

# Watergate Prosecutors Admit Error

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Two members of the original Watergate prosecution team conceded yesterday before the Senate Judiciary Committee that they made at least two mistakes in the handling of the investigation.

Assistant Attorney General Henry Petersen at first denied—but then agreed—that he should have pursued the meaning of photographs supplied by the Central Intelligence Agency that later turned out to connect the original Watergate defendants with the burglary of the office of Daniel Ellsberg's psychiatrist, Dr. Lewis J. Fielding.

And in a second concession, Harold Titus, former U.S. Attorney for the District, initially told the committee that he made no decisions in the Watergate investigations. He then changed his testimony and stated that he wrongly permitted lawyers for President Nixon's re-election campaign committee to be present when FBI agents interviewed committee employees.

The Judiciary Committee is considering whether to confirm Mr. Nixon's appointment of Earl Silbert as U.S. attorney to succeed Titus. Silbert, now acting U.S. attorney, was Titus' top assistant and worked under Petersen and Titus in the Watergate investigation.

Petersen said that in December, 1972, or early January, 1973, he had obtained from the CIA a series of photographs they had developed at the request of G. Gordon Liddy, then a Watergate defendant and now a convicted Watergate conspirator.

One of the photos shows a parking space reserved for Fielding and another shows Liddy standing near Fielding's office building.

Under questioning Monday by Sen. Sam Ervin (D-N.C.), Petersen repeatedly testified that there was no reason for

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prosecutors to pursue the meaning of the photographs.

Yesterday, under persistent questioning by Sen. John V. Tunney (D-Calif.) Petersen said "Liddy was a bizarre individual. We just didn't understand this man. The fact that he had made a photo of himself didn't seem unusual."

"But it seems so easy" to ask for an FBI check on the photos, interjected Tunney.

"It was a faux pas," Petersen finally said. "I should have done it, even though it might have turned out negative."

It wasn't until April that former presidential lawyer John W. Dean III told the prosecutors of White House involvement in the Fielding burglary. On April 27, Federal Judge Matt Byrne, presiding at the Ellsberg trial in Los Angeles made public a memo to him from Silbert disclosing details of the burglary.

Petersen told the committee that he gave the CIA documents to Silbert who was in charge of the day-to-day details of the Watergate investigation.

He said Silbert did not pursue the photos either but, he added, "I'm not prepared to criticize Mr. Silbert for what I didn't have enough sense to tell him to do."

Titus appeared before the committee after Petersen completed his fourth day of testimony. Titus began his testimony by telling Ervin that he assigned Silbert to the Watergate case because he (Titus) couldn't take time away from his other duties to handle it. He said the decisions were made by Silbert.

Then Tunney asked why lawyers from the re-election committee were permitted to attend the interrogation of campaign committee employees by FBI agents.

"It was a judgment call," said Titus who added that "we wanted" to protect the rights of employees who were questioned.

"My recollection was that Mr. Silbert did not approve of it. I made the decision to have it done. In retrospect I

would not do it again. It was not a good decision. I'm not proud of it," Titus said.

He said prosecutors later withdrew approval for Nixon committee lawyers to attend the interrogation sessions because they felt the employees were "intimidated" by their presence.

Titus testified that neither he nor Silbert had made the decision for Dean to attend the questioning of White House employees by FBI agents. "The decision was made above Mr. Silbert and myself," he said.

Earlier Petersen said he didn't recall who had made the decision for Dean to attend the questioning of White House employees.

At one point Ervin charged that the presence of Dean and reelection committee lawyers was deliberately "intended to intimidate" those being questioned.

Although Tunney and Ervin have said President Nixon should not have nominated Silbert for the chief federal prosecutor's post in the District, they and other committee members stressed that they do not know whether the nomination will be approved.

Both Petersen and Titus strongly urged the committee to approve the nomination.

"Earl Silbert broke the Watergate case. That was it. We had help from the press, from Sen. Ervin's (Senate Watergate) committee. But Earl Silbert broke the Watergate case," Petersen said in response to questions from Sen. Roman L. Hruska (R-Neb.).

Hruska, ranking GOP member of the Judiciary Committee, agreed with Petersen and said the Silbert nomination should be approved by a "unanimous vote."

At one point Ervin questioned Titus about Silbert's conduct of the trial of the original seven Watergate defendants, remarking Silbert told the jury that the original defendants were the only ones involved.

Initially, Titus said it would be "inappropriate" for him to comment on the conduct of the trial.