

# Powell Is Confirmed, 89 to 1; Long Rehnquist Debate Seen

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The Senate confirmed the Supreme Court nomination of Lewis F. Powell Jr. yesterday by a vote of 89 to 1, and plunged into a probably prolonged debate over the qualifications of the other nominee, William H. Rehnquist.

Powell, a 64-year-old Richmond attorney who accepted the nomination only at the personal urging of President Nixon, thus became the third Nixon nominee to win Senate confirmation out of the six men, including Rehnquist, nominated to the high court since 1969.

In Richmond, Powell said he was gratified by the Senate's action and its "generous margin of approval," but added:

"The near-unanimity of support frightens me a little. I am too conscious of my own limitations to take it at face value. I am afraid I cannot live up to such high expectations."

He said he doesn't expect to take his seat before the new year.

The vote on Powell was quickly followed by an opening round of speeches by supporters of Rehnquist, an assistant attorney general and frequent spokesman for controversial administration policies.

Sen. Birch Bayh (D-Ind.), alternately praising Powell and criticizing Rehnquist, challenged the first Republican

speaker, Sen. Roman L. Hruska (Neb.), to debate a series of statements on the nominee, but Hruska said there was ample time for that later.

Hruska joined Sen. James O. Eastland (D-Miss.) in defending Rehnquist against what Eastland called "desperate and irresponsible efforts"

to discredit the high court candidate on civil rights and civil liberties grounds.

Referring to Bayh's announced intention to conduct an extended examination, Hruska said, "I will be available all week, and all next week if necessary."

See NOMINEES, A7, Col. 3

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NOMINEES, From A1

Bayh replied, "And maybe the week after."

The Senate is driving for adjournment but Majority Leader Mike Mansfield (D-Mont.) has pledged to keep the Senate in session until it disposes of Rehnquist one way or the other.

Shortly before adjournment last evening, Bayh asked deputy floor leader Robert C. Byrd (D-W.Va.) whether a senator could speak on a subject "such as India" during time reserved for the pending nomination. Byrd replied that there was no rule requiring that all speeches be germane when the Senate is considering a nomination.

Hruska charged that civil rights advocates found fault with Rehnquist "because he is not a rabid activist in the field of civil rights."

Bayh interrupted, saying the Judiciary Committee hearing record showed "not one word of positive testimony" that Rehnquist, 47, is personally committed to the advancement of civil rights.

Citing the disclosure of a memorandum on school desegregation Rehnquist wrote as a law clerk to the late Justice Robert H. Jackson, Bayh said the nominee is "to the right of

Richard Nixon" on some issues.

As vice president, Mr. Nixon praised the Supreme Court's 1954 school desegregation ruling as the work of a "great Republican chief justice." According to the 1952 memorandum, Rehnquist urged Jackson to reaffirm the separate-but-equal race doctrine because it was "right."

Bayh said Rehnquist's opposition to a proposed model anti-blockbusting law in 1966 also showed him "out of step with the direction the country ought to go."

"The President of the United States is against blockbusting but not William Rehnquist," Bayh charged. Hruska maintained that Rehnquist supported a broad model civil rights law for the states and his actions showed a "change of heart" from earlier civil rights stands.

The most that could be said against Rehnquist, said Hruska, was that he was "concerned about radical changes in the law" that might have unfortunate effects despite the "noble ends" of their drafters.

Hruska said Rehnquist believed with the first John Marshall Harlan, grandfather of the justice of the same name whom Rehnquist would

replace, that the Constitution should be "color blind," favoring no racial group. The elder Harlan was the lone dissenter in 1896 when the court established the separate-but-equal doctrine — the doctrine Rehnquist said in 1952 should be reaffirmed.

On the Powell confirmation, the lone no vote was cast by Sen. Fred Harris (D-Okla.), who said the Virginian is "an elitist" who lacks compassion for "little people."