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REHNQUIST BEAMED AT A NEWS CONFERENCE AFTER HIS CONFIRMATION
 A filibuster against controversial Arizonan was abandoned in the Senate

Senate Approves Rehnquist, 68-26

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The Senate confirmed the nomination of William H. Rehnquist to the Supreme Court yesterday by a 68-to-26 vote.

President Nixon said he was "extremely gratified" that both his nominations, of Rehnquist and Lewis F. Powell Jr., had been confirmed. Powell was confirmed Monday.

"I believe that they bring to the bench such an exceptional degree of integrity and intellect and so keen an understanding of the judicial process that the quality of the court decisions should be

enhanced for years to come," Mr. Nixon said in a statement.

Rehnquist, an assistant attorney general, told newsmen he wanted to express his thanks to the Senate, to the President for having the confidence to nominate him and to loyal supporters.

The 47-year-old former Phoenix, Ariz., lawyer will replace retired Justice John M. Harlan. Powell, 64, a former president of the American Bar Association, will succeed the late Justice Hugo L. Black.

Opponents who challenged Rehnquist's commitment to

civil rights and liberties, gave up their fight against him after the Senate rejected, 70 to 22, a motion by Senator Birch Bayh (Dem-Ind.), to postpone a vote until January 18.

Supporters of the nomination said opponents had failed to make a case and called Rehnquist outstandingly qualified to serve on the Supreme Court. No one questioned his legal ability.

The vote on confirmation came speedily after the overwhelming rejection of Bayh's motion.

In part Bayh based his

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plea for additional time on what he called still-unresolved questions about a memorandum on school desegregation that Rehnquist said he wrote in 1952 while a law clerk for the late Justice Robert H. Jackson.

The memorandum, which came to light the first of the week, said that the "separate but equal" doctrine enunciated by the Supreme Court in 1896 was right and should be reaffirmed.

Bayh made it a key point in his attack on Rehnquist's civil rights record, but Rehnquist said it was a statement of Jackson's views, not his. He said he had prepared it at Jackson's request for use in a conference with other justices on pending school desegregation cases.

1954

Two years later, in a unanimous 1954 decision, the court overturned the separate but equal doctrine and held that racially segregated schools are inherently unequal.

Rehnquist said he supports the court's desegregation decision, but Bayh said Rehnquist's explanation raised a serious question about his candor.

Minority Leader Hugh Scott told the Senate that a cable received from another of Jackson's law clerks, Donald Cronson, had destroyed Bayh's whole argument.

Cronson said the memorandum was more this than Rehnquist's and was written at Jackson's request after he

and Rehnquist had first prepared a memorandum taking the opposite position with respect to the separate but equal doctrine.

Bayh said Rehnquist's and Cronson's explanations of the memorandum were "diametrically opposed."

"I don't know whether Rehnquist or Cronson is right," Bayh said, "but the Senate ought to look into it rather than rush headlong into a Christmas recess."

ARGUMENT

Senator J. W. Fulbright (Dem-Ark.), who opposed Rehnquist's confirmation, said it was absurd to contend a filibuster was being carried on.

Senator Marlow Cook (Rep-Ky.), replied that Bayh "has been talking to a practically empty house hour after hour." He said Senators had analyzed the record and were ready to vote.

President Nixon, in announcing the nominations on October 21, described both Rehnquist and Powell as judicial conservatives and indicated he hoped their appointment would strengthen the "peace forces" in society.

"I believe some court decisions have gone too far in the past in weakening the peace forces as against the criminal forces in our society," the President said.

With the confirmation of Rehnquist and Powell, Mr. Nixon will now have four appointees on the Supreme Court. The other two are Chief Justice Warren E. Burger and Justice Harry A. Blackmun.