

Rehnquist Cleared, 12-4, Powell Goes Unopposed

11-24-71

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After listening once more to the case against William H. Rehnquist, the Senate Judiciary Committee yesterday cleared both Rehnquist and fellow Supreme Court nominee Lewis F. Powell Jr. for Senate confirmation votes next month.

Powell, a prominent Richmond attorney, was endorsed by a unanimous vote. Rehnquist, assistant attorney general for legal counsel, was approved 12 to 4.

Sen. Birch Bayh (D-Ind.) reportedly consumed most of the 90-minute executive session with a summary of Rehnquist's record on civil rights and civil liberties and other reasons why he thinks the Justice Department official should be disapproved.

But in the vote Bayh was joined only by three other Democrats, Philip A. Hart (Mich.), Edward M. Kennedy (Mass.) and John V. Tunney (Calif.). Sen. Quentin N. Burdick (D-N.D.), who had cast procedural votes with the minority, joined with all seven Republicans and four other Democrats to clear the nominations.

Opponents of Rehnquist were given until midnight next Tuesday to file their dissenting reports. At the earliest, the nominations could be taken up two days after that. Majority Leader Mike Mansfield (Mont.) has made clear that he wants all the Senate's

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other business accomplished before the debate begins.

It thus appeared that the court would continue to have only seven members when it meets for a five-day series of oral arguments beginning Dec. 6. So far this term, short-handedness has not slowed the court's work.

Chairman James O. Eastland (D-Miss.) said the committee would report Rehnquist's name to the floor ahead of Powell's "because Rehnquist was voted on first."

This was taken as a broad hint to Mansfield that he should schedule the floor vote on Rehnquist first and avoid leaving him vulnerable to a last-minute filibuster.

Bayh said he had no intention of staging a filibuster, but said he would take sufficient time to conduct a full debate, which in Rehnquist's case would have to be "more sophisticated" than past years' floor discussions of defeated nominees G. Harrold Carswell and Clement F. Haynsworth.

Opponents of Rehnquist contend that Powell, the equally conservative but less controversial former president of the American Bar Association, should be confirmed first.

They point out that Powell, 64, was named to fill the first vacancy created when the late Justice Hugo L. Black of Alabama retired Sept. 17 and that the White House has announced that Powell's commission would be signed before Rehnquist's, making him senior on the court. Rehnquist, 47, from Arizona, would succeed retired Justice John Marshall Harlan of New York.

Mansfield has given no indication of which nominee will be considered first or whether he opposes either of them.

Eastland declined to estimate the floor vote for Rehnquist but said it would be a substantial majority. His committee approved Haynsworth 10 to 7 and Carswell 13 to 4 but the Senate rejected Haynsworth 55 to 45 and Carswell 51 to 45.