

Panel Hears Rehnquist, Calls Powell

11-5-71

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Supreme Court nominee William H. Rehnquist concluded late yesterday his appearance as a witness for his confirmation after a two-day tug of war with hostile members of the Senate Judiciary Committee.

Chairman James O. Eastland (D-Miss.), vowing that hearings on the two court vacancies will not be "drug out" like previous confirmation battles, promptly scheduled the other nominee, Lewis F. Powell Jr., as the first witness Monday morning.

Rehnquist, 47, who is assistant attorney general for legal counsel, repeatedly tangled with Sens. Birch Bayh (D-Ind.) and Edward M. Kennedy (D-Mass.) over whether his role as lawyer for the Attorney General and the President prevented him from spelling out his personal views of controversial administration policies.

Other questioners, including Sens. Charles McC. Mathias (R-Md.) and John V. Tunney
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(D-Calif.), were able to draw more responses from Rehnquist, but Bayh said he was blockaded in his efforts to explore the "judicial philosophy" President Nixon praised when he nominated Rehnquist.

If Rehnquist insisted that his "lawyer-client" relationship with administration officials precluded answers, Bayh said, he would write both the President and Attorney General John N. Mitchell to waive the client's privilege and let the government lawyer testify more fully.

Bayh's complaint prompted Sen. Roman L. Hruska (R-Neb.) to charge that committee Democrats were displaying a "newfound interest" in the philosophy of high court candidates, contrasting sharply with their silence when liberal nominees were being confirmed.

"We've never had a president before who went on television and made judicial philosophy such a major consideration," Bayh replied. He said he would write the letter "before sundown" because he didn't want to "drag out" the hearings.

"Don't worry," said Chairman Eastland, "these hearings are not gonna be drug out." He then announced, "I'm ready to vote."

Rehnquist, an experienced witness before congressional committees, remained calm as the senators spent nearly as much time debating why he could not answer questions as with the questions themselves. At one point the nominee, dressed in a bright pink shirt and dark, broke the tension by standing up and, with Eastland's permission, walking once around the witness table to stretch his legs.

Alternately prodded and coaxed by committee members, Rehnquist registered these points about his qualifications to replace retired Justice John M. Harlan:

- He argued successfully within the Justice Department for abandoning the novel claim that the federal government had "inherent power" without court warrants to wiretap domestic subversives.

Rehnquist said he felt the government would fare better in a pending Supreme Court case—from which he will probably disqualify himself if confirmed—by arguing that anti-subversion wiretaps could be "reasonable" and thus constitutional with self-imposed safeguards rather than court supervision.

- He worked with other department lawyers to soften opposition to a "spedy trial" bill calling for dismissal of long-pending indictments in federal courts.

Rehnquist said he and others determined that they were not "VSOFTIES" TO FAVOR LEGISLATION TO COPE WITH CRIMINAL COURT CONGESTION IF Congress would accept certain reforms sought by the administration.

- He stands by his opposition to long-distance busing to provide a better school racial mix in his former home city of Phoenix, Ariz., but "I'm not sure I know enough" about the school situation there to judge whether drastic measures are needed to equalize educational opportunities.

It was the "proper role for the court" to re-examine in 1954 the half-century-old doctrine of "separate but equal" facilities for blacks and whites, Rehnquist said.

- Visits to college campuses taught him "there was a very real fear" that the government was engaged in widespread spying on citizens, a fear that "could have a chilling effect on the freedom to communicate." But he said the fear was unfounded.

- Although unfairly dubbed a reactionary, he could divorce himself from any preconceptions and "let the chips fall where they may" in deciding cases on the bench.

Powell, the 64-year-old Richmond lawyer who has been nominated to replace the late Justice Hugo L. Black, was kept waiting in the wings as the grilling of Rehnquist consumed a second full day.

Powell made one brief appearance for a ceremonial introduction to the committee by Virginia's two senators, Harry F. Byrd Jr. (Ind.) and William B. Spang (D).