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Kissinger and the Taps

By Daniel I. Davidson

WASHINGTON—The initial reaction to Henry A. Kissinger's demand for vindication of his honor convincingly demonstrates to me, as one of Mr. Kissinger's wiretapping victims, that many liberal Senators are willing to apply a different standard when judging the conduct of the President and his much-admired Secretary of State.

Within three days of his Salzburg news conference, in which he threatened to resign if he was not cleared of allegations of "illegal or shady activity" in Government wiretapping of individuals, 52 Senators, including nearly half of the Foreign Relations Committee, without waiting for all the evidence, signed a resolution stating that Mr. Kissinger's "integrity and veracity are beyond reproach."

Mr. Kissinger raised the issue of honor at Salzburg but his honor, of course, cannot be restored by the Senate. It was injured, perhaps permanently, when he participated in the placing of the first taps on the phones of men and their wives who regarded him as their friend. In my opinion, his honor can only be restored if he apologizes for his actions.

But the questions the Foreign Relations Committee must examine also concern possible violations of the criminal law. Accusations against him, while obviously not as extensive as those against the President, are still extremely serious.

First there is his admitted participation in the wiretapping of Government officials and newsmen. To this day Mr. Kissinger asserts that it is a "fact" that the taps were legal and not "shady." Senator J. W. Fulbright, chairman of the Foreign Relations Committee, agrees that the taps were lawful. But even on the dubious assumption that the taps were placed solely for national security reasons, former Supreme Court Justice Arthur J. Goldberg and most legal experts consider them illegal.

That the taps were "shady" is obvious from the way in which the records were treated. They were surreptitiously removed from Federal Bureau of Investigation custody because of fear that J. Edgar Hoover might have used them to blackmail the President. Documentation of what Mr. Kissinger still maintains were lawful and necessary actions would not provide material for blackmail.

Mr. Kissinger's admitted role in the wiretaps shows his involvement at the start of the slippery slope that led to Watergate. "Deep Throat," Bob Woodward's and Carl Bernstein's most reliable source, told them the first targets of aggressive wiretapping were those involved in the Kissinger taps, that

the emphasis then shifted to political radicals and that when it got near election time it was only natural to tap the Democrats.

It seems almost incredible that the Foreign Relations Committee would accept, as it seems prepared to, one of the explanations offered by Mr. Kissinger, that the wiretaps were justified by a legitimate desire to conceal from Congress and from the public the bombing of Cambodia, a fact well known to those being bombed. That Mr. Kissinger could offer this rationale demonstrates a profound misunderstanding of how officials in this democracy must conduct themselves.

The other major allegation against Mr. Kissinger is that he perhaps perjured himself, or at least failed to testify fully during his Senate confirmation hearings.

The evidence against him comes not only from numerous anonymous sources as Mr. Kissinger would have us believe but also includes a Presidential tape, sworn statements from John D. Ehrlichman, memoranda signed by J. Edgar Hoover, other F.B.I. records and even Mr. Kissinger's initial statement to Mr. Woodward.

Charles W. Colson and Mr. Ehrlichman have also indicated in affidavits that Mr. Kissinger did much to fan the apparent atmosphere of hysteria at the White House that led to creation of the plumbers unit.

It is difficult to accept the word of the President or his senior colleagues. But their unreliability itself illustrates that for Mr. Kissinger the price of power was to function in an immoral atmosphere—and there is no indication that he has paid reluctantly.

It is understandable that Senators who deeply value Mr. Kissinger's service and consider him a national asset want him to remain in office. I, too, would consider it unfortunate if he resigned, for given his ability and the President's record of appointments his successor is likely to be very inferior.

But Senator Fulbright, who has made the charge that Mr. Kissinger's problems have been caused by opponents of détente (the same view originally taken by the Russians on Watergate), should review the record. If the Foreign Relations Committee affirmatively approves Mr. Kissinger's conduct and declares that he has acted honorably they will in essence be proclaiming that the normal rules of conduct are not applicable to Henry Kissinger superstar. If those rules are not applicable to him, should they be applicable to Richard Nixon, who also deserves credit for foreign policy achievements?

Daniel I. Davidson, an attorney who was a member of Mr. Kissinger's staff until July, 1969, was wiretapped from May, 1969, to September, 1969.