

Nixon Is Reported Unlikely To Name Woman to Court

NYTimes

By FRED P. GRAHAM SEP 30 1971
Special to The New York Times

WASHINGTON, Sept. 29 — Officials of the Nixon Administration are passing the word that the President will probably not nominate a woman to the Supreme Court to fill either of the two present vacancies.

The reason, they say, is that their search has not turned up a woman who combines the desired judicial philosophy and a sufficiently distinguished legal background.

White House spokesmen have said from the first that the primary consideration would be to select nominees who share Mr. Nixon's conservative strict-constructionist philosophy. Thus, the failure to come up with a woman candidate indicates that those with strict-constructionist records lacked the professional tatus to be credible nominees.

This is borne out by a report that the two women seriously considered so far were Judge Sylvia Bacon of the Superior Court for the District of Columbia and Beatrice Rosenberg, chief of the Appellate Section in the Justice Department's Criminal Division.

Both women have strong law-and-order backgrounds. Miss Bacon previously worked in the Justice Department, where she helped draft the Dis-

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strict of Columbia crime bill that has become well known for its preventive detention and "no knock" search provisions. Miss Rosenberg has argue more than 30 cases for the Criminal Division before the Supreme Court.

But Miss Bacon, a 39-year-old product of Vassar and the Harvard Law School, has been on the bench only seven months and has little trial experience. Miss Rosenberg, 63, a native of New York, is unknown outside Government circles, where she is highly respected.

Neither woman was on a list of 10 women suggested as qualified candidates by the National Women's Palitical Caucus. Several of the women on the list were Democrats, and

none has discernible strict-constructionist leanings.

A Justice Department source confirmed today that so far the department had asked the American Bar Association to check on the qualifications of only one potential nominee, Representative Richard H. Poff, Virginia Republican.

The bar association's Committee on the Federal Judiciary has already begun to ask law school deans to get their faculty members' opinions of Representative Poff.

E. Clinton Bamberger, dean of the Catholic University Law School here, said today that he began yesterday to poll his faculty to meet a weekend deadline of the bar association.

With the Nixon Administration apparently becoming more firmly inclined to pick Representative Poff for the "Southern seat" vacated by the late Jus-

tice Hugo L. Black, and the prospect of a woman nominee fading, Mr. Nixon now has virtually the entire legal field from which to pick his second nominee.

Justice Department officials say that an attempt would be made to send the Senate two nominations at once—a "ticket" representing various qualities that would appeal to a broad spectrum of the Senate.

This has led to speculation about several new nominees who had not been mentioned until recently. Among them are Judge Arlin M. Adams of the United States Court of Appeals for the Third Circuit; Alexander M. Bickel, a law professor at Yale, and Bernard G. Segal of Philadelphia, a former president of the American Bar Association. All three are Jewish, so that the nomination of any one of them would

ease pique in some Jewish circles over Mr. Nixon's decision not to replace former Justice Abe Fortas with another Jewish justice.

Because of the desire to send up two names at once, no nominations are expected until at least next week, and possibly the week after.

Senator Birch Bayh, the Democratic Presidential hopeful from Indiana, said last night that Mr. Nixon should pick two nominees who would help dis-

pel a climate of "repression" in the courts.

that he said had developed under the Nixon Administration. Speaking in Eugene, Ore., where a Presidential primary will be held in May, Senator Bayh asserted that the Administration must "do better" than the earlier nominations of Clement F. Haynsworth Jr. and G. Harrold Carswell.

Senator Bayh said that better nominees would reduce divisiveness and help keep problems out of the streets and