

Despite Probe Kelley Is Still Mystery Man

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"Has anybody here seen Kelly?"

K E double L Y
Has anybody here seen Kelly?"

Have you seen him smile?
Sure his hair is red, his eyes
He's Irish through and thro
are blue, and He's Irish
through and through.

Has anybody here seen
Kelly?
Kelly from the Emerald
Isle."

—from "The Jolly Bachelors," 1909

The Kelly of the show tune, just over from Ireland, was lost in Manhattan, and his sweetheart was looking desperately for him in a St. Patrick's Day crowd.

The Kelley who arrived in Washington last week was from Kansas City and he didn't smile much.

But he did look a bit lost as he faced the Senate Judiciary Committee for confir-

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mation hearings on his nomination to become permanent director of the Federal Bureau of Investigation.

And although they didn't sing out about it, the members of the committee seemed a little desperate themselves at times, when they tried to find out what he will do with the FBI if he takes it over.

Try though they might, the senators found out rather little about the man—except that he is a competent, experienced police chief who had a good time during his own 21 years of service in the golden age of J. Edgar Hoover's FBI.

Clarence Marion Kelley, stocky and poker-faced, just sat there. He listened much more than he talked.

He had no notes in front of him to consult, nor any aides beside him to whom he could turn for advice in

classic congressional-hearing style. He did not hesitate, even for a moment, to say "I don't know" or "I haven't thought about that," if he didn't or hadn't, which was most of the time.

It was an altogether low-key affair.

On the first day, committee Democrats who have given other Nixon Administration appointees a hard time—including Sens. Edward M. Kennedy (Mass.), Birch Bayh (Ind.) and John V. Tunney (Calif.)—hammered away, themselves seldom pausing to hear out an answer from Kelley before posing the next question.

When, on the second day, Sen. Robert C. Byrd (D-W. Va.) engaged in perhaps the most thorough congressional probing about FBI policy in the bureau's history, the others did not even bother to drop in and listen.

Sometimes there was not a single Republican seated at the committee bench to stand guard for the Administration.

The choice of a new FBI director is, of course, a major policy decision, especially at a time when the morale and prestige of the nation's leading law enforcement agency have suffered during the Watergate affair.

But there is virtually no doubt on Capitol Hill that, after further perfunctory hearings, Kelley will be confirmed, perhaps unanimously and in time to be sworn in for the new fiscal year that begins July 1.

Some Senate sources suggest that the "Blackmun syndrome" is in operation—a reference to the fact that the Senate took less than a month three years ago to confirm the Supreme Court nomination of Justice Harry A. Blackmun, an uncontroversial figure, after rejecting the President's more controversial choices, Clement F. Haynsworth Jr. and G. Harold Sarswell.

The general explanation at the time was that the senators, having exhausted their energy and political capital on Haynsworth and Carswell, were simply relieved to settle for Blackmun.

Kelley is the beneficiary this time of the parallel aftermath of the much-disputed nomination of L. Patrick Gray III as the original successor to Hoover.

Gray's nomination was withdrawn in early April, when it seemed doomed to certain rejection; a few weeks later, he resigned after serving 51 weeks as acting FBI director, when it was learned that he had destroyed sensitive documents connected with the Watergate scandal.

There are a few potentially troublesome aspects of Kelley's career—unpopularity in Kansas City's black community, a police computer system that has sometimes been abused, no management experience at FBI headquarters here—but they have attracted little attention.

Several members of the Judiciary Committee concede that, these issues notwithstanding, they are prepared to accept Kelley on the basis of his record and postpone intensive scrutiny until he has been in the FBI job for a while.

FBI professionals, many of whom were skeptical of Gray and his past involvement in politics rather than law enforcement, feel the same way.

"Kelley's experienced in the business, and that's good enough for me," said one veteran agent who has run several major FBI field offices. "What we need now is to achieve stability."

But the fact remains that the bureau's director-designate is a mystery man.

No one, not even key Justice Department officials, knows whom he will choose for major FBI management jobs below him. (The FBI associate directorship also fell vacant last week, when W. Mark Felt, who had stayed on with Gray, took advantage of a civil-service early retirement bonus.)

Nor is it clear what policies Kelley will follow in the crucial fields of domestic intelligence, wiretapping, the use of informants and infiltrators, and dissemination

of incomplete computerized "criminal history" files.

Initially, some congressional observers believed that Kelley might be deliberately fudging or hiding behind his 12-year absence from the FBI in order to avoid discussing the relevant issues before the committee.

But Justice Department sources insist that he is as out of touch and unbriefed as he seems to be.

His only visits to bureau headquarters here since President Nixon named him on June 7 were for a lunch with William D. Ruckelshaus, the caretaker acting director who replaced Gray two months ago, and for a meeting with assistant FBI directors that one source described as "a bull session" rather than a policy discussion.

The Justice Department sent briefing material to him in Kansas City, but he was apparently so busy winding up affairs there that he never had time to read it, or to review the laws under which the FBI operates, before the hearings.

As a result, there have been so many "I don't know" in his testimony that some officials at Justice and the FBI confess to mild embarrassment over his performance.

But one official quickly added that "the object of the hearings is to get him confirmed, not to hold a constitutional law class."

The major puzzle, ultimately, is whether Kelley will be subject to "manipulation," as some contend that Gray was, be stubbornly independent to the extent that he unilaterally establishes criminal justice priorities, as Hoover usually was, or be somewhere in between.

Only Kelley knows for sure.