

# Proxmire Tells Nixon That Bork Is Serving Illegally

By JOHN M. CREWDSON

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WASHINGTON, Nov. 23 — Senator William Proxmire charged today that Robert H. Bork, the Acting Attorney General, was serving in violation of a Federal law requiring his confirmation by the Senate after 30 days in office.

In a letter to President Nixon, the Wisconsin Democrat cautioned that any official actions taken by Mr. Bork since Monday, when the 30 days expired, "may be subject to later challenge and nullification." He urged Mr. Nixon to act immediately to remedy the discrepancy.

Gerald L. Warren, the deputy White House press secretary, said only that the Proxmire letter "has been received," and referred further queries to the Department of Justice.

Assistant Attorney General Robert G. Dixon Jr., who heads the department's Office of Legal Counsel, disputed Mr. Proxmire's legal interpretation and said that there had been at least six instances in which Acting Attorneys General "have lawfully served for more than 30 days."

## Inherited Post

The key provision, Mr. Dixon said in a statement, was not the Vacancy Act of 1868, on which Senator Proxmire relied, but the Justice Department's succession statute, which he said had been "construed consistently" as superseding the 1868 law.

Mr. Bork, he noted, was not appointed Acting Attorney General by the President but inherited that post after the resignations Oct. 20 of Attorney General Elliot L. Richardson and his deputy, William D. Ruckelshaus.

Both men chose to leave rather than carry out an order from Mr. Nixon to discharge Archibald Cox as the Watergate special prosecutor. Mr. Bork, the Solicitor General and third in the line of succession, then took over as acting head of the department and dismissed Mr. Cox, an action that has since been held illegal by a Federal judge.

Senator Proxmire raised the same issue on of the vacancy act earlier this year in connection with President Nixon's appointment of L. Patrick Gray 3d as acting director of the Federal Bureau of Investigation.

## Opposite Opinion by G.A.O.

The Justice Department rejected his argument then, despite a investigative arm of Congress. A copy of that opinion was attached to today's letter to the President.

Mr. Dixon pointed out that among the Attorneys General who had served in an acting capacity for more than 30 days were Nicholas deB. Katzenbach and Ramsey Clark, each of whom held the office on that basis for about five months during the Administration of Lyndon B. Johnson.



United Press International

**Dwayne O. Andreas, financier and soybean producer, pleaded not guilty yesterday in Minneapolis to charges that he contributed illegally to campaign of Senator Hubert H. Humphrey.**

He added that six other departments, including Treasury, Commerce and Labor, had similar organizational statutes that superseded the vacancy act in determining their orders of internal succession.

President Nixon remained at his Camp David, Md., retreat today, where, Mr. Warren said, he was "working on energy matters," while the White House counsel's office considered a request by Chief Judge John J. Sirica of the Federal District Court here for seven subpoena Watergate tape recordings.

Judge Sirica asked on Wednesday that the tapes be voluntarily surrendered to him for safekeeping after White House lawyers disclosed in court that an 18-minute segment of tape contained an "audible tone" and no conversation.

## 2 Other Recordings

The White House had disclosed previously that two other recordings of conversations subpoenaed by Mr. Cox did not exist, attributing it to a malfunction of the recording equipment in one case and a telephone call from a private telephone in the other.

In Minneapolis, meanwhile, a lawyer for Dwayne O. Andreas, a millionaire financier and soybean producer, entered a plea of not guilty to charges that his client illegally contributed \$100,000 to the successful Presidential campaign of Senator Hubert H. Humphrey, the Minnesota Democrat who opposed Mr. Nixon in 1968.

Mr. Andreas, who is reportedly in Europe, has been accused by the Watergate prosecutor's office of contributing money belonging to the First Inter-

oceanic Corporation, which he headed, in violation of the law prohibiting donations of corporate funds to political candidates.

A \$25,000 contribution from Mr. Andreas to President Nixon's re-election campaign last year eventually found its way into a Miami bank account controlled by Bernard L. Barker, one of the seven convicted Watergate conspirators.

## 'Apparent Violation'

That donation was termed an "apparent violation" of law by the General Accounting Office, which said that the contribution should have been made public by the Nixon campaign organization under a new law that required disclosure of such donations after April 7, 1972.

The Justice Department decided against prosecution on the ground that the money was, in fact, delivered before April 7, even though it was picked up by a Nixon finance committee official after that date.

However, it was learned that the office of the Watergate prosecutor, Leon Jaworski, had reopened consideration of the matter.

Two Republican Senators also spoke out on Watergate today. One of them, Edward W. Brooke of Massachusetts, said that "nothing has happened" to change his mind since he became the first member of the President's party to call for Mr. Nixon's resignation. Mr. Brooke told newsmen in Boston that he believed it would re-

quire "something of a miracle" for Mr. Nixon to make a full disclosure of the facts surrounding Watergate.

Senator Lowell P. Weicker Jr. of Connecticut, a member of the Senate Watergate committee, declared in a television interview that he had "had it with that group" in the White House "insofar as the reverence in which they hold the concepts of honesty, integrity and the position of the Presidency of the United States."