petersen in total control of the Justice Department's investigation. Mr. Petersen had occasion to discuss various aspects of that case with the President—"Petersen's only boss at that time," as Mr. Saxbe put it. The President, as his own transcripts show, assured Mr. Petersen that "you're talking only to me." Well, as the transcripts also make clear, Mr. Nixon wasn't exactly leveling with his Assistant Attorney General on that point. At least some part of what Mr. Petersen told Mr. Nixon was transmitted in turn to H. R. Haldeman and John Ehrlichman, whose interest in the grand jury's deliberations on Watergate matters was not altogether academic, to say the least. Both were at least potential targets of the grand jury's investigation at the time and both were later to be indicted in the coverup case. Mr. Saxbe was asked if the President had lied to Mr. Petersen. He ducked that one question, but went on to make clear to his television audience that "this was wrong" on the President's part. He was asked if that behavior showed a "casual" attitude toward the law on Mr. Nixon's part, and he answered: "Either that or a lack of knowledge about a grand jury proceeding."

In both these instances, Mr. Saxbe has deliberately chosen to stake out positions that appear to be a marked improvement over the past approach of the President to his responsibility for faithful execution of the law.