

The prosecutor quandary

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WASHINGTON — The newest Watergate controversy concerns the constitutionality of congressional proposals which would authorize the courts to appoint a special prosecutor.

While all sides agree that Leon Jaworski, the new special prosecutor, should be "independent," there is broad disagreement on

whether Congress can "usurp" President Nixon's power to appoint federal prosecutors.

The legal arguments against the bill claim the Constitution set up a "separation of powers" — that Congress passes laws, the executive prosecutes and the courts judge.

The arguments in favor of the bill are more complex. But basically, supporters of

the court-appointment theory point to Article II of the Constitution which says:

"... The Congress may they think proper, in the President alone, in the courts of law or in the heads of departments."

Under this section it is claimed Congress can vest the appointment of a special prosecutor "in the courts of law."