

Bar Panel Charges Justice Unit Leaked Court Vote Report

NOV 2 1971

NYTimes

By FRED P. GRAHAM

Special to The New York Times

WASHINGTON, Nov. 1—The American Bar Association's Committee on the Federal Judiciary charged today that the Justice Department leaked the news last month that the A.B.A. group had found two of President Nixon's potential Supreme Court nominees not qualified.

Attorney General John N. Mitchell issued a statement "categorically" denying that the Justice Department had leaked the news to the Washington Post, as the bar group suggested.

And Howard Simons, managing editor of The Post, said, "Our information did not come from any Government employee."

Less than 24 hours after it was disclosed in the press that the committee had voted unfavorably on Herschel H. Friday and Judge Mildred L. Lillie, President Nixon announced the nominations of two persons whose names had not been referred to the A.B.A. group—Lewis F. Powell Jr. and William H. Rehnquist.

The bar group denied today that its members were guilty

Continued on Page 19, Column 1

of the "unauthorized disclosures" cited by Mr. Mitchell when he canceled the Nixon Administration's agreement to check the qualifications of potential nominees with the committee before making any Supreme Court nominations.

In a report on the developments, the bar group implied that the Nixon Administration had been so irked because the committee had disapproved Mr. Nixon's selections that the Justice Department leaked the information to justify ending the arrangement.

The charges marked another escalation in the recent public feud between the Nixon Administration, which was for a time accused of ceding too much authority to the A.B.A. in judicial selection, and the committee, which had been accused of acting as a "rubber stamp" for the Nixon Administration's earlier Supreme Court nominees.

The committee's report was issued by its chairman, Lawrence E. Walsh of New York, who served in 1969 as President Nixon's personal representative to the Paris peace talks.

The report confirmed earlier reports that the bar began to wrangle the Nixon Administration on Monday, Oct. 18, that Mr. Friday and Judge Lillie would get low ratings. On Tuesday evening, Mr. Walsh told Mr. Mitchell that when the vote was taken the next day both would probably be found not qualified.

But before the committee actually voted on Wednesday, or the story leaked on Thursday, Mr. Mitchell offered a nomination to Mr. Powell on Tuesday evening, the report said.

"The Attorney General had thus bypassed the committee, not only before its vote had 'leaked,' but before its conclusion as to Mr. Friday and Justice Lillie had even been formulated," the report said.

Citing unnamed persons "associated with the news media," the committee asserted that John P. Mackenzie of The Washington Post went to the Justice Department at 6 P.M. on Wednesday and was given the results of the vote—about an hour after Mr. Walsh had telephoned the results to Mr. Mitchell.

The report also quoted "two lawyers of impeccable reputation" as saying that persons connected with The Washington Post said that the leak had come from the Justice Department.