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10 DEC 71
543 PES

URGENT

WASHINGTON Take 4 Rehnquist 2nd NL a 258, 259, 260 WX add: water. Cronson said the memorandum was more his than Rehnquist's and was written at Jackson's request after he and Rehnquist had first prepared a memorandum taking the opposite position with respect to the separate but equal doctrine.

Bayh said Rehnquist's and Cronson's explanations of the memorandum were "diametrically opposed."

"I don't know whether Rehnquist or Cronson is right," Bayh said, "but the Senate ought to look into it rather than rush headlong into a Christmas recess."

Sen. J. W. Fulbright, D-Ark., who opposed Rehnquist's confirmation, said it was absurd to contend a filibuster was being carried on.

Sen. Marlow Cook, R-Ky., replied that Bayh "has been talking to a practically empty house hour after hour." He said senators had analyzed the record and were ready to vote.

"We are running around in circles," Cook said in urging the Senate vote on Rehnquist's nomination.

Liberal Democrats in the Senate continued to show signs of division, with Sen. Gaylord Nelson D-Wis., sneaking against confirmation and Sen. Thomas J. Eagleton, D-Mo., saying he would vote to approve the nomination.

Nelson said Rehnquist is "inadequately sensitive to human rights" and also would grant broader powers to the government "at the expense of the individual citizen."

Eagleton said that "Mr. Rehnquist's views, although different from mine, are not so extreme as to place him outside the fair and debatable mainstreams of American political and legal discourse."

MORE MORE

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URGENT

WASHINGTON Take 5 Rehnquist 2nd NL, A258, 259, 269, 261 WX: discourse."

Similarly, Sen. Adlai E. Stevenson III, D-Ill., came out for Rehnquist's confirmation, while Sen. Frank E. Moss, D-Utah, told the Senate he would vote against the nomination.

Stevenson said the decision was the most difficult he has had to make since becoming a senator.

"But I must decide in favor of Mr. Rehnquist because of his demonstrated excellence in the law, his unquestioned integrity and an intellect which I am convinced would not permit a mechanistic or political approach to the issues before the Court," Stevenson said.

Moss, in contrast, said he found Rehnquist's record "almost totally lacking in evidence of a balanced, dispassionate approach to legal and judicial philosophy.

His record is not that of a true conservative," Moss said.

Rather, it is replete with manifestations of an aggressive theorist with combative impulses and a strong commitment to a harsh, narrow doctrine concerning government and the individual."

NO Pickup

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10 DEC 71
602 PES

URGENT

Rehnquist Bjt 2nd NL insert 90

WASHINGTON Rehnquist Bjt 2nd NL A258WX insert after 7th graf: President said.

On the roll call, 30 Democrats voted for Rehnquist's confirmation and 23 against; 38 Republicans voted for and three against.

Democratic liberals split their votes, but all of the Democratic candidates for their party's presidential nomination, declared or undeclared, voted against Rehnquist's nomination.

The three Republicans who voted against confirmation were Edward W. Brooke Mass, Clifford P. Case NJ, and Jacob K. Javits,

NY.

With the, 8th graf.

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