

# Kennedy and Bayh Assail Nixon's Way of Filling Court Vacancies

WASHINGTON, Oct. 15 (AP) —Two liberal Senate Democrats attacked today President Nixon's way of going about filling Supreme Court vacancies, with one calling it an insult to the Court.

A list of six possibilities has been referred to the American Bar Association for checking on qualifications for the two vacancies.

"Surely the compilation and submission of this list will rank as one of the great insults to the Supreme Court in its history," Senator Edward M. Kennedy of Massachusetts said.

Senator Birch Bayh of Indiana criticized the six persons under consideration and also what he called Mr. Nixon's floating of trial balloons prior to submitting nominations to the Senate.

"The President apparently will not announce his nominee until he sees which balloons rise to the top and which ones burst," Senator Bayh said in a statement.

Senator Kennedy observed: "No American who respects the Supreme Court and its role in our system of Government can be silent in the face of the list of six potential justices submitted by President Nixon to the American Bar Association this week."

The A.B.A. panel looking into potential nominees for the two vacancies plans to meet next Wednesday amid indications that the working list will be expanded and final choice fundamental rights as free people."

At the moment, qualified sources confirmed that Her-

schel H. Friday, a Little Rock, Ark., bond lawyer, the judge Mildred L.L. Illie of Los Angeles are in the lead.

More names may be added in the next few days, and there are reports of dissatisfaction with the group generally.

Senator Kennedy said in a statement that President Nixon has revealed himself "as a radical in the true sense of the word, as a man who seeks to undermine one of the basic and vital institutions of our nation—the Supreme Court as an equal partner of government under the Constitution and as the ultimate guardian of our fundamental rights as free people."

He added that the list laid bare "the appalling nature of the Administration's selection

process, and it cannot stand the light of day."

With the prospect of new candidates being forwarded by the Justice Department it now appears unlikely that President Nixon can meet his deadline.

He had said he would announce by next week his choices to succeed Hugo L. Black and John M. Harlan.

A sign that Mr. Friday and Judge Illie are ahead is the fact that they are under more intensive investigation outside their home bases than are the four others: Judges Paul H. Roney and Charles Clark of the Federal Appeals Court in New Orleans; Senator Robert C. Byrd, Democrat of West Virginia; and Judge Sylvia Bacon of the District of Columbia.

In Little Rock, Ark., the

state's two largest newspapers took opposing stands in editorials on the prospect of Mr. Friday's nomination.

The Arkansas Democrat, supporting Mr. Friday, said he is "a good lawyer, a fine citizen and a decent human being." It added: "No one knows just how Herschel Friday feels about desegregation. However, we do know how he feels about the law, and that is that it must be obeyed."

The Arkansas Gazette, in opposition, said: "In the most basic terms, much of the legal labor of Herschel Friday over the last dozen years has been turned to the purpose of keeping black children out of 'white schools.' On this basis alone, his nomination would set off a furious battle over confirmation in the Senate."