

'Bork Holds His Job Illegally'

Washington

Senator William Proxmire (Dem-Wis.) says acting Attorney General Robert H. Bork is holding his job illegally and Proxmire wants President Nixon to take "appropriate action" to comply with the law.

The Wisconsin Democrat said in a letter to Mr. Nixon released yesterday that Bork's "lawful tenure as acting attorney general is limited to 30 days and the 30 days was up this past Monday, November 19.

Bork, who as solicitor general is the No. 3 man in the Justice Department, became acting attorney general October 20 when Elliot L. Richardson and William D. Ruckelshaus resigned as attorney general and deputy attorney general.

A federal judge ruled in June that the acting head of the Office of Economic Opportunity, Howard J. Phillips, could not continue in office past the 30-day limit because Mr. Nixon did not submit his name for Senate confirmation.

In the Phillips case, U.S. District Judge William Jones ruled that the President's power concerning interim appointments "if it exists at all, exists only in emergency situations."

Proxmire's charges were replied to last night by Assistant Attorney General Robert G. Dixon Jr.

Dixon said the law under which Bork became acting attorney general "does not place any limit on the amount of time an acting attorney general may serve."

He said the Vacancy Act, passed in 1868, which limits the time persons may serve in an acting capacity in certain government posts to 30 days, is superceded in this case by the 1870 Justice Department succession statute.

President Nixon has announced the choice of Senator William B. Saxbe (Rep. Ohio) as the new attorney general but has delayed sending the nomination to the Senate, pending action on a measure to lower the attorney general's pay to its pre-1969 level of \$36,000.

This action is necessary because the Constitution forbids the appointment of a member of Congress to a federal office whose salary was raised during his term in Congress.

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