

# Proxmire Challenges Bork Tenure at Justice

From News Dispatches

The Justice Department and Sen. William Proxmire (D-Wis.) disagreed yesterday over whether acting Attorney General Robert H. Bork is holding office illegally.

The department challenged Proxmire's contention in a letter to President Nixon that the law limits the tenure of an acting Attorney General to 30 days. In Bork's case, the 30-day period expired last Monday.

"The danger in permitting Mr. Bork to continue in office is that any action he now takes may be subject to later challenge and nullification," Proxmire said in a letter to Mr. Nixon dated Tuesday and released yesterday. "This might include indictments, deportation orders, legal opinions or any other action taken in the name of the Attorney General."

Assistant Attorney General Robert G. Dixon Jr. said the 1870 law creating the Justice Department specifically exempted an acting Attorney General from the 30-day rule, and that the department has had interim chiefs serving for more than 30 days six times since 1881 without challenge in the courts.

Bork, the U.S. solicitor general, assumed command of the department on Oct. 20, when Attorney General Elliot L. Richardson and his deputy, William D. Ruckelshaus, resigned rather than obey President Nixon's orders to fire Watergate Special Prosecutor Archibald Cox.

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."

The administration has taken the position that, since Bork became acting Attorney General by being the highest remaining Justice Department official rather than through appointment, the 30-day limit does not apply to Bork.

Mr. Nixon has announced the choice of Sen. William B. Saxbe (R-Ohio) to be the Attorney General but has



ROBERT H. BORK

status in question

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 \$35,000.