

Ex-Colleague Says Rehnquist Opposed Segregation

By ANTHONY LEWIS

Special to The New York Times

LONDON, Dec. 9—A former colleague of William H. Rehnquist said tonight that in 1952 Mr. Rehnquist was personally opposed to the legal doctrine of racial segregation.

Donald Cronson, who in 1952 was a law clerk to Supreme Court Justice Robert H. Jackson, along with Mr. Rehnquist, spoke out in the controversy over Mr. Rehnquist's nomination to the Supreme Court.

The latest phase of that controversy has turned on a memorandum bearing Mr. Rehnquist's initials, directed to Justice Jackson, concluding that the doctrine of segregation laid down by the Supreme Court in 1896 should be reaffirmed.

"Both of us," Mr. Cronson said, "personally thought at the time that the 1896 decision, Plessy v. Ferguson, was wrong. We first wrote a memorandum to that effect.

"It is 20 years ago, but I think I still have a copy of that memorandum. Then, afterwards, I think Justice Jackson asked us to prepare a second making the other argument.

"I had a desk right next to Bill's. My guess is that I physically prepared the first memorandum and he the second, but we worked together on both. In what I have read about the second I can recognize some of my purple prose. It was just part of the job."

Interviewed by Phone

Earlier today, Mr. Cronson, an oil company executive in Europe, sent a cable to Mr. Rehnquist from London about his recollections. He then left for his home in Gstaad, Switzerland, and he was interviewed there by telephone.

"To this day," Mr. Cronson said, "I am not exactly sure what Justice Jackson's views

were—and if I were, I would not say. I think this whole business is completely improper. Such memoranda from law clerks to a Supreme Court Justice should never be published."

The Supreme Court considered the school segregation issue in 1952 and 1953 before finally deciding unanimously on May 17, 1954, to overrule the Plessy case and declare racial segregation unconstitutional. Justice Jackson was part of that unanimous Court.

2 Oppose Rehnquist

By FRED P. GRAHAM

Special to The New York Times

WASHINGTON, Dec. 9—The forces opposing William H. Rehnquist's nomination to the Supreme Court picked up their second Republican Senator today—Jacob K. Javits of New York—and their first Southerner, J. W. Fulbright of Arkansas.

Senator Javits said in a floor speech that Mr. Rehnquist's philosophy made him unacceptable "as one of the final arbiters of the rights of 200 million Americans."

He based this on the nominee's statements in support of governmental wiretapping and surveillance, restrictions on free-speech rights of Government employees, mass arrests during the Mayday demonstrations here, plus his opposition to civil rights measures in the past.

Senator Fulbright, who as chairman of the Senate Foreign Relations Committee has campaigned for greater Congressional participation in foreign policy, based his opposition on "Mr. Rehnquist's advocacy of sweeping Presidential authority in relation to the Congress, particularly in the field of foreign relations."

Assistant Attorney General

Rehnquist argued when United States troops entered Cambodia that this was "well within" President Nixon's authority to act as commander-in-chief. He also opposed Senator Fulbright's bill to strip certain White House officials of the right to refuse to testify before Congress on grounds of executive privilege.

Senator Alan Cranston, Democrat of California, also announced his opposition today, citing many of the civil rights-civil liberties issues mentioned by Senator Javits. Senator John Sherman Cooper, Kentucky Republican, came out in support of the nominee.

The minority whip, Senator Robert P. Griffin of Michigan, said that the pro-Rehnquist side was "very close" to having 66 votes lined up for the closure vote to be held at noon tomorrow.

Two-thirds of the Senators voting must favor the closure motion if debate is to be cut off. If closure is voted, a vote on the nomination could come later tomorrow or Saturday.

Senator Birch Bayh, floor leader for the opponents of the nomination, said there was "a very good chance" to defeat the closure motion.

One factor that could affect

the outcome is whether the foreign aid bill—the last major piece of unresolved legislation—is ready for a final vote tomorrow or Saturday. If so, many Senators may wish to end debate, vote on the Rehnquist nomination, and get home by Sunday. If the Senate must remain in session until early next week anyway to deal with foreign aid, many Senators may see nothing to be gained by closing off debate tomorrow on Mr. Rehnquist.

Senator Bayh issued a statement today charging that Mr. Rehnquist's explanation yesterday of a memorandum he wrote as a clerk to Justice Robert H. Jackson raises "most serious questions as to Mr. Rehnquist's candor."

Mr. Rehnquist said in a letter that the memorandum's statement that the "separate but equal" doctrine underlying school segregation should be reaffirmed was the tentative view of Justice Jackson, which he drafted at the Justice's request—not his own view.

Senator Bayh cited various civil libertarian and anti-segregation rulings by Justice Jackson, and concluded that "the views expressed in that memorandum in no way express the views of Justice Jackson."