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Senate Panel Backs Saxbe Nomination

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The nomination of Sen. William B. Saxbe (R-Ohio) to be the new Attorney General was approved yesterday by a 15-to-1 vote of the Senate Judiciary Committee.

Sen. Sam J. Ervin Jr. (D-N.C.) cast the sole negative vote, citing the constitutional prohibition on members of Congress taking a civil job if its pay has been raised during their Capitol Hill tenure. In 1969, Saxbe's first year in the Senate, Cabinet pay was raised from \$35,000 to \$60,000.

Last week Congress passed a bill designed to overcome the constitutional difficulty by lowering Saxbe's pay as Attorney General. But Ervin contended only an amendment to the Constitution could solve the problem.

Saxbe is expected to be confirmed by the full Senate today or Monday. However, Sens. Quentin N. Burdick (D-N.D.), Robert C. Byrd (D-W.Va.), and John V. Tunney (D-Calif.) said they would not vote for him because of the pay issue.

The committee's approval was debated in closed session for 2½ hours because of several members' concern over the independence of Watergate Special Prosecutor Leon Jaworski.

The impasse was resolved when Sen. Hugh Scott (R-Pa.) agreed—as he described it after the closed meeting—"to

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seek further clarification" from Mr. Nixon.

Earlier, Sens. Philip A. Hart (D-Mich.) and Edward M. Kennedy (D-Mass.) had threatened to hold up Saxbe's confirmation unless Mr. Nixon promised the committee in writing that he would not interfere with Jaworski's jurisdiction in investigating Watergate related scandals.

During the closed session, Saxbe was called in and asked his views on whether the President can inhibit Jaworski's mandate. Hart had said during a public morning session that the White House "was itching to try to narrow" the jurisdiction of former Special Prosecutor Archibald Cox, whom Mr. Nixon fired Oct. 20.

Saxbe, who testified for about six hours on Wednesday, promised the senators again yesterday he would fight any White House effort to restrict Jaworski's power.

He argued that a written pledge from Mr. Nixon is not necessary since, he said, the President cannot alter Jaworski's jurisdiction except through the Attorney General and that he, Saxbe, would not allow any inhibition.

Nevertheless, the committee decided to seek some additional assurance from Mr. Nixon, and the options ranged from a written presidential acquiescence in a statement by Jaworski defining his jurisdiction.

Scott called the dispute "a tempest in a teapot." But earlier both Kennedy and Hart recalled that Scott had relayed Mr. Nixon's assurances that Cox would be independent and, said Kennedy, "we've been burned."

The confusion over Jaworski's charter arose after this sequence of events:

Jaworski told the committee last month that he understood from Mr. Nixon's chief of staff, Alexander M. Haig Jr., that the President would not try to inhibit the scope of his investigation.

Then acting Attorney General Robert H. Bork added a clause to Jaworski's charter saying that the President would not fire him or restrict his jurisdiction without first getting approval of six of the eight top congressional leaders. The original charter had mentioned only the firing procedure.

Bork told the committee yesterday he added the clause only because it was part of Mr. Nixon's original commitment and had been inadvertently left out of the original charter.

Bork said, however, that Mr. Nixon has the inherent power to restrict Jaworski's jurisdiction but had promised him he would not use it unless he got the concurrence of the six congressional leaders.

Bork's testimony led to the committee's decision to seek the President's assurance that he will not try to restrict Jaworski at all.

In the closed session, Saxbe was asked about a statement the Hong Kong Standard quoted him as making last Aug. 23—that he thought the White House Watergate tapes "should be destroyed" if they are "incriminating" and that he was "sure" the President would destroy them.

Saxbe, when that the Standard has a tape of that statement, conceded that he might have said it but did not mean to advocate any illegal act. He said he had meant to say the President "could" destroy the tapes, not that he would do so.