

Powell Seeks to Avoid Clashes Over His Fitness for High Court



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Lewis F. Powell Jr., nominee for bench, and Mrs. Powell

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WASHINGTON, Oct. 25 — Lewis F. Powell Jr., the third Southern conservative nominated to the Supreme Court by President Nixon, is attempting to avoid the collisions over ethics and racial attitudes that contributed to the Senate's rejection of his two predecessors. Mr. Powell, aware that his life, professional record and judicial philosophy are about to undergo rigorous examination, discussed his background with unusual candor in an interview at his Richmond law office this weekend.

He pledged to do "whatever is necessary and proper" to separate himself from corporate directorships and financial holdings that might constitute potential conflicts of interest. Mr. Powell sought to place in what he regards as the proper context the comparatively minor chinks that have appeared in his image as a racial moderate — membership in two segregated clubs in Richmond and authorship of a brief filed by the state of Virginia in the Supreme Court last year opposing the concept of racial bal-

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Powell Seeks to Avoid Confrontations

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ance in public schools as a constitutional requirement.

Mr. Powell acknowledged, as well, that his strong views on civil disobedience, which he has stated in speeches that occasionally have had the ring of an address by Vice President Agnew, are a proper matter for the Senate to consider in weighing his nomination.

"The Senate Judiciary Committee has a very high responsibility, prescribed by the Constitution," Mr. Powell said. "I wouldn't consider any inquiry [by the Committee] off limits."

Senator Edmund S. Muskie, Democrat of Maine, a contender for his party's 1972 Presidential nomination, predicted that the Senate would approve Mr. Powell. Senator Birch Bayh, Democrat of Indiana, leader of a coalition that defeated the Carswell nomination, spoke favorably of Mr. Powell. And the coalition of liberals and labor leaders getting set to examine the President's nominees is planning to focus nearly all its attention on William H. Rehnquist, an Assistant Attorney General.

Prefers Playing to Umpiring

Mr. Powell never has wanted to be a judge. Two years ago, following the rejection of Mr. Haynsworth's candidacy, he asked the Department of Justice to remove his name from a list of potential nominees.

He recalled reasoning that his age — he is now 64 — would limit his opportunity to make a lasting contribution to the court, but based his reluctance primarily on his preference for "playing in the game rather than being an umpire" of the law. It took a telephone call from the President last Tuesday to persuade him to become an umpire.

The way Mr. Powell has played the game has made him a wealthy, senior partner in Hunton, Williams, Gay, Powell & Gibson, Virginia's largest law firm, and a director of 11 corporations, including Brooks Brothers and Philip Morris, Inc. He is a trustee and gen-

eral counsel of Colonial Williamsburg, Inc.

While declining to discuss the specifics of his financial interests, Mr. Powell declared that he would resign from "all boards that have commercial implications." He said he would either place his stock holdings in trust or remove himself from consideration of legal issues involving industries in which he has a financial interest.

Mr. Powell is a Democrat but he has supported Republicans, including Mr. Nixon. Public records show that Mr. Powell made a \$500 campaign contribution to the Republican ticket in 1968. He said that he had never given a major sum of several thousand dollars or more, to a national candidate.

Mr. Powell himself called attention to his long-standing membership in the Country Club of Virginia and the Commonwealth Club of Richmond and confirmed that he never had sought to alter their policies against the admission of Negroes. But he said that he used the country club membership largely to play tennis and has had only infrequent lunches at the Commonwealth Club.

He noted as well that he belongs to the University Club and the Century Association of New York, both of which are integrated.

Praise From Activists

Civil rights activists in Richmond credit Mr. Powell with playing a leading role, as president of the city school board and later of the state board of education, in desegregating Richmond and Virginia public schools.

Last year, at the request of Gov. Linwood Holton and the Virginia Attorney General, Andrew P. Miller, Mr. Powell wrote a 28-page friend-of-the-court brief filed with the Supreme Court as it deliberated the constitutionality of busing to desegregate Southern school systems.

The brief contended that Federal court orders requiring a numerical racial balance could

hasten the flight of whites to the suburbs and thus "defeat the goal of racial balancing, adversely affect education and contribute to urban deterioration."

But Oliver W. Hill, a black civil rights lawyer in Richmond, said he is prepared to testify in favor of confirmation of Mr. Powell. Mr. Hill said he would prefer "a much more liberal" nominee, but that Mr. Powell is a moderate by Richmond standards.

Civil Disobedience

As he talked in his 18th-floor office overlooking downtown Richmond, Mr. Powell seemed more concerned that his outspoken criticism of civil disobedience as a means of attaining worthy goals would be subject to scrutiny by members of the Senate.

In a 1967 speech, Mr. Powell called civil disobedience legal "heresy" and said that the Rev. Dr. Martin Luther King Jr., "the prophet of civil disobedience," had joined more militant black leaders in "slandering his own Government and in inciting violation of draft laws." He said that individuals who "incite riots and rebellion should be treated as the most dangerous of criminals, and relentlessly prosecuted."

Mr. Powell warned in 1968 that campus disturbances would continue as long as university administrators lacked willingness to use "appropriate force" against lawlessness rather than "supine toleration of marching mobs of mindless demonstrators."

Liberals who were associated with Mr. Powell when he was a member of President Johnson's Commission on Law Enforcement and the Administration of Justice privately praised his attitude as conscientious, saying that he had been willing to listen to all sides of each issue.

Some observers, distressed by Mr. Powell's conservatism on law enforcement, nevertheless cite his intellect and reputation for integrity. "I don't know of a damn thing against him," said a liberal member of the Virginia House of Delegates.