

Silbert's Nomination 'In Limbo'

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By Stephen Green

Washington Post Staff Writer

The Senate Judiciary Committee suspended yesterday all further consideration of the nomination of Earl J. Silbert to be U.S. attorney for the District until presidential impeachment proceedings are resolved.

"Any action now on the Silbert nomination could be viewed as Senate approval or disapproval of the handling of the Watergate investigation by President Nixon, the country's chief law enforcement officer," said Sen. John V. Tunney (D-Calif.), a member of the Committee.

The decision by the committee was a shift from earlier attitudes of members, who several weeks ago were saying they expected the nomination to be approved. It showed that the question of the Silbert nomination has gone beyond the qualifications of Silbert himself and has become caught up in impeachment politics in Congress.

Tunney and other members of the Committee stressed that Silbert, one of the original Watergate prosecutors, could continue to act as U.S. attorney for the District.

"Right now the Silbert nomination is in limbo," said Tunney.

He said that if he had to vote on the nomination now "I'd have to vote against it" to avoid the appearance of tacit approval of the President's handling of the Watergate investigation. Tunney added, however, that when impeachment proceedings are resolved he could possibly vote for Silbert after considering his qualifications.

Tunney also said the Committee's decision could put pressure on President Nixon to nominate someone else for the post.

Silbert could not be reached for comment. In January he

SILBERT, From A1

became the unanimous choice of the U.S. District Court judges here to become acting U.S. attorney to replace Harold Titus, who resigned for health reasons.

Silbert then was nominated for the post by President Nixon.

Sen. Sam J. Ervin (D-N.C.), another Committee member, who has been very critical of the way the original Watergate prosecutors handled the case, said for the first time yesterday that he would vote against Silbert. "They had a chance but they messed it up," Ervin said of the original Watergate prosecutors.

"Certainly the nomination is in limbo. Silbert knows he's in

limbo," said Sen. Marlow W. Cook of Kentucky, a Republican member of the committee. "I can't vote on this until these matters (impeachment) are resolved," he said.

Sen. Roman L. Hruska (R-Neb.) ranking GOP committee member, could not be reached for comment. Committee Republican sources said Hruska still supports Silbert, but feels no vote should be taken until the impeachment question is resolved because of the "symbolic utility" of the nomination at this time.

Meeting in closed session yesterday morning, the committee, at the request of Republican members, took no vote on a formal resolution from Tunney to drop further consideration of the nomina-

tion until resolution of impeachment proceedings and certain documents are obtained by the committee.

However, both Republican and Democratic members agreed informally that no further action would be taken until the impeachment question is settled.

Republican members, according to GOP sources, had no intention of asking that the nomination be approved yet because of its relation to the impeachment question.

Hruska, according to the sources, didn't want a formal vote on the Tunney resolution because he felt it would be approved and then viewed as a vote against Silbert.

Ervin repeatedly has asked

Special Watergate Prosecutor Leon Jaworsky for a 1972 "Prosecutorial memorandum" written by Silbert, which, according to testimony before the committee, stated Silbert's views on how the Watergate prosecution should be handled.

The Judiciary Committee, composed of nine Democrats and seven Republicans, has been holding sporadic hearings on the Silbert nomination for more than two months.

Early in the hearings Silbert appeared before the committee to defend his handling of the prosecution of the original seven defendants indicted for the break-in of the Democratic National Committee headquarters in the Watergate.

After Silbert testified, most

Committee members were saying privately that his nomination would be approved.

However, Ervin contended that Silbert had enough evidence to connect the burglary with high officials at the White House and President Nixon's re-election committee and did not pursue those leads. At Ervin's request the committee continued the hearings to take testimony on the Justice Department's handling of the Watergate case.

Committee sources said they still aren't sure that the votes are there to defeat the Silbert nomination but stress that committee members do not feel they should do anything to influence the impeachment proceedings.