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WASHINGTON; Kennedy And Bork

By JAMES RESTON JULY 5, 1987

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Senator Edward M. Kennedy of Massachusetts is urging the Democratic majority in the Senate to mount a major ideological attack on President Reagan's nomination of Robert H. Bork to the Supreme Court. But if they're wise they won't follow him down this stormy path.

If he replaces Lewis F. Powell on the Court, Judge Bork might well cast the decisive vote against abortion, affirmative action and church-state issues. No doubt Mr. Reagan nominated him precisely for his conservative philosophy on these controversial issues.

Accordingly, as the President had every right to choose a candidate of his own persuasion, Mr. Kennedy has the same ideological right to oppose him, but the Senator has stated his case in such vehement terms that he's scaring the Democrats more than the Republicans.

Mr. Kennedy asserted that "Bork's rigid ideology will tip the scales of justice against the kind of country America is and ought to be."

He said that Judge Bork's firing of Archibald Cox as special prosecutor during the Watergate hearings was enough in itself to disqualify him for the Supreme Court, and he added:

"Robert Bork's America is a land in which women would be forced into back-alley abortions, blacks would sit at segregated lunch counters, rogue police could break down citizens' doors in midnight raids, schoolchildren could not be taught about evolution, writers and artists could be censored at the whim of the Government, and the doors of the Federal courts would be shut on the fingers of millions of citizens."

This sounds to at least some of the candidates for the Democratic Presidential nomination like an invitation not merely to reject Judge Bork but like an invitation to make the social issues a central part of the 1988 election campaign, and they don't like it.

After their landslide defeats in the Presidential elections of 1980 and 1984, the Democrats have been trying to avoid the impression that they are merely a party of special interest groups - feminists, blacks, labor unions and other aggrieved minorities. Accordingly, even the liberal Democratic candidates are not interested in another "charge of the light brigade."

In their recent debate with Bill Buckley in Houston, they made clear that they were going to make a campaign issue out of President Reagan's "Star Wars" program, his support for the Nicaraguan contras, his budget and trade policies, his scandals and also what they regard as his indifference to the mounting problems of Mexican political and social unrest. This is the formidable election agenda they have in mind.

Judge Bork's views are clearly controversial, but nobody questions his reputation as a legal scholar or forgets that he was confirmed unanimously to his present seat on the Federal Appeals Court in Washington just five years ago.

Mr. Kennedy, however, having abandoned his own Presidential ambitions, has increasingly emerged as the leading spokesman of the neglected people of the nation: the poor, the homeless, the sick and the aged.

He is clearly troubled by the tendency in his own party to shift to the right under the influence of Ronald Reagan's successful election tactics, and he's arguing that if the candidates try to emulate Mr. Reagan, the voters will prefer honest Republican conservatives to bogus conservatives among the Democrats.

The chances are that his colleagues will follow him part way but not in the extreme language he has used so far. They may even postpone the confirmation process until the autumn in order to concentrate on the Iran-contra hearings with

Colonel North, Admiral Poindexter and Secretaries Shultz and Weinberger on the stand.

This will give the anti-Bork factions time to organize their arguments and their demonstrations and perhaps even keep the Court paralyzed with a four-four lineup in the early days of the new term.

The Administration is trying to avoid this and is appealing for a decision on Judge Bork after the last days of Colonel North's testimony and before the Congress rises for the summer recess.

If the Democratic leadership of the Senate refuses to cooperate and follows the Kennedy line, the chances are that it will face public opposition, divert attention from its main campaign issues and lose the fight over Judge Bork in the end.

Senator Kennedy cannot beat Judge Bork on the ideological issue alone. Even his own brother insisted on an ideological appointment to the Court when he chose Arthur Goldberg, a distinguished lawyer and darling of the unions.

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