

Ervin Criticizes Nixon's Choice of Silbert

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Special to The New York Times

WASHINGTON, June 20—

Senator Sam J. Ervin Jr., Democrat of North Carolina, criticize President Nixon today for nominating Earl J. Silbert, a former Watergate case prosecutor, to be the United States Attorney for the District of Columbia.

Senator Ervin, chairman of the Senate Watergate committee, has used the Silbert nomination hearing as a forum to review, critically, the early handling of the Watergate scandals by the Justice Department.

"I think the President ought to have a better psychological attitude than to end down a nomination that would provoke an inquiry like this," Mr. Ervin said as a morning session of The Senate Judiciary Committee hearing ended.

Asked by a reporter if he thought the nomination should be withdrawn, he answered, "Yes." He added later that he thought it should be considered only after the impeachment proceedings were completed.

The hearing yesterday erupted into an agry scene, with shouts and pounding fists, as Henry E. Petersen, Assistant

Attorney General in charge of the Justice Department's criminal division, argued with the Senator.

The two men went back at it this morning, but without the shouting. Senator Ervin returned to his central theme that the prosecutors overlooked leads that might have broken the case earlier.

He suggested that the Committee for the Re-election of the President should have been made a defendant in the original Watergate burglary case.

He also noted what he called "perfect harmony" in the public statements issued by the prosecutors, the Attorney General, the White House and the re-election committee, that the burglary went no father than the seven men originally indicted.

Mr. Petersen replied that in a still-secret memorandum on the case, the team of prosecutors headed by Mr. Silbert stated that there would be further investigations after the first case was completed.

Senator Ervin questioned Mr. Petersen on why the Justice Department was apparently saying one thing publicly and another privately.

"You let the Department be

used for political purposes," Senator Ervin said.

"I don't think so," Mr. Petersen replied.

He said that it would have been improper for the prosecutors to bring up such information, that there was no evidence of a solid nature and that it was "conceivable" at the time that no one else was involved.

Mr. Petersen said he was still baffled today as to why men paid by the re-election committee broke into the Democratic headquarters to tap telephones and photograph documents.

"We tore our guts out in this investigation," he told Senator Ervin. "We used to joke, 'So we'll be fired but we'll do what we have to do.'"

Now, he said, the prosecutors are being criticized for what they considered at the time to be courageous action.

Mr. Petersen said all of them were convinced that they should bring the cases against the first seven and then use the pressure of prison sentences to see if the case developed further.

"It does not mean we were right, but we thought we were, Senator," he said.