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**Nomination
Of Silbert
Held Unwise**

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Sen. Sam J. Ervin Jr. (D-N.C.) said yesterday he thought a Senate Judiciary Committee inquiry into the nomination of Earl J. Silbert to be U.S. attorney should be postponed until after an impeachment trial, or the nomination should be withdrawn.

"I think the President ought to have a better psychological attitude than to send down a nomination that would provoke an inquiry like this," said Ervin. "I think it would be better if he withdrew the nomination."

Silbert, who headed the original Justice Department investigation into the Watergate burglary, has been nominated as U.S. attorney for the District of Columbia. The Committee's inquiry into his suitability for the job is publicly examining the conduct of the Justice Department's investigation of the Watergate conspiracy.

When Assistant Attorney General Henry E. Peterson began testifying on his conversations with President Nixon about that investigation, Ervin said, "Maybe we ought to put off this hearing until we get the (impeachment) trial over."

I feel very awkward, responded Peterson, about testifying before the Senate Judiciary

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ary Committee "when I may end up being a witness at impeachment proceedings."

Petersen then asked Committee Chairman James O. Eastland (D-Miss.) for a ruling on whether the "conclusions and inferences" Petersen drew from those conversations should be explored by the Committee. But neither Eastland nor Ervin responded, and Ervin continued the questioning.

Criticizing what he termed the "perfect harmony" of pre-election Justice Department statements about the Watergate burglary, Ervin attacked the "categorical" denials of White House complicity by Silbert, Petersen, former Attorney General Richard G. Kleindienst and others.

Immediately after the Watergate break-in, said Ervin, Justice Department officials knew that the five Watergate burglars were paid by the Committee to Re-elect the President. They could "reasonably assume" he said, that the burglars, armed with cameras and electronic listening devices, sought political intelligence.

Then why, the senator, who heads the Senate Watergate committee, inquired repeatedly, were no indictments brought against the Committee to Re-elect the President?

The motives for the break-in, Petersen insisted staunchly, more than two years after the Watergate burglary, "have not been satisfactorily developed.

"There are still substantial outstanding questions about the whys and wherefores," Petersen told the Senate Committee. "I know Gordon Liddy (convicted former White House aide who directed the Watergate break-in). I still look at (him) and wonder how he could rationally do that thing."

In pointed questioning of Petersen and Kleindienst during three days of hearings this week, Ervin has implied that the Justice Department orchestrated the Watergate investigation and subsequent indictments to avoid discrediting the Nixon administration prior to the 1972 presidential elections.

At Tuesday's hearings, Petersen angrily shouted that Ervin's accusations were "unfair." Although dozens of persons lined up yesterday outside the Dirksen Office Building hearing room, apparently expecting further verbal fire-

works, only 35 seats were available for the public. The rest were reserved for Silbert's colleagues from the U.S. attorney's office and several assistants to Petersen.

Despite obvious indications of complicity on a higher level, said Ervin yesterday, Silbert told the original Watergate jury as late as Jan. 30, 1973, that Liddy was "the leader of the conspiracy, the money man, the boss."

Petersen dismissed Silbert's statement as "hyperbole . . . lawyers get carried away." The Justice Department intended all along to conduct but it could not publicly embarrass high officials on "inconclusive evidence."

Petersen acknowledged that despite obvious checks, Silbert's investigation of the Watergate burglary did not at first extend to the President's lawyer, Herbert W. Kalmbach, and dirty trickster Donald Segretti. But this was for efficiency's sake and not because of political considerations, he insisted.

Petersen said he had instructed Silbert to "keep your eye on the mark . . . we're not investigating the whole damn realm of politics."

Nor had the Justice Department sought an indictment against the Committee to Re-elect the President on illegal campaign contributions, said Petersen, because that statute "needs overhauling badly."

"We have 123 investigations (on illegal campaign contributions) under way now" in the Justice Department, he said, "but they'll probably result in a handful of prosecutions." Petersen said the law should be changed from a criminal to a civil violation because it would be easier to prove.

Petersen praised Silbert's conduct of the investigation and said he believed the Senate should confirm his nomination as U.S. attorney as quickly as possible. "I don't think he ought to be penalized simply because there's notoriety" in the Watergate case, he said.

Ervin disagreed. "I deeply regret that the President submitted this nomination," he said. A U.S. attorney, particularly in Washington, said Ervin should be "above reproach."

But the facts of the Watergate case, he said, have led "many people (to) doubt the validity of this investigation and prosecution."

Hearings will resume on Monday at 10:30 a.m. with further questioning of Petersen.