

Nixon's Troubles With Nominees

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WASHINGTON, April 6—No President in recent memory has had more of his nominees for high office rejected by the Senate than President Nixon.

"There had been nothing like it in history," according to a man whose personal identification with history goes back to Franklin D. Roosevelt in 1932.

News
Analysis

The latest Nixon reject is L. Patrick Gray 3d, whose nomination to be director of the Federal Bureau of Investigation was withdrawn last night when it became apparent that he could not be confirmed.

Mr. Gray's appointment was the third major nomination to be rejected or abandoned since 1969. The two others were the nominations of Clement F. Haynsworth Jr. and G. Harrold Carswell to the Supreme Court.

Others Never Named

In addition, President Nixon considered for appointment to the Supreme Court at least three other persons who, were never named because opposition to them was being mobilized.

By comparison, President Johnson lost only one major appointee during more than five years in office. His nomination of Abe Fortas to be Chief Justice was withdrawn when a Senate filibuster was threatened. (This prevented Mr. Johnson carrying out his plan to place Homer Thornberry of Texas, a Federal appeals judge, on the Supreme Court.)

The only comparable case since World War II was that of Lewis L. Strauss, who was nominated by President Eisenhower to be Secretary of Commerce and was rejected by the Senate in 1959.

Why does President Nixon, when compared with other Presidents, seem to be such a poor picker—or such an unlucky one? Friends and enemies have a number of explanations.

One prominent lawyer here recalls that President Eisenhower once asked him what was the greatest administrative

problem that Presidents have to face.

"I said I could tell him in two words," the lawyer said. "Cheap help."

That man and others think President Nixon has been poorly served by the staff that helps him pick his nominees. Many of his aides are political amateurs, who have enlisted only for the duration and are proud of it.

They manifestly did a poor job of screening the President's earlier Supreme Court Appointees, about whom embarrassing information turned up after the President had been committed to them.

The President himself, according to a man who has studied his judicial appointments, is torn between two priorities: (1) getting nominees who will serve his purposes and (2) getting them through the Senate. His avowed purpose with the Supreme Court is to make it a "strict constructionist" Court.

On the other side there is the fact that the President is obliged to submit his nominations to a Senate dominated by Democrats. So was President Eisenhower, but there was then no constitutional confrontation between the White House and Capitol Hill as there is now.

Blame Placed on Senate

President Nixon is defying Congress both by impounding funds voted by Congress and by refusing, on the ground of executive privilege, to allow his advisers to testify before Congressional committees. One of the few ways Congress can hit back is to reject the President's appointments.

President Nixon himself in 1970 blamed the political complexion of the Senate for his inability to send to the Supreme Court any Southerner who believed in "the strict construction of the Constitution." (In actuality, he later did so with the nomination of the distinguished Virginia lawyer, Lewis F. Powell Jr.)

Another more obvious and immediate political factor that worked against Patrick Gray's

nomination to the F.B.I. was, of course, the Watergate case—the bugging of the Democratic National Committee offices in the election campaign last year.

At the polls in November, President Nixon escaped the consequences of that affair. The voters did not blame him for it, although the bugging was done in behalf of his reelection committee. But Watergate won't go away. It stays around to haunt him. During the Gray hearings before the Senate Judiciary Committee, the President's own Republican supporters began to find it embarrassing, and said so.

Yesterday, the President blamed Watergate for defeating Mr. Gray, who made F.B.I. records in the case available to Mr. Nixon's White House counsel, John W. Dean 3d, even though White House aides were under investigation in the case.

An 'Innocent Victim'

Today, Attorney General Richard G. Kleindienst, who had supported Mr. Gray for the nomination, called him the "innocent victim of the tragedy of the Watergate situation."

When it was suggested to Mr. Kleindienst that Mr. Gray's replacement would not be another man who was involved with the Watergate case, he did not dissent, although he said he did not know President Nixon's intentions.

"That will certainly have to be a factor in considering Henry Petersen," said the Attorney General, mentioning the chief of the Criminal Division of the Justice Department, who has been proposed for F.B.I. director. Mr. Petersen was responsible for the prosecution of the seven defendants in the Watergate bugging.

Members of the Senate committee certainly would not pass up an opportunity to question anybody with knowledge of the case or of the operations of the F.B.I. J. Edgar Hoover, the previous F.B.I. director, did not have to be confirmed by the Senate, and the Senators have never before had such a chance to call the bureau to account.