

Byrd Asks Tight Rein on FBI

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The assistant Senate Majority Leader, Robert C. Byrd (D-W.Va.), urged yesterday that Congress undertake a fundamental review of the operations and functions of the Federal Bureau of Investigation and perhaps remove the FBI from the Department of Justice.

At a minimum, Byrd said, Congress must establish "statutory authority" for the bureau's domestic intelligence gathering. This controversial activity has traditionally been justified solely on the basis of the President's inherent executive powers.

Byrd's proposals, the most sweeping to date in the new push for congressional "oversight" of the FBI, came as he spent the entire day questioning Clarence M. Kelley, President Nixon's nominee to become director of the bureau.

A long-time supporter of J. Edgar Hoover, who was FBI director for nearly half a century until his death last year, Byrd led the successful opposition to the President's first FBI director-designate, L. Patrick Gray III.

The West Virginian is now reportedly in line to become chairman of a new Senate Judiciary subcommittee, or of a special committee, that would oversee bureau operations.

Kelley insisted yesterday that in his 21 years as an FBI agent, before he became police chief in Kansas City, Mo., in 1961, he "never felt uncomfortable" with the way the bureau was run or with the legal basis for its activities.

"But Mr. Kelley," Byrd quickly cut in, "you worked for the FBI during the time that it was headed by a very unique man. . . . The respect for Mr. Hoover created a different atmosphere" from conditions prevailing today.

During Hoover's tenure, Byrd pointed out, "we oohed and aahed and were big-eyed" whenever he came to Capitol Hill. "His budget requests were sacrosanct. We gave him everything he wanted."

Byrd left no doubt that times had changed and that Kelley, if confirmed for the job, could expect no such treatment.

Congress has "an excellent opportunity — and one which it should seize — to determine just exactly what the role of the FBI is and should be," Byrd declared, complaining that the bureau had been "misused" during the Watergate affair and Gray's tenure.

As the day wore on, Byrd pressed the nominee on a number of key issues concerning the FBI:

- How to achieve "independence" for the director, so that he is not subject to pressure from an attorney general or president;
- How to limit the director's term, so it is long enough to encourage independence but short enough to discourage abuses of authority;
- How to govern the FBI's relationship with other federal investigative agencies, restrict its overseas operations and separate its various domestic functions from each other; and
- How to establish standards for the gathering, storage

and dissemination of intelligence data, including the question of reliance on informants.

If Byrd expected any commitments from Kelley, he got few. The nominee repeatedly asserted that he was unfamiliar with the questions or had "not thought" about them.

Kelley told Byrd that he had "no objection" to legislation which would define FBI activities and that he considered congressional oversight "very desirable" for the bureau.

But a few minutes later, when Sen. Roman Hruska (R-Neb.) objected that the creation of statutory powers would have considerable "disadvantages," Kelley said that he also agreed with that view.

So it went for most of the day, with Kelley striving to be

polite but noncommittal on policy questions. He finally agreed that, after confirmation, he would review the transcript of the hearing and try to come back with answers to Byrd's questions.

No member of the Judiciary Committee has opposed the nomination thus far, and Byrd agrees that it should not be held up while Congress involves itself in FBI oversight.

But committee chairman James O. Eastland (D-Miss.) scheduled another session for Monday, when several witnesses from Kansas City, including a black civic leader opposed to Kelley, are scheduled to testify.

Kelley will then take the witness chair again, to answer any accusations and to respond to other committee members who have not yet questioned him.