Nomination Of Rehnquist Called 'Insult'

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Civil rights leaders attacked the Supreme Court nomination of Assistant Attorney General William H. Rehnquist yesterday as "an insult to Americans who support civil rights."

Clarence Mitchell and Joseph L. Rauh Jr. of the Leadership Conference on Civil Rights told the Senate Judiciary Committee that by Rehnquist's appointment "the foot of racism is placed in the door of the temple of justice."

Mitchell and Rauh received careful attention from committee liberals who are questioning the nomination, while the committee's Southern Democrats and most Republicans were absent most of the day.

The committee meets again today with two dozen witnesses waiting to be heard and no certain timetable for concluding the hearings.

Rauh's testimony was marked by a rebuke from Sen. Edward M. Kennedy (D-Mass.) for suggesting that Rehnquist had failed to disavow completely any "connections" with the John Birch Society.

Rehnquist, responding to reports that he belonged to the rightist organization back in Phoenix, Ariz., filed an affidavit with the committee swearing that he was not a member and had not been "at any time in the past."

When Rauh said the affidavit raised fresh doubts about Rehnquist's associations, Kenney snapped, "Your suggestion is completely unwarranted and uncalled for."

Kennedy said he had talked with Rehnquiest on the subject and had been "completely satisfied." He said he had questions about Rehnquist's philosophy but told Rauh, "you ought to have a good deal more" evidence before making such statements in view of the "rather poisonous" atmosphere surrounding the controversy.

The rebuff was a rarity in the long alliance between Kennedy and the Leadership Conference, a national organization of 127 labor, religious and civil rights groups which has lobbied for civil rights laws and opposed two defeated high court nominees.

Kennedy made clear in polite questioning that the rift was temporary only. He drew from Rauh the opinion that Rehnquist "didn't just work as a quiet drone" under Attorney General John N. Mitchell but was a fully responsible partici-

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pant in shaping the administration's civil rights and civil liberties policies.

Mitchell, Washington representative of the NAACP, said Rehnquist was a "self-propelled segregationist" in Phoenix who went out of his way to oppose the city's 1964 public accommodations ordinance.

Rauh said he did not accept Rehnquist's testimony of last week that he had changed his view of the local law because it had worked and because he had come to realize the aspirations of minorities.

That amounted to saying, "I hadn't realized the minorities really cared about this" at a time when Congress was struggling to pass a national public accommodations law, Rauh said.

Attacking Rehnquist's testimony that he opposed busing to cure de facto segregation in Phoenix, Fauh said this was one of ten examples of "evasive" statements by the nominee. He said Rehnquist carefully avoided mentioning that progressive school officials could have employed many other methods of equalizing public education, and said Rehnquist was "against each and every method."

"He was opposed to the goal of desegregation, not just the means," Rauh said, adding, "He was a man of his convictions, wrong as they are."

Rauh called Rehnquist a "laundered McCarthyiete" who charged the Warren Court with sympathy toward Communists.

He said Rehnquist raised a false issue of "attorney-client privilege" in declining to give his own version of statements he had made as a Justice Department spokesman and administration witness in Congress.

The nominee freely waived the privilege when he wanted to tell of his influence in softening the administration's position on wiretapping, Rauh

said. He charged that Rehnquist was willing to violate the Supreme Court's own confidentiality when writing in 1957 about the secret "inner workings" of the court.

Rauh, like Rehnquist a former high court law clerk, said Rehnquist compared unfavorably with retired Justice John O. Harlan, whom he would replace if confirmed.

He noted that Harlan had written an opinion for the court last term on a search-and seizure issue and Rehnquist had testified that the ruling was a "technicality."

He said Harlan, a conservative, wrote some of the important civil liberties opinions which Rehnquist criticized in an article that began, "Communists, former Communists and others of like political philosophy scored significant victories" in the Supreme Court.

Both witnesses said the committee should investigate further the charges of local NAACP members that Rehnquist harassed would-be black voters in Phoenix. Rehnquist has denied the charges.

Asked by Sen. John V. Tunney (D-Calif.) to explain the Leadership Conference's neutral stance on the other nominee, Lewis F. Powell Jr. of Richmond, Rauh said Powell did fight for legal aid within the American Bar Association and worked to keep public schools open during Virginia's period of "massive resistance" to desegregation.

"But there are no redeeming factors for Rehnquist," Rauh said. Opponents of Rehnquist have not indicated any opposition to Powell thus far, but the first adverse testimony on his nomination was heard late yesterday afternoon. It came from Henry L. Marsh III, a veteran civil rights lawyer from Richmond.

Marsh also joined two members of the Congressional Black Caucus, Reps. John Conyers (D-Mich.) and William Clay (D-Mo.), in opposing Rehnquist on both civil rights and civil liberties grounds.

Sen. Roman L. Hruska (R-Neb.) appeared briefly to read into the record a letter dated yesterday from federal Judge George H. Boldt, chairman of President Nixon's new Pay Board, acknowledging that he had once "sharply reprimanded" Rehnquist during a civil trial in the federal court in Phoenix.

Judge Boldt said that the 1960 episode arose from a "misunderstanding" with Rehnquist, then a private attorney, and that he had extended his apology for the rebuke shortly after it occurred.

According to the trial transcript, Judge Boldt accused Rehnquist of "highly reprehensible" conduct for trying to introduce evidence similar to evidence that had been held inadmissible. The judge told the lawyer, "I don't believe you are acting in good faith and I charge you with misconduct as an officer of the court," according to the trial record.