

Poff's Decision May Mean Long Delay in Filling Court

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WASHINGTON, Oct. 3—The Nixon Administration found itself back at the starting point today in its search for Supreme Court nominees in the wake of Representative Richard H. Poff's abrupt announcement yesterday that he had asked President Nixon not to appoint him.

"No real consideration was being given to anyone else," an official close to the situation said today.

Representative Gerald R. Ford, the House Republican leader, said today that one reason for Mr. Poff's decision was his concern that opponents would attempt to filibuster until Congress adjourned, resulting in a long and perhaps acrimonious discussion of the Virginia Republican's record and personal qualifications.

Mr. Ford agreed that "it would have been very easy for a filibuster to have been generated" because of the legislative schedule and indications that some Democrats were ready to use delaying tactics.

The result is that the seven-member Supreme Court will begin its 1971 term tomorrow facing the prospect of a much longer delay than was previously expected before its two vacant seats are filled.

Shortly after the late Justice Hugo L. Black and former Justice John M. Harlan retired last month, the Court postponed scheduled arguments on a number of important cases, apparently expecting that the two vacancies would be filled early in the court term.

However, the Nixon Adminis-

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tration was apparently so committed to Mr. Poff that it had not picked a fallback candidate for the Court's "Southern seat." There has been no indication that Mr. Nixon will back away from his determination to place a Southerner on the Court, so both seats are likely to remain empty until he selects a candidate from the South who can win confirmation by the Senate.

The prospect of further delay has prompted some speculation here that Mr. Nixon may shift his sights toward a more moderate Southerner. A common thread between Mr. Poff and Clement F. Haynsworth Jr. and

G. Harrold Carswell, Mr. Nixon's two Southern nominees who were rejected by the Senate, was a conservative record on civil rights issues as well as law-and-order questions.

Some Democrats, elaborating on the arguments made by Mr. Ford, have begun to point out that if the President cannot get the Senate to approve his nominees before the end of the current session of Congress, an argument might be made for holding off any confirmation until after the 1972 Presidential election.

A similar argument was made by Mr. Nixon and other Republicans when they blocked former President Johnson's effort to fill the seat that Chief Justice Earl Warren planned to vacate in June of 1968.

The possibility that President Nixon might move toward the center with his next Southern

nominee has brought forward the name of Federal District Judge Frank M. Johnson of Alabama, a Republican who is a moderate on civil rights but on the conservative side on criminal issues; and Charles Alan Wright, a law professor at the University of Texas. Another option open to the President is to pick a Southern judge who is conservative in his views but is obscure enough not to draw heavy fire from liberal forces.

Sources here were unable to say what effect, if any, Mr. Poff's withdrawal might have on the prospects that the next seat might go to a woman. One source said that consideration was being given in the Administration to holding off nominations until the next session of Congress.

The specific reasons for Mr. Poff's decision are still not known, beyond his statement

that he wished to spare Congress and his family a "protracted and controversial" struggle.

However, there was some feeling in legal circles that he could have been influenced by the likely possibility that the American Bar Association's Committee on the Federal Judiciary would give him a less-than-enthusiastic rating.

The committee was meeting in New York on his qualifications when his withdrawal was announced yesterday. Some of the members had expressed concern that he had practiced law for only four years before being elected to Congress.

Under a new rating system, the bar association's committee was prepared to apply three categories — "not qualified," "not opposed," and "meets high standards of professional competence, judicial temperament and integrity."