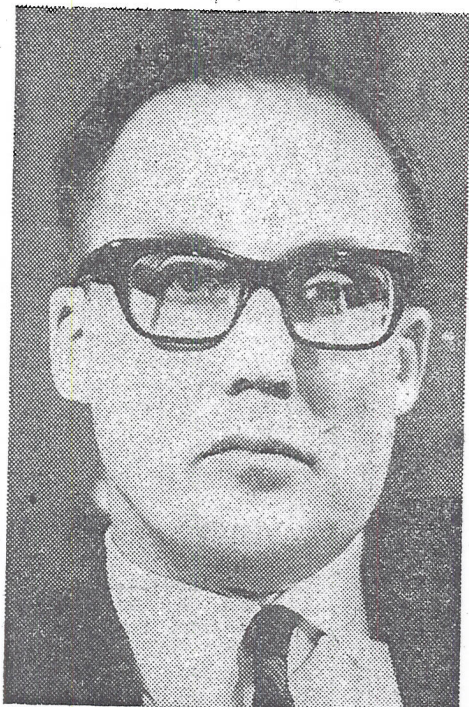


NIXON NAMES 2 TO SUPREME COURT: LEWIS POWELL, A VIRGINIA LAWYER; WILLIAM REHNQUIST, A JUSTICE AIDE



William H. Rehnquist

Associated Press



Lewis F. Powell Jr.

Two Are Passed Over

In addition, Mr. Nixon passed over the two candidates he had asked a committee of the American Bar Association to approve. His action was perhaps in recognition of the legal group's judgment last night that they were unqualified.

The President appealed to the Senate to confirm both nominees quickly. He said there was no doubt in his own mind that Mr. Powell and Mr. Rehnquist would be "guardians of our Constitution" and would dedicate themselves to law, order and justice.

Mr. Powell, who headed the bar association a decade ago, and Mr. Rehnquist, who was once a law clerk to Justice Robert H. Jackson of the Supreme Court and practiced law in Phoenix, Ariz., are viewed within the legal profession as advocates of firm law enforcement. Each, at the same time, has a reputation as a moderate on civil rights.

The President said that Mr. Powell and Mr. Rehnquist were among the breed of lawyers who would not "twist or bend" the Constitution to perpetuate their own views.

In conversation with White House correspondents after his appearance on television, Mr. Nixon emphasized that both his nominees had been ranked first

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ASKS SPEEDY VOTE

OCT 22 1971

President Asserts His Nominees Epitomize Conservative View

By JAMES M. NAUGHTON

Special to The New York Times

WASHINGTON, Oct. 21 —

President Nixon tonight nominated Lewis F. Powell Jr., a former president of the American Bar Association, and William H. Rehnquist, an Assistant Attorney General, to the Supreme Court.

The President told a nationwide television and radio audience that he had selected the 64-year-old lawyer from Rich-

mond, Va., and the 47-year-old constitutional expert for the Justice Department in the belief that they epitomized his own conservative attitude toward legal justice.

The nominations represented abandonment by Mr. Nixon of his intention to be the first President to name a woman as an Associate Justice of the nation's highest court.

Mr. Nixon said that it would be desirable for all segments of the population to be represented on the Supreme Court but that, with only nine seats, this would be impossible.

Text of President's speech will be found on Page 24.

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in their law school classes.

Although he has been reported to place a priority on youth as a means of assuring longevity in his nominees' terms on the Court, Mr. Nixon said he was not disturbed that Mr. Powell was 64.

"Some said he was too old," Mr. Nixon noted. "But 10 years of him [on the Court] is worth 30 years of most."

Asked Not to Be Chosen

Mr. Powell had once asked the Nixon Administration not to consider him as a nominee to the Court. In the aftermath of a Senate battle that led to the defeat of Judge Clement F. Haynsworth Jr., one of Mr. Nixon's nominees, Mr. Powell was said to have asked that he and his family not be compelled to undergo the same sort of protracted dispute.

Mr. Powell had, nonetheless, been among those initially rumored as possible nominees to replace Associate Justices Hugo L. Black and John M. Harlan when both resigned in September because of ill health. Mr. Black subsequently died. Mr. Harlan is hospitalized for treatment of spinal cancer.

The selection of Mr. Rehnquist came as a surprise to official Washington. He first emerged this morning as a contender for one of the two vacant seats.

As Assistant Attorney General in charge of the Office of Legal Counsel, Mr. Rehnquist served as the principal adviser to Attorney General Mitchell on matters of law.

Mr. Nixon described Mr. Rehnquist as "the President's lawyer's lawyer."

'Very Best Lawyers'

Mr. Nixon, who told an audience in Detroit last month that Supreme Court nominees were not required, under the Constitution, to be lawyers, emphasized on television tonight his view that those who made decisions on the course of American jurisprudence should be, "above all, among the very best lawyers in the nation."

Mr. Nixon announced the two nominees barely 24 hours after the Judicial Fitness Committee of the American Bar Association declined to endorse the President's reported tentative choices for the two vacancies.

The committee reportedly voted, 11 to 1, to reject Mrs. Mildred L. Lillie, a justice of the California Court of Appeals in Los Angeles, on the ground that she was unqualified to serve on the nation's highest court.

The scanning committee was said to have been divided, 6 to 6, on a motion to designate "no opposition" to Herschel C. Friday, a municipal bond lawyer from Little Rock, Ark. Under the committee's procedural rules, that meant Mr. Friday was also rated as not qualified.

Ronald L. Ziegler, the White House press secretary, pointedly told reporters this morning that "you all know the Senate has the responsibility under the Constitution to give its advice and consent" to Supreme Court candidates.

"The Constitution does not require the consent of the A.B.A.," Mr. Ziegler went on. He said that the bar association's advice was welcome, but added, "The A.B.A. does not have veto power."

Pledge Made by Mitchell

Thus Mr. Nixon's efforts to reshape the Court, into an instrument of his own judicial philosophy of "strict constructionist" conservatism, became enmeshed in a dispute with the bar association after spawning a series of ideological clashes and leading to two defeats in the Senate.

Attorney General John N. Mitchell pledged in July, 1970, that he would consult with the association before recommending nominees to the President. That decision reflected the White House's hopes of enlisting broad professional support for its nominees and a desire to overcome unhappiness within the legal establishment that arose because the association did not get a chance to pass on Judges Clement F. Haynsworth Jr. and G. Harrold Carswell until after they were nominated. The committee endorsed both men, but they were ultimately rejected by the Senate, and Judge Carswell later resigned from the Federal appellate bench.

But in recent days White House officials have dropped hints of the President's dissatisfaction with the bar association's apparent insistence on nominees whom the fitness committee might find faultless.

Early this month, the fitness committee was meeting to consider the President's prospective nomination of Representative Richard H. Poff, Republican of Virginia, to one of the vacancies when Mr. Poff abruptly withdrew his name from consideration.

He explained that he was convinced the process of confirming his nomination would be "protracted and controversial," even though the White House and its Senate allies were convinced Mr. Poff would succeed as a Southern nominee where Judges Haynsworth and Carswell had failed.

Counting the aborted selection of Mr. Poff, the President has now chosen seven

nominees for the nine-member Court. Only two of them — Chief Justice Warren E. Burger and Associate Justice Harry A. Blackmun — have been confirmed.

Attorney General Mitchell sent the names of six possible candidates to the fitness committee eight days ago. In addition to Mr. Friday and Judge Lillie, they were Judge Sylvia Bacon of the Superior Court for the District of Columbia; Senator Robert C. Byrd, Democrat of West Virginia; Judge Charles Clark of Jackson, Miss., a member of the United States Court of Appeals for the Fifth Circuit, and Judge Paul H. Roney of St. Petersburg, Fla., also on the Fifth Circuit Appeals Court.

Administration officials made it clear, however, that the President was principally interested in ratings on Mr. Friday and Mrs. Lillie, and one White House official said he had the impression that they were "locked in" two weeks ago as the President's choices.

Faced with signs of certain opposition in the Senate, within the legal profession and among legal scholars to all six of those on the list sent to the A.B.A., White House spokesmen began saying this week that it was possible Mr. Nixon would nominate someone who had not undergone examination by the fitness committee.

The decision to announce the nominees on nationwide television in a prime evening hour, which Mr. Ziegler said was made this morning by the President, appeared to reflect a desire to solicit public support for the nominees, lacking enthusiastic endorsements from the bar.

Only once before, when he nominated Chief Justice Burger in 1969, has Mr. Nixon made his choice known on television.

Mr. Ziegler's statement calling attention to the Senate's obligation to advise on and consent to the nominees was in contrast to Mr. Nixon's declaration last year, amid the confrontation with the Senate over the Carswell nomination, that the President was "the one person entrusted by the Constitution with the power of appointment."

Senator Birch Bayh, Democrat of Indiana, who led the Senate opposition to Mr. Carswell, has been gathering information on prospective nominees for more than a week in anticipation of another clash over the President's choices. Senator Edward M. Kennedy, Democrat of Massachusetts, also has been preparing for a new confrontation.

The prospect of bipartisan opposition arose yesterday when Senator Jacob K. Javits, Republican of New York, served "clear notice" that another Senate battle would take place unless the nominees were eminently qualified.

Mr. Ziegler, asked whether the President was confident his choices would be confirmed, said that Mr. Nixon "wouldn't be sending the nominations to the Senate if he felt otherwise."