

# Silbert Limited Probe, Haldeman Said in '73

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Sen. John V. Tunney (D-Calif.), who opposes the confirmation of Earl J. Silbert as U.S. prosecutor for the District of Columbia, has released a small portion of a White House transcript from 1973 in which H. R. Haldeman told President Nixon that Silbert was limiting the Watergate investigation.

The released material was attacked by Silbert, who said it "has nothing to do with what former President Nixon and Haldeman thought about our investigation." Silbert cited other White House tapes in which he and his prosecutors are referred to as "bloodthirsty and zealots."

Haldeman's comment in the previously unreleased transcript of an April 26, 1973, conversation from the Oval Office is: "He (Silbert) was limiting the investigation." Tunney released the portion of the transcript last week.

Tunney's staff said he looks at the phrase as an example of what he has thought all along: Silbert was less than vigorous in his investigation of the original Watergate break-in and could have solved the Watergate crimes more quickly if he had pursued all possible leads from the start of the probe.

Several Silbert supporters — members of the special prosecutor's office as well as several lawyers who represented Watergate defendants — say the Haldeman comment is out of context in the portion of conversation released by Tunney.

These persons, several of whom say they have heard the entire conversation, say Haldeman's remark is a throwaway line spoken as he and Nixon clotted an explanation of why they waited 11 months after the break-in to appoint a special prosecutor.

The Senate Judiciary Committee has stalled for more than a year voting on Silbert's nomination to be confirmed as U.S. attorney here. Several committee members have wanted to investigate the original Watergate investigation as directed by Silbert. There has been criticism that the original Watergate probe did not aggressively pursue clues that

would have led to White House involvement in the break-in and the subsequent cover-up.

Tunney's office said he released the transcript of the portion of the conversation after repeated attempts to get a fuller copy of the remarks from the special prosecutor's office. "I don't know if they're being taken out of context or not," said one Tunney staffer.

The conversation released by Tunney is as follows:

Haldeman: Of course it may be hard to answer at some point, why didn't you bring in a special prosecutor into the White House . . .

President: Why didn't I.

President: I discussed it with people. They, uh, uh—Kleindienst the Attorney General Richard Kleindienst) of course suggested the special prosecutor (unintelligible) but I discussed it and, uh, did not bring in a special prosecutor because the prosecution team satisfied me that they were doing their job. Uh, it did take months for them to get, to know, to where—

Haldeman: Get at them.

President: Right. In other words, I had faith in the prosecution team. That is really . . . that is the reason, you know.

(One or two lines eliminated.)

President: Right. I considered the special prosecutor. I considered, you know, three judges, et cetera and so on. And, uh, I decided against it due to the fact that I satisfied myself that the so-and-so was doing the job, and, uh, of course on the, uh . . .

Haldeman: That's it—you prob . . . well, see how they are going to undermine that though, as by saying Silbert was covering up, earlier, earlier.

President: (unintelligible) He may have been.

Haldeman: He was limiting the investigation.

The transcript released by Tunney ends there. Persons who have had access to the complete conversation said yesterday there is no further mention of Silbert.

At least one person who has heard the tape said the conversation is ambiguous, and another person who has seen a transcript of the entire con-

versation said "it's confusing, to say the least."

Special Watergate Prosecutor Henry S. Ruth Jr. rejected a request by Tunney to release the full tape, saying he could not turn it over to Tunney because it was made available to the prosecutor's office under a subpoena and solely for use at the Watergate cover-up trial. The tape was not introduced there.

Tunney had also requested access to various other materials related to the original investigation of the June 17, 1972, break-in at Democratic National Committee headquarters in the Watergate and the subsequent cover-up attempt.

Watergate prosecutor's office spokesman John Barker said yesterday that the special prosecutor's office "has always maintained there were no improprieties in the original investigation."

When the special prosecutor's office was formed, prosecutors Silbert, Seymour Glazer and Donald Campbell worked with that office for nearly a month. Before Cox took office, they had negotiated a plea offer from former White House aide Jeb Stuart Magruder, had begun negotiations or a plea from former White House Counsel John W. Dean III, and had discovered and disclosed the existence of the break-in at the office of former Pentagon Papers co-defendant Daniel Ellsberg's psychiatrist, Dr. Lewis Fielding.

Tunney has claimed Silbert and the other prosecutors could have discovered the Ellsberg break-in before the original Watergate trial if they had vigorously pursued certain materials found in the safe of convicted Watergate coconspirator E. Howard Hunt.

Silbert released a statement yesterday saying "the only fair reading of the April 26, 1973, transcript is that former President Nixon was discussing with Haldeman what people would say concerning his not having appointed a special prosecutor.