

NYTimes
Rehnquist Confirmed by Senate, 68-26

DEC 11 1971



The New York Times

William H. Rehnquist after nomination was confirmed. Continued on Page 34, Column 1

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Special to The New York Times

WASHINGTON, Dec. 10—The Senate confirmed today by a vote of 68 to 26 President Nixon's nomination of William H. Rehnquist to fill the Supreme Court vacancy created by the retirement of Justice John Marshall Harlan.

The wide margin came after an attack mounted by Senate liberals upon Mr. Rehnquist's civil rights and civil liberties record had failed to win over a pivotal group of Democrats from the North and the Border States.

Moreover, only three Republicans joined the opposition ranks. These were all liberals from the East—Jacob K. Javits of New York, Edward W. Brooke of Massachusetts and Clifford P. Case of New Jersey.

Mr. Rehnquist is expected to take his oath of office early next month, along with Lewis F. Powell Jr., who won Senate confirmation last Monday to fill the vacancy left by the resignation of Justice Hugo M. Black, who has since died.

President Nixon, who campaigned for office with a pledge to appoint Justices who would turn the liberal Supreme Court toward a more conservative path, has now named four of the nine men who will compose the full Court. Mr. Rehnquist and Mr. Powell have taken

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strong law-and order positions on questions of criminal law, as have his other appointees, Chief Justice Warren W. Burger and Justice Harry A. Blackmun.

Mr. Rehnquist, a 47-year-old Assistant Attorney General, made a brief statement at the Justice Department shortly after the vote at 5 P.M.

He said:

"I want to express my thanks to the Senate for having confirmed me, again to the President for having shown the confidence in me by having nominated me, and to the many people in and out of Government without whose support the outcome might have been quite different."

The move came on the heels of a series of maneuvers that made it clear to Mr. Rehnquist's opponents that the Senate, now in the final days of its long session, would vote tomorrow morning to cut off debate. At noon the first vote on a closure motion resulted in a margin of 52 to 42 in favor of closure—11 votes shy of the necessary two-thirds majority.

Senator Birch Bayh of Indiana, the opponents' floor leader, then proposed that the confirmation vote be put off until Jan. 18. However, both Mike Mansfield of Montana, and the Democratic leader, Hugh Scott of Pennsylvania, the minority leader, stuck to their commitments to the President that a confirmation vote would come before the Senate adjourned for Christmas.

The Senate rejected Senator Bayh's proposal, 70 to 22. Earlier in the day, he had rejected a request to schedule vote for Monday afternoon—but with this indication of the Senate's impatience and another closure vote set for 11 A.M. Saturday, he agreed to the vote this afternoon.

Shortly before the vote, two Democratic liberals, Adlai E. Stevenson 3d of Illinois and Thomas F. Eagleton of Missouri, announced that they would vote for Mr. Rehnquist because they were impressed by his intellectual ability and did not think he should be turned down because of his legal philosophy.

Other Democratic liberals who joined them in the vote were Joseph M. Montoya of New Mexico, John O. Pastore and Claiborne Pell of Rhode Island, William Proxmire of Wis-

consin and Stuart Symington of Missouri.

In all, 30 Democrats voted for the nomination and 23 against. Thirty-eight Republicans voted for confirmation.

The Supreme Court will begin its Christmas recess on Dec. 24, and will resume Court on Jan. 10. Mr. Powell and Mr. Rehnquist are expected to take their seats for the first time on that date.

If they prove to be the "judicial conservatives" that President Nixon pronounced them to be when he nominated them, the bench could become narrowly divided on sensitive issues of individual rights and executive power.

Justice Potter Stewart and Byron R. White, could then become the "swing men" of the Supreme Court, frequently holding the balance between Mr. Nixon's four appointees and three liberal holdovers from the Warren Court—William J. Brennan Jr., William O. Douglas and Thurgood Marshall.