

# Hearings End On Nominees For Court

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The Senate Judiciary Committee concluded hearings yesterday on the Supreme Court nominations of Lewis F. Powell Jr. and William H. Rehnquist.

Chairman James O. Eastland (D-Mass.), voicing confidence that both men will win speedy confirmation, scheduled the committee's first business session on the nominations for this morning.

Among the final day's witnesses were representatives from organized labor opposing Rehnquist, and from women's liberation groups lamenting the absence of a woman on the high court, and Paul O'Dwyer, attorney in the Berrigan conspiracy case, denouncing Powell for "pre-judging" his client.

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## NOMINEES, From A1

Rehnquist received the warm endorsement of his law school classmate, Rep. Paul N. McCloskey Jr. (R-Calif.). Several witnesses favoring retention of laws against abortion asked the committee to examine the nominees' views on that subject.

Throughout the fifth and last day of hearings, Eastland made good on a pledge to listen to witnesses "until their breath runs out" and then he quickly set the confirmation machinery in motion.

The conservative chairman unwittingly contributed to the defeats of two previous administration nominees by letting the proceedings drag out while opposition mounted. But this time, due largely to Eastland's prodding, both nominees could win final Senate confirmation by early December, the Senate's uncertain target for adjournment.

Committee member John V. Tunney (D-Calif.) said both nominees appear to have the votes to clear the committee. He said he was ready to vote immediately for Powell, the prominent Richmond attorney, but wanted more time to weigh his vote on Rehnquist, the more controversial Justice Department official.

Under committee practice a single one-week layover is available automatically at the request of any member. This assured a delay on Rehnquist but his supporters could demand a similar delay on Powell — though they favor him as well — to keep the two nominations paired. Rehnquist is considered more vulnerable to liberal attack if isolated from Powell.

Eastland interrupted testimony by an opponent yesterday to declare that Rehnquist is "a badly persecuted man, persecuted without cause by those who oppose him." He said he would supplement the record with a catalogue of "falsehoods" uttered by witnesses against Rehnquist.

The chairman, responding to

demands to investigate charges that Rehnquist intimidated blacks from voting in his home town of Phoenix, also announced that the FBI files do not mention Rehnquist in any report on Arizona voting irregularities.

Sen. Birch Bayh (D-Ind.) said this was something less than a total clearance of charges made by civil rights lawyers. Eastland repeated his assertion that Rehnquist had "come through with flying colors" after a full FBI field check.

One of the persons contacted by the FBI about Rehnquist, Princeton political science professor Gary Orfield, was limited to a 10-minute appearance before Eastland's committee yesterday. Other witnesses also were sharply curtailed in their testimony.

Recalling that two previous nominees had been opposed in part for their views on racial segregation, Orfield said Rehnquist "has perhaps the most inexplicable and dismal record of any of Mr. Nixon's nominees on this central question."

Rehnquist's opposition to a local public accommodations ordinance made him "a lonely Western voice echoing the arguments of the Deep South" in a state with only a 3 per cent black population, Orfield said.

"Contrary to some reports that Mr. Rehnquist was merely a local Goldwater sympathist, the same ordinance which he deplored was actively and proudly supported by Sen. (Barry M.) Goldwater (R-Ariz.)," Orfield said. Rehnquist, he charged, "made Goldwater look like a civil rights activist."

AFL-CIO lobbyist Andrew J. Biemiller called Rehnquist a right-wing extremist and said, "Extremism of the right or the left is not a virtue in a justice of the Supreme Court."

Rehnquist said the labor witness, "is a strict constructionist of the Constitution

prior to the adoption of the Bill of Rights," a lawyer who favors ever-expanding government power at the expense of individual freedoms.

Sen. Roman L. Hruska (R-Neb.) said that organized labor's attack on Rehnquist's civil rights record ignored the racial discrimination that has plagued unions. He said Rehnquist deserves credit for working on the "Philadelphia Plan" program of increasing minority hiring.

Biemiller, an opponent of the Philadelphia Plan on grounds that it was impractical, said increased powers for the Equal Employment Opportunity Commission would be a far more effective cure for job discrimination. Rehnquist opposes giving the EEOC power to issue cease-and-desist orders to discriminating employers and unions.

Barbara Kilberg of the National Women's Political Caucus said she did not oppose either nominee but said the next vacancy should definitely be filled by one of many qualified women. Wilma Scott Heide, president of the National Organization for Women, opposed both candidates as insensitive to women's rights.

McCloskey, who plans to oppose President Nixon for the 1972 GOP nomination, said Rehnquist's "political philosophy is probably diametrically opposed to my own," but added, "In my opinion Mr. Rehnquist's reverence and respect for the law and our constitutional history will cause him to bend over backward to prevent any intrusion of his political beliefs into his judicial decisions."

O'Dwyer, counsel for the Rev. Philip Berrigan and others in a pending Harrisburg, Pa., conspiracy prosecution, accused Powell of "shocking disregard" of his clients' rights to a fair trial and due process. He cited Powell's widely published newspaper article denying widespread civil liberties repression in America.