

# House Group Approves Prosecutor Bill

By Mary Russell

Washington Post Staff Writer

A bill to establish a court-appointed Watergate special prosecutor passed the House Judiciary committee yesterday after an amendment was added requiring the prosecutor to aid the committee in its impeachment inquiry.

The Senate Judiciary Committee, however, postponed a vote on its own independent prosecutor bill until next Wednesday, after Republicans insisted that more witnesses, including acting Attorney General Robert H. Bork, be called.

At the same time, the Senate Judiciary committee voted unanimously to ask for an opportunity to review a bill which seeks to remove the constitutional obstacles to the confirmation of Sen. William Saxbe (R-Ohio) as Attorney General, an action which could further delay and possibly jeopardize Saxbe's nomination.

The House bill, which is expected to be brought up on the floor after the Thanksgiving recess ends on Nov. 26, requires the special prosecutor to report monthly to the House Judiciary Committee chairman and ranking minority member "such information pertinent to the question of

whether impeachable offenses have been committed by the President."

The amendment, offered by Rep. Tom Railsback (R-Ill.), would help the Judiciary Committee with its impeachment inquiry.

The amendment passed the committee by a 26-12 vote with seven Republicans joining 19 Democrats to vote for it. Two Democrats and 10 Republicans voted no.

Railsback said he thought the amendment was necessary because of the requirement for secrecy in the grand jury proceedings to which the special prosecutor would present his case.

"The special prosecutor might not have been able to come up here and tell us if he found any impeachable offenses. This amendment allows him to do so," Railsback said.

The key vote on establishing a prosecutor came on a substitute bill offered by Rep. David Dennis (R-Ind.) which would have allowed the Attorney General—rather than the courts—to appoint the special prosecutor, with the proviso that he could only be fired in case of gross impropriety.

The vote defeating the Dennis substitute was 17-21 with all Democrats but one voting against it and all Republicans but one voting for

it. Rep. Walter Flowers (D-Ala.) voted for the Dennis bill and Rep. Harold Froehlich (R-Wis.) voted against it.

Rep. Robert McCloy (R-Ill.) said the committee vote "makes this a partisan fight" and vowed the Republicans would fight for the Dennis bill on the floor. He added the vote also "indicates the impeachment inquiry will wind up as a partisan inquiry."

Under the bill, the 15 judges of the U.S. District Court here would empower three of their members to choose a special prosecutor. The prosecutor could be removed by the panel only for gross impropriety. The prosecutor's office would be Congressionally funded and the bill provides for a quick test of its constitutionality.

The threat to the nomination of Saxbe as the new Attorney General lies in a constitutional controversy over a bill approved by the Senate Post Office and Civil Service Committee yesterday to lower his Cabinet salary from \$60,000 to \$35,000.

The committee approved the measure to get around the provision in Article I, Section 6 of the Constitution which says no members of Congress can take a civil job if its salary was increased during his term.

Saxbe entered the Senate in January, 1969, and the next month Cabinet pay was raised from \$35,000 to \$50,000.

Acting Attorney General Bork told the committee that the pay-cut bill "should remove any constitutional question which may be raised."

But two Judiciary Committee members, Sen. Robert C. Byrd (D-W. Va.) and Sen. Sam J. Ervin (D-N.C.) voiced strong opposition, and the Civil Service Committee agreed to seek to have the bill referred to Judiciary before it come up for a floor vote.

Ervin and Byrd said it would be unconstitutional to try to overcome a provision of the Constitution by statute rather than by a Constitutional amendment which would require approval by three-fourths of the states.

The administration has made clear that it will not formally submit the nomination of Saxbe until the pay-cut bill is cleared, lest the nomination be void. Sponsors may seek to ease

the way for the special prosecutor bill by adding it to the Saxbe pay bill on the floor.

Sens. Philip A. Hart (D-Mich) and Birch Bayh (D-Ind.), two of the chief sponsors of the Senate version of the court-appointed prosecutor bill, pressed for a Judiciary committee vote on it yesterday. But Minority Leader Hugh Scott (R-Pa.) and Sen. Roman L. Hruska (R-Neb.), who oppose the bill, said a lot more witnesses should be heard. Bayh called this "dilatory."

Sen. Charles McC. Mathias Jr. (R-Md.), the only committee Republican who favors the bill, finally proposed that the vote be taken next week, and the committee agreed.

The court-appointed prosecutor bill at present has seven committee Democrats and Mathias as sponsors, giving it only 8 of the 16 votes on the committee. It must obtain a majority to be cleared for the floor.

Staff Writers Susanna McCabe and Spencer Rich contributed to this report.