

Senate Acts to Speed Nomination of Saxbe

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Despite contentions that it might be unconstitutional, the Senate yesterday approved by a 75-to-16 vote a bill that clears the way for the nomination of Sen. William Saxbe (R-Ohio) to be Attorney General. Swift House approval is expected.

The bill lowers the pay of the Attorney General from the present \$60,000 to \$35,000 a year. The bill was necessary because the Constitution prohibits a senator or representative from being appointed to any civil office if, during the term for which he was elected, the pay of that office was increased.

Saxbe's Senate term began in January, 1969, and in February congress voted to increase the pay of Cabinet officers from \$35,000 to \$60,000.

Saxbe said after yesterday's vote that he wasn't worried about the \$7,000 pay cut from his present \$42,000 Senate salary. "The only thing I'm worried about is that after three or four months, the Supreme Court will find my appointment was unconstitutional and I'll have to give the money back and I'll have already spent it."

The bill ran into stiff opposition from Senate Majority Whip Robert C. Byrd (D-W.Va.) and Sen. Sam J. Ervin Jr. (D-N.C.). They contended that the constitutional prohibition was absolute, and that lowering the pay could not get around it.

But having passed the Senate the bill is expected to breeze through the House. Rep. Thaddeus

Dulski (D-N.Y.), chairman of the Post Office and Civil Service Committee, is waiving hearings and sent a letter to the Speaker yesterday asking him to bring it up under a suspension of the rules, which means it could come up on the House floor next Monday.

Passage of the bill will speed up consideration of Saxbe's nomination, since President Nixon said he would not send up Saxbe's name for confirmation by the Senate until the bill was passed.

A Byrd amendment providing for a quick constitutional test of the validity of the appointment passed by an 87-to-0 vote.

Another by Sen. Herman Talmadge (D-Ga.) provides that Saxbe's salary as Attorney General could not be raised until his term of office as a senator expires on Jan. 3, 1975. Talmadge's amendment passed by voice vote.

Senators opposing the bill stressed that they were not questioning their colleague's qualifications or integrity, but rather the constitutionality of the bill and the President's judgment in making an appointment of doubtful constitutionality.

"I will not attempt to perform a caesarean section on the Constitution to bring the senator from Ohio—distinguished as he is and deserving as he is—into the President's Cabinet," Byrd said.

The Virginia and Maryland senators all voted for the bill. Saxbe voted "present."