

Petersen Blasts Ervin For 'Unfair' Remarks

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Assistant Attorney General Henry E. Petersen angrily defended yesterday the Justice Department's initial investigation of the Watergate scandal, but admitted that "everybody is not treated equally before the law . . . many, many concessions are made because of the office."

Did Petersen then mean to say, asked Sen. Sam J. Ervin Jr. (D-N.C.) incredulously, that "justice as administered by the Department of Justice is not blind?"

"We don't deal gently," said Petersen, "but I do deal with restraint and I am conscious of the political connotations of my actions. I don't expect to ruin political reputations . . . because some congressional investigation might think it would be nice with hindsight."

That bitter exchange was one of several high-decible confrontations at the hearing before the Senate Judiciary

Committee on the nomination of Earl J. Silbert as U.S. attorney for the District of Columbia. In addition to Ervin, Senate committee members present for part or all of the testimony were Chairman James O. Eastland (D-Miss.), Edward Kennedy (D-Mass.), Philip Hart (D-Mich.), Roman L. Hruska (R-Neb.), and John V. Tunney (D-Calif.).

Silbert, under Petersen's supervision, headed the Justice Department's investigation of the Watergate burglary. His confirmation as U.S. attorney for the District has been delayed while the Judiciary Committee explores that investigation.

Yesterday Petersen twice accused Ervin of "being unfair" in implying that political considerations had influenced the initial investigation.

Ervin chided Petersen and the Justice Department for

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not having gained an earlier conviction of the five Watergate burglars, and for not having thoroughly explored the circumstantial evidence that implicated White House aides and members of the Committee for the Re-election of the President.

"You can't have it both ways," said Petersen, pounding his left fist on the witness table.

Protesting that Ervin could not at the same time expect a speedy trial for the burglars and a thoroughgoing probe into the Watergate conspiracy, Petersen exploded, "You're being unfair."

"I'm trying to ask a few simple questions," responded Ervin, and in honeyed tones he advised Petersen to "get your sweet disposition back."

"I don't have a sweet disposition," Petersen replied in a high-pitched voice, "especially when my integrity is being questioned."

Ervin asked Petersen if he did not agree that "it's rather poor practice" to excuse certain White House aides and Maurice Stans, director of the Finance Committee to Re-elect the President, from testimony before the grand jury "If you recognize everybody as equal before the law?"

Petersen responded that he did not. "The point is," he said, "that criminal investigation, especially when they threaten to move into political areas . . . should be conducted with surgical precision. You ought to use power sparingly."



Photos by Douglas Chevalier—The Washington Post

Sen. Sam J. Ervin (left) and Assistant Attorney General Henry E. Petersen exchange harsh words at hearing.

"If you want a blunderbuss approach," Petersen told Ervin, "I can do it. But this whole thing (the Watergate scandal) is a classic example of people who didn't understand the uses of power and the limitations of that power. The problem I have in this investigation is restraint. If I have to err, I err on the side of restraint."

Petersen acknowledged however, that the Justice Department's restraint in investigating the testimony of some Nixon administration officials such as Jeb Stuart Magruder,

who had been sentenced to at least 10 months in prison for perjury, before the grand jury, had led them into false decisions on the scope of the Watergate conspiracy.

"If you mean," Petersen replied to Ervin at one point, "did we accept the lies of all these people who lied to us, I guess we did. You know something, we were snookered."

At the beginning of the Watergate investigation, Petersen told the committee, the Justice Department had not believed the clues that later implicated the White House and the Committee to Re-elect the President in a larger conspiracy.

"We were checking those leads out almost tongue-in-cheek," he said, "to preserve the appearance of the integrity of the investigation. In term of actual involvement... there were only negative leads."

Petersen said he had been almost ashamed of his suspicions in the investigation. He said he would mention that John N. Mitchell "must have known" about the Watergate burglary, but his colleagues in the Justice Department assured him that "Mitchell would never do such a thing."

Petersen denied that he had ever instructed Silbert to limit the investigation. "The guts of

the work, the real investigative work," he said, "was done in the grand jury by Silbert and his staff."

Petersen said he had been upset at lack of leadership from the White House in the investigation of the Watergate case. "Someone should have said this is a terrible thing," he said. Petersen said he had looked for evidence of White House support and "I was pained by its absence."

"Do you mean someone responsible for the faithful execution of the laws of the country should have blown the whistle?" inquired Hart.

"I don't like the question," responded Petersen. "Do you mean the President of the United States?"

"Yes," said Hart, "among others."

Petersen declined to answer, saying he may be a witness at an impeachment trial and that Hart would be a judge.

Petersen said he had kept the President informed of later developments in the investigation, as documented in the White House tape transcripts released by Mr. Nixon because "I wanted him to come out vigorously" and fire his two chief aides, H. R. (Bob) Haldeman and John D. Ehrlichman.

"On the other hand," said Petersen, "(the President)

didn't know me from Adam and here's two guys he's known for 20 years."

Nevertheless, Petersen said he had told Mr. Nixon that he believed "the only way the President could establish his credibility before the American people was to act with dispatch, almost brutally."

How did Petersen feel when he heard the President's speech "almost eulogizing" Haldeman and Ehrlichman as he announced their resignations, asked Hart.

"I was terribly disappointed," said the assistant attorney general.