

The FBI and Congressional Oversight

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A little noticed debate on the floor of the House on a proposed amendment to the FBI appropriation raises a number of serious questions about the governance of the FBI and about Congress' relationship to the bureau. Rep. Ken Hechler (D-W.Va.) attempted to attach the following amendment to the appropriation: "None of the funds appropriated for the Federal Bureau of Investigation may be used for investigating political activities not involving the commission of crimes under the laws of the United States." Mr. Hechler had it in mind to prevent some of the abuses of the bureau which have recently come to light as a result of the investigations of the Watergate and related election scandals. But his proposal and the brief ensuing debate raised some even broader questions.

We have consistently urged the Congress to take a fresh look at the various mandates of the bureau and to begin to exercise real oversight with regard to its operations. The aborted confirmation hearings for L. Patrick Gray III stirred up a little activity in that regard, but not enough to be reassuring. The principal rejoinder to Mr. Hechler's proposal points up the need for Congress to conduct a thorough review of its intentions regarding the bureau. Rep. Robert L. F. Sikes (D-Fla.) said: "My concern, Mr. Chairman, is that this amendment could in effect negate much of the work of the entire Federal Bureau of Investigation. They are charged with the investigation of subversive activities, the activities of communism and other isms which seek to overthrow the government of the United States."

Well, it is pretty clear that the FBI's charter as now read in the Congress and down at the Department of Justice includes enforcing criminal laws, including

those dealing with forceful overthrow of the government. What is not nearly as clear is the wisdom of housing both of those activities in one agency and defining the national security responsibilities loosely enough to include "the investigation of . . . the activities of communism and other isms which seek to overthrow the government of the United States."

Crisp efficient criminal investigation requires a high degree of sophistication and training which is not necessarily the same sort of sophistication required for agents engaged in tracking down active political revolutionaries for they must possess a keen capacity to distinguish between criminal activity and legitimate expression of dissent. Mr. Hechler is certainly right in arguing that the bureau should not be used for partisan political advantage in domestic politics; it is also clear that it should not conduct its security operations with some political or behavioral orthodoxy in mind.

These are difficult questions which require much study and carefully calibrated answers. The right way to begin was suggested by those who answered Mr. Hechler by arguing that the judiciary committees of both Houses were the appropriate forums for consideration of the issues he raised. This is particularly true in view of Attorney General Elliot Richardson's recent assurance to Sen. James Eastland, chairman of the Senate Judiciary Committee; both he and the new FBI Director Clarence Kelley seem to agree that "Congress should play a more prominent role in connection with the FBI." If that is to mean anything, it means that questions like Mr. Hechler's will have to be raised again and again until Congress is ready to face them squarely.