

See "Nixon F.B.I. Choice 'Soon'" -
 NYTimes 8 Feb, story datelined
 6 Feb 73.

NYTimes FEB 6 1973

A Chance For the Senate

By Tom Wicker

Members of Congress are making more noise than they have in years about the need to reassert themselves as a coequal branch of Government with the Presidency and the Supreme Court. It may well be too late for that, but there are a few things Congress could do and one of them would be to insist that President Nixon submit the name of a man of stature and experience as the new director of the Federal Bureau of Investigation.

Patrick Gray, Mr. Nixon's interim appointee, won't do. It may even be that the President is not going to nominate him for the job, one of the most important in Government. But whether Mr. Gray's name is submitted to the Senate or not, that body owes it to itself and to the country to insist on a better nominee.

It has the power to do so. Under the terms of the 1968 Omnibus Crime Act, the new director must be nominated by the President and confirmed by the Senate, as if he were a Cabinet officer, an ambassador or a Supreme Court justice. Confirmation may be defeated or filibustered, and since the new director will head a huge apparatus with the power to affect the lives of all Americans, the Senate should have no hesitation in using its power to the necessary limit.

Mr. Gray is not a proper nominee primarily because of his political partisanship. His background includes a long history of Republican party activity, which is why he has had high posts in this Administration—not because of the distinction of his career outside politics. This alone would tend to make his appointment appear political—an appearance sharply en-

IN THE NATION

hanced in last year's campaign when he made speeches favorable to the Nixon point of view, and when it was disclosed that 21 F.B.I. field offices in 14 important states were directed to supply information on criminal justice to give Mr. Nixon "maximum support" in his campaign. Earlier, Mr. Gray had said he would investigate the Soviet-American grain deal, primarily because

Vice President Agnew already had claimed the investigation was under way.

Now Judge John J. Sirica, before whom the Watergate case was tried, has bluntly criticized the Department of Justice for failing to investigate completely or properly prosecute the matter. It is, of course, the F.B.I. upon whom the department relies for such investigations, but Judge Sirica has openly expressed the hope that even a Senate committee will do a better job.

It also has been reliably reported that the F.B.I. under Mr. Gray made no real investigation of the political espionage and sabotage activities allegedly planned last year by Donald H. Segretti—who was reported to have close links to the White House. In both these failures, if Mr. Gray's political interests were not responsible for poor F.B.I. performance, the public certainly had good reason to think they might have been.

An openly political director is bound to destroy not only the nonpartisanship that J. Edgar Hoover largely maintained in his half-century in the post; he is certain to damage F.B.I. professionalism and morale, as well as public confidence in the bureau. More important, the F.B.I. can reach so far into the lives of all Americans that no Administration should have direct political control of it through a compliant director.

But Patrick Gray already has demonstrated enough partisanship and enough willingness to let the F.B.I. be used politically that, even if he were confirmed as director, the Democrats would surely replace him as soon as they regained national power—and that would probably complete the process of politicizing the office.

There are internal complaints from the bureau that Mr. Gray is not a good administrator, a decisive leader or a law enforcement professional. These are hard charges to judge without close examination, but Mr. Gray's most publicized decision—to shoot out the tires of a hijacked airplane, leading to considerable danger for the passengers and crew—is not reassuring. Nor can anyone make much of a case that his

is the kind of impressive and impeccable personal stature needed if the new director and the F.B.I. are to have public confidence and independence from political control.

Who would have such stature? That is up to Mr. Nixon to decide, but the Senate has the right and the power to insist—as it has done in Supreme Court nominations that were scarcely less important—that Mr. Nixon choose wisely and with the public interest as his first concern. It is only in the resolute exercise of such rights and powers that Congress will regain anything like equal standing with the executive branch.

In this particular instance, moreover, the Senate can see to it that a man of sufficient stature finally assumes what became under J. Edgar Hoover one of the most powerful offices in the Government. And while the Senators are at it, they might well study Senator Robert Byrd's proposal that any new director be required to win Senate confirmation every four years. That might politicize the office somewhat, but it would also provide means to remove an inept or power-mad director.