

Diary of a Prosecutor

To the Editor:

Your May 29 Op-Ed page carried an apologia on behalf of Earl J. Silbert, now under Senate consideration for appointment as U.S. Attorney for the District of Columbia, which was written by Washington attorney Daniel A. Rezneck. Mr. Rezneck makes a very persuasive case for the adequacy and competence of Mr. Silbert's ante-Cox handling of the Watergate affair, but the ethics question, which is the lawyers' *bête noire* of Watergate, is, unhappily, soft-pedaled by Mr. Rezneck.

I refer specifically to the report in The Washington Post on Aug. 30, 1973, that Mr. Silbert had kept a diary of his activities in the Watergate case with the admitted purpose of publishing a book of his "memoirs" on the subject. This secret diary and the purpose for keeping it raised serious, and as yet unanswered, questions concerning Mr. Silbert's ethical conduct as a prosecutor in this matter. Not only would the publication of this diary have violated Federal regulations, but the mere keeping of it with the purpose of publication would have enmeshed Mr. Silbert in ethical violations in the nature of a conflict of interest between his duties as a prosecutor and his financial interests as an author and the personal aggrandizement to him from his position as a U.S. attorney. The A.B.A. Standards Relating to the Prosecution Function (1.2; 1.3) seem clearly to repudiate such conduct.

But, more importantly, Mr. Rezneck's failure to mention this matter in his attempt to judge Mr. Silbert "on his own record" is symptomatic of the enormous problem confronting the legal profession in the wake of so many lawyers' involvement in Watergate. No one would doubt the competence and ability of most of those lawyers. It was their unethical behavior which soured the stomach.

We must change our focus from a pre-eminent concern for insuring the competence of lawyers to one that gives equal time or better to their fitness to practice as persons of character and integrity. Mr. Rezneck's defense of Mr. Silbert is, in the main, a reaffirmation of the old order, where a new orientation is so desperately needed.

JAMES E. STARRS

Professor of Criminal Law
and Procedure
George Washington University
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