

F.B.I. IS CHECKING 2 ON COURT LIST

Investigates Backgrounds of
Friday and Judge Lillie

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By FRED P. GRAHAM
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WASHINGTON, Oct. 18—The Federal Bureau of Investigation has begun to check the backgrounds of Herschel H. Friday of Little Rock and Judge Mildred L. Lillie of Los Angeles, two of the six persons on President Nixon's list of potential nominees for the two vacant seats on the Supreme Court.

The F.B.I. checks on Mr. Friday and Mrs. Lillie, which began over the weekend, tended to confirm earlier reports that these two are first in line to receive the nominations.

Checks with F.B.I. and other officials disclosed that no background investigations have yet been ordered for the four other persons on the list of potential candidates that the Nixon Administration sent to the American Bar Association last week.

Because such checks are routinely conducted before judicial nominations are announced, this made it appear unlikely that Mr. Nixon could be considering picking one of them for his nominees. He said last week that the nominations would be announced late this week.

The four who are not yet being checked are Senator Robert C. Byrd, Democrat of West Virginia; Judge Sylvia Bacon of the Superior Court for the District of Columbia, and Judges Charles Clark and Paul H. Roney of the United States Court of Appeals for the Fifth Circuit.

Acted With Haste

There were some indications that the Justice Department acted with haste when Mr. Nixon's list of six potential nominees became public knowledge before the F.B.I. had been ordered to make even rudimentary checks of their backgrounds.

Jimmie Hawkins, clerk of the

Arkansas Supreme Court, said today he was watching the Arkansas-Texas football game on television Saturday afternoon when an F.B.I. agent called. Despite Mr. Hawkins's reluctance to leave his television set—Arkansas was winning—he agreed to accompany the agent to the state Supreme Court Building, where he produced records to document the fact that Mr. Friday is a licensed lawyer.

An official at the Superior Court for Los Angeles County, where Mrs. Lillie previously presided as a trial judge, said that the F.B.I. called today to obtain the basic facts about her tenure there.

No Background Checks
Spokesmen for the F.B. I. in

Jackson, Miss., and Tampa, Fla., the home states of Judges Clark and Roney, said that they had not been asked to make background checks of the potential nominees. Associates of Senator Byrd and Biss Bacon also said that the F.B.I. had not begun a check of them.

The timing of the Justice Department's order to the F.B.I. to start the investigations has reinforced reports that Mr. Nixon's announcement of his two appointees may not come as soon as he had indicated.

The American Bar Association's judicial fitness committee will meet in New York on Wednesday to make its preliminary evaluation of the qualifications of Mr. Friday and Mrs. Lillie. It apparently will not attempt to evaluate the other four, as it has concentrated on Mr. Friday and Mrs. Lillie in soliciting opinions from lawyers around the country.

If the A.B.A. committee should give low marks to either Mr. Friday or Mrs. Lillie, or both of them, some observers believe that the President might make only one appointment this week, delaying the other until a stronger second candidate could be found.

Judicial Record Scored

CAMBRIDGE, Mass., Oct. 18 (UPI)—Judge Lillie was overruled unanimously by the California Supreme Court in four key cases earlier this year, a Harvard law professor said today.

Prof. Laurence E. Tribe said the reversals occurred from March to early July. One case concerned reapportionment; a second involved California's claim and delivery law, giving merchants broad powers to attach property when payments are in arrears; a third involved the application of California's penal code to juveniles, and the fourth concerned a question of civil procedure.

"With extraordinary frequency, Judge Lillie has written decisions that are sufficiently indefensible for the California Supreme Court to reverse them and to do it unanimously," Professor Tribe said.

"My impression is that this is not at all atypical," he continued. "I'm satisfied she lacks the distinction to serve on any Federal court, much less the Supreme Court."

Professor Tribe said that, of the judges mentioned as possible appointees to the high court, "Judge Lillie clearly has the least able opinions."