

4 Nixon Appointees on High Court Form Bloc That

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The four Justices whom President Nixon named to the Supreme Court have solidified into a bloc that is increasing in both unity and capacity to produce a working majority for their views of the law and the Constitution.

During the second term in which all four men sat for the full nine months, the Nixon Justices voted together on 75 per cent of the cases the high court decided. This was an increase from the 1972-73 term, when they voted as a bloc 70 per cent of the time.

On all but one of the 103 occasions when they cast their votes together, the Nixon Justices formed the nucleus of a majority. The sole exception involved the Giodano case, when they voted in the minority to uphold some criminal convictions based on defective Justice Department wiretapping orders.

The men the President added to the court during his first term are Chief Justice Warren E. Burger and Associate Justices Harry A. Blackmun, Lewis F. Powell Jr. and William H. Rehnquist, all regarded in varying degrees as judicial conservatives.

The Justices who most frequently joined the Nixon bloc to form a majority of the nine-man court were Byron R. White, a Democrat appointed by President Kennedy in 1962, and Potter Stewart, a Republican named by President Eisenhower in 1959.

Justice White agreed with



Associated Press

William O. Douglas
Wrote the most opinions



United Press International

Warren Burger
Says court is overworked

the Nixon men on 85 per cent of their joint votes, a drop from his 94 per cent average for the previous term, while Justice Stewart voted with them 82 per cent of the time, an increase from 75 per cent the year before.

The figures were compiled by The New York Times on the basis of 144 decisions during the October-to-June term. The Justices have three more cases to pass on next month, involving Watergate and Detroit school integration, but the results cannot materially affect their over-all 1973-74 voting patterns.

Justice Powell demonstrated the highest level of independence within the Nixon bloc, voting against his three colleagues nine times, an increase from six in the previous term. Justice Rehnquist five times

an Chief Justice Burger only twice.

The four Justices who were Democrats when they came to the high court—William O. Douglas, William J. Brennan Jr., Thurgood Marshall and Mr. White—were considerably less cohesive than the Nixon Justices, voting as a bloc only on 43 per cent of the cases.

(Justice Powell was nominally a Democrat when he came to

the Court, but his Virginia associates and the White House regarded him as a Republican in political and philosophical orientation.)

Disregarding Mr. White's voting record as a "swing" Justice, the three confirmed Democratic liberals—Justices Douglas, Brennan and Marshall—voted as a bloc 74 per cent of the time compared with 71 per cent in the previous term. Unlike the Nixon Justices, however, 37 per cent of their bloc votes were cast for a minority position.

Douglas Most Active

The Justices produced 138 signed majority opinions during the term, with the number for each of them varying from 12 by the Chief Justice to 19 by Mr. White. There were 126 dissenting opinions filed, ranging from a low of four by the Chief Justice to 45 by Mr. Douglas. The average per Justice was 14.

Taking majority opinions and dissents together, Justice Douglas was by far the most active author of the high bench, with 60 opinions or 23 per cent of the total output. Chief Justice Burger was the least prolific, with 16, or 6 per cent of the total.

Could Become Majority

The Chief Justice has argued repeatedly that the Supreme Court is overworked and that its case load should be narrowed by some sort of screening process. Justice Douglas, by contrast, has maintained that the Court does not have enough to do to keep busy.

The Justices reversed lower Federal or state court rulings on 63 per cent of their decisions, an increase from 53 per cent the term before. The reversal rate was 59 per cent for Federal courts and 75 for state courts.

Fifth Circuit Best

Some circuits of the United States Court of Appeals fared much worse than others on reversals. The Seventh Circuit—Indiana, Illinois and Wisconsin—was reversed nine times and affirmed only once. The Third Circuit—New Jersey, Pennsylvania and Delaware—was reversed six times and affirmed once.

The District of Columbia Circuit was reversed eight times and affirmed twice.

The best records were compiled by the Fifth Circuit—Georgia, Florida, Alabama, Louisiana, Mississippi and Texas—with five affirmances and two reversals and the

Ninth Circuit—Alaska, Arizona, California, Montana, Nevada, Oregon, Idaho, Washington and Hawaii—with eight affirmances and five reversals.

There were 44 unanimous opinions or 30 per cent of the total compared with 26 per cent the term before. Decisions following 6-3 votes accounted for 26 per cent of the case load and 5-4 votes 18 per cent, about the same figures as for the previous term.

Justice Douglas, as usual, was the champion dissenter, casting 52 negative votes, closely followed by Justice Brennan with 51 and Justice Marshall with 47. The other dissent figures were Justices Rehnquist, 25; Burger and White, 19; Stewart, 16; Blackmun, 15, and Powell, 12.

Justices disqualified themselves from participating in cases of 22 occasions, ordinarily to avoid some potential conflict of interest or neutralize a personal association. Mr. Powell stepped down seven times, Mr. Stewart six, Mr. Douglas four, Mr. Blackmun and Mr. Marshall twice each and Mr. Rehnquist once. Chief Justice Burger and Justices White and Brennan found no occasion to disqualify themselves.