

Senate Unit Asks Silbert For Diary

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Earl J. Silbert's personal diary detailing his role as prosecutor in the original Watergate break-in case was sought yesterday by the Senate Judiciary Committee in hearings on his nomination to become U.S. attorney for the District of Columbia.

Silbert told the committee that he would have to check

with Special Watergate Prosecutor Leon Jaworski before making any parts available to the committee.

In an exchange with Sen. Birch Bayh (D-Ind.), Silbert said that the special prosecutor's office had told him not to show the diary to anyone because it might jeopardize pending indictments and trials in progress.

Archibald Cox, the first special prosecutor, had laid down the prohibition, Silbert said, and he had complied with it.

Silbert's diary was started at the urging of his wife in August, 1972, shortly before indictments were returned against the original Watergate defendants. Silbert told the committee that he has referred to the diary on several occasions when he needed to brief himself on some specific inquiry, and that he would be happy to do so for the committee after clearing the matter with Jaworski.

Bayh was the only member of the 16-man Judiciary Committee to show up on the second day of the Silbert confirmation hearings, and he arrived at 4:30 p.m., 2½ hours past the scheduled starting time.

He then quickly launched into 40 minutes of sharp questioning that at one point brought Silbert close to anger. In again denying that he had done anything to delay the prosecutions or to cover up involvement of White House higher-ups, Silbert shook his finger at Bayh and said:

"The limit of our office's responsibility was the bugging and attempted burglary at the Watergate. We were trying to get it done as fast as possible. We ran up against a stone wall in trying to get the cooperation of Gordon Liddy, James McCord and Howard Hunt. We got turned down



EARL SILBERT
... hearing continues

stone cold.

"We couldn't get any insiders. Our strategy was to indict, convict and then immunize the conspirators so that we could reconvene the grand jury and get more information."

Silbert, who was assistant

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SILBERT, From B1

U.S. attorney at the time, disclosed under questioning that the Committee for the Re-election of the President (CRP) had demanded that its lawyers be present when the FBI questioned CRP employees.

Silbert said he had objected to this practice repeatedly, "but if the lawyers want to be there what are you going to do?" In several cases, employees of CRP met surreptitiously with the FBI to avoid the attorneys.

Bayh asked Silbert about testimony by former White House aide John W. Dean III to the effect that Dean had told the President in the fall of 1972 that the Justice Department had held off the indictments in the Watergate case as long as possible.

Silbert challenged the Dean statement by recalling that Assistant U.S. Attorney General Henry E. Petersen had told Silbert in August, 1972

that Attorney General Richard Kleindienst wanted the indictments no later than Sept. 1.

Silbert said he told Petersen that the indictments couldn't be handed down before Sept. 15. That was his only conversation with Petersen about the timing of the indictments, Silbert testified.

Hearings on the nomination came close to collapsing when, for the second day, only one senator showed up to question Silbert. On Tuesday Sen. Philip Hart (D-Mich.) alone had questioned Silbert for four hours and 20 minutes.

Convicted Watergate conspirator James W. McCord, who was to have opposed the nomination, was not present yesterday. And Bayh put off until next week hearing a statement from Robert S. Vance, president of the Association of Democratic State Chairmen. Vance had been waiting two days to testify.

Before returning to Birmingham, Ala., Vance told reporters that the "conduct of the investigation and prosecution of the Watergate case had facilitated the coverup."

"It would be inappropriate to promote the man who facilitated the coverup," Vance said.