

# NIXON WITHDRAWS GRAY NOMINATION AS F.B.I. DIRECTOR

Official, Involved in Bitter  
Struggle for Confirmation,  
Requested the Move

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Justice Department Lawyer  
and Ellsberg Trial Judge  
Said to Be Under Study

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President Nixon accepted today a request by L. Patrick Gray that his nomination as director of the Federal Bureau of Investigation be withdrawn.

Mr. Gray announced here late this afternoon that he had asked the President to withdraw his name. Later in San Clemente, Calif., the Western White House announced that Mr. Nixon would accede to the request.

The White House did not immediately announce whom it would nominate in his place, but the list of possible successors reportedly contains only two names:

They are Henry E. Petersen, a career Justice Department lawyer, who is now in charge of its Criminal Division, and William Matthew Byrne Jr., a United States District Judge who is presiding over the Pentagon papers trial in Los Angeles.

Mr. Gray's nomination had become the focus of a bitter partisan struggle in the Senate. Only a few hours before the withdrawal announcement, a member of the Senate Judiciary Committee had moved to kill the nomination but no action was taken.

In a brief statement, Mr. Gray said:

"I have asked the President to withdraw my nomination for the position of Director of the Federal Bureau of Investigation.

"The basis for this decision is my deep conviction that the F.B.I.—a great and unique American institution of vital

service to the President and to the American people—is entitled to permanent leadership at the earliest possible time."

Mr. Gray's office said he would not comment further on his decision.

As recently as last weekend, the White House had insisted that Mr. Gray continued to enjoy the President's full confidence and support.

A spokesman said then, in

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response to press reports, that no decision had been made to withdraw Mr. Gray's name.

The two Democratic members of the Judiciary Committee who had been the strongest opponents of Mr. Gray's nomination said within minutes of his withdrawal that they welcomed the move.

Senator Robert C. Byrd of West Virginia, who had announced his opposition to Mr. Gray even before the confirmation hearings began, said in a statement that he believed Mr. Gray had done "the right thing under the circumstances."

Mr. Byrd said he hoped the President would now choose a successor who had experience in law enforcement, ability, integrity, and "no connections whatsoever" with the Watergate case.

Senator John V. Tunney of California said that since it was "obvious" that Mr. Gray could not have been confirmed, "his withdrawal is in the best interest of a nonpartisan and independent F.B.I."

According to authoritative sources, the Nixon Administration, recognizing the steadily diminishing possibility that Mr. Gray would win Senate approval, began to search in earnest for a replacement nominee more than a week ago, ultimately settling on Mr. Petersen and Judge Byrne, both of whom have Democratic backgrounds, as the two best-qualified choices.

The White House denied last week a report by a Minnesota newspaper that President Nixon had given up hope that Mr. Gray, who has been serving as acting director, could be confirmed and had offered the nomination to Mr. Petersen. Other sources said today there was no indication that the White House had yet decided between Mr. Petersen and Judge Byrne.

Asked about the report, which appeared in The St. Paul Pioneer Press on Saturday, Gerald L. Warren, the deputy White House press secretary, described "stories that suggest a decision has been made to withdraw Mr. Gray's name" as "totally false."

Meanwhile, the Senate Judiciary Committee, which has had the Gray nomination under con-

sideration for more than six weeks, met in a hastily summoned secret session this afternoon and deferred until at least next week a motion to postpone indefinitely any action of Mr. Gray.

As the meeting began, Senator Robert C. Byrd, Democrat of West Virginia, turned to the committee's chairman, James O. Eastland, and said it was his assumption that "this meeting is called to dispose of the Gray nomination."

## Substitute Motion

Mr. Eastland, a Mississippi Democrat, replied that he was correct. Mr. Byrd, who has been Mr. Gray's severest critic among the anti-Gray Democrats, then moved to postpone the nomination indefinitely, which would in effect kill it.

Senator Roman L. Hruska of Nebraska, the ranking Republican member who has led the forces urging Mr. Gray's confirmation, immediately offered a substitute motion that further consideration of Mr. Gray be put off until the Senate's special investigation of the Watergate case is complete.

The Hruska motion, subsequently rejected by Mr. Eastland on procedural grounds, would have allowed Senator Sam J. Ervin Jr., a member of the Judiciary Committee who is also the chairman of the Watergate committee, to ask that consideration of Mr. Gray be resumed if he decided at some point that there was "no further purpose" in delaying it.

But Mr. Ervin, a North Carolina Democrat who once served as a justice of that state's Supreme Court, said he did not want that responsibility.

Senator Hiram Fong, a Hawaii Republican, then offered a third motion, to table the initial motion by Mr. Byrd.

At that point, Senator Edward M. Kennedy of Massachusetts, another leader of the fight against Mr. Gray, asked to be recognized and then pointed out the absence of two other Democrats, Senators Philip A. Hart of Michigan and John J. McClellan of Arkansas.

Senator Hart's office said he was an airplane as the committee met, and other members said they had received as little as two hours' notice from Mr. Eastland.

Mr. Kennedy said that, in view of their absence, he would object to a vote. Mr. Fong withdrew his motion to table, and the committee adjourned without taking any action. It is Mr. Byrd's motion that will be before the panel when it meets against sometime next week.

Asked to speculate on the surprise motion by Senator Hruska, Mr. Byrd noted afterward that the final report on the Senate's Watergate investigation is not due until next February.

"I don't think they (the Republicans) would have made

such a motion if they thought they had the votes to take the nomination to the floor," he said. But he added that he was unsure whether there were sufficient votes on the committee to block it, either.

However, Senator John V. Tunney, Democrats of California, said the Hruska motion had convinced him that the Nixon Administration now realized "that Gray can't be confirmed."

He said he believed the nomination was "dead," and that the White House, through Mr. Hruska, was trying to "let Mr. Gray off the hook."

There was also some confusion about why Mr. Byrd had moved to postpone the nomination, rather than calling for a straight up-or-down vote.

Mr. Byrd described the difference as "a question of whether you want to kill the nomination by a firing squad or kill it in the gas chamber," adding "it's tweedledee and tweedledum."

## Delay Could Force Move

But committee sources have suggested that a move to delay or postpone action on the nomination, if successful, would in all likelihood force Mr. Gray to withdraw and, at the same time, would be easier for any Republican Senators who might have misgivings about supporting him.

At this point, seven of the committee's 16 members, all Democrats, are reportedly firmly opposed to the Gray nomination, and seven others, Mr. Eastland and six of the Republicans, are thought to favor his confirmation.

The votes of the two remaining members, Mr. McClellan and Charles McC. Mathias Jr., a liberal Republican from Maryland, are uncertain, although Mr. Mathias has expressed concern over aspects of Mr. Gray's handling of the F.B.I.'s Watergate investigation.

Indeed, there was discussion of little else during Mr. Gray's eight days of testimony before the committee.

Democratic Senators have insisted that Mr. Gray's pursuit of the investigation, which involved illegal activities by at least two former White House aides and an official of President Nixon's re-election organization, is the best index of his qualification to hold the traditionally nonpartisan job.

Mr. Gray's often frank revelations about his conduct of the case—especially the admission that he sent confidential and often sensitive F.B.I. investigative reports to a White House official—have provoked considerable criticism from Senators Kennedy, Byrd and Tunney.

Committee sources have noted that Mr. Petersen, who as head of the Justice Department's Criminal Division, directed the prosecution of seven men indicted for illegal wiretapping, could also expect to be asked a number of questions about the matter if he is chosen to replace Mr. Gray.