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Book Reviews

Saving Justice: Watergate, the Saturday Night Massacre, and Other Adventures of a Solicitor General

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The inadequacies I have pointed out are merely the tip of the iceberg. Heimann's work is misleading, omits crucial facts, and fails to take into account the contemporary context of the major events she discusses.

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Saving Justice: Watergate, the Saturday Night Massacre, and Other Adventures of a Solicitor General. By Robert H. Bork (New York: Encounter Books, 2013), xvii + 136 pp. \$23.99 cloth.

Justice Robert Bork died in December 2012. He was one of the great legal scholars of our time, a giant on the jurisprudential landscape. Bork is perhaps best known for his failed nomination to the Supreme Court during the Reagan Administration. Prior to that, Bork was a legendary professor at Yale University, author of the best book on antitrust law, a distinguished federal judge, and the solicitor general who fired Archibald Cox as the special prosecutor examining the Watergate Affair during the Nixon Administration. After he was brutally savaged in the 1987 hearings for his nomination to the Supreme Court, Bork wrote another great book, this one on constitutional law titled *The Tempting of America*. It became a bestseller and the go-to text for "judicial restraint" and an "original" interpretation of the American Constitution. Bork then returned to teaching and lecturing. At the time of his death Bork was working on a book about Watergate and his tenure as solicitor general (the lawyer who represents the United States government before the Supreme Court). The book has now been published with a foreword by former Attorney General Ed Meese.

I highly recommend this book... highly recommend. It is a well-written, clear, concise, and honest telling of Justice Bork's involvement with the so-called "Saturday Night Massacre," the 1973 incident when President Richard Nixon ordered the firing of Watergate Special Prosecutor Cox who was investigating the break-in at the

headquarters of the Democratic National Committee at the Watergate complex in Washington, D.C. People of a certain age will remember all this. Those who lived through the experience remain puzzled by the thinking and behavior of President Nixon and his staff. Historians have offered speculative theories, including political paranoia, simple stupidity, and visceral dishonesty.

This book partially recounts the history. As the Watergate scandal unfolded, Nixon asked Attorney General Richard Kleindienst to resign, probably because Nixon did not trust him. Elliot Richardson was nominated as his successor. The Senate Judiciary Committee made Richardson's confirmation contingent on the appointment of a special prosecutor. So, as a concession to the Congress, Nixon appointed a special prosecutor to look into the Watergate burglary and its aftermath. He selected Archibald Cox, a respected law professor at Harvard University. Cox's investigations led him from the burglary to examine the actions and decisions of the President and his staff. When the existence of taped White House conversations was made public in a congressional hearing, Cox sought the tapes. Nixon did not want to turn them over, claiming "executive privilege." Cox persisted, believing that executive privilege was not a justification for cloaking possible criminal activity. Cox even rejected compromise solutions, such as allowing others like respected Mississippi Senator John Stennis to hear the tapes and then report to the Special Prosecutor. He wanted the tapes. Nixon reacted by deciding to fire Cox, regardless of the political or constitutional damage. This became the stuff of high drama and constitutional crisis. Attorney General Elliott Richardson refused to fire him and resigned, believing that during his confirmation hearings he had committed to Cox's independence of action. Within minutes, the Deputy Attorney General, William French Smith, was then ordered to fire Cox. He refused and also resigned. Nixon immediately refused the resignation in order to fire him, which he did immediately. Third in line was Bork, who was the Solicitor General at that time. Bork fired Cox and became the Acting Attorney General. This all happened on a Saturday weekend, hence the "Saturday Night Massacre." Liberals and the Washington establishment never forgave Bork. The Justice

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