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Nominees for U.S. Attorney:

Probe of Watergate Was Criticized

By Kenneth Bredemeier
Washington Post Staff Writer

Earl J. Silbert's nomination to be U.S. attorney for the District of Columbia, held in limbo for a year because of congressional criticism of his role in the original Watergate prosecution, now appears to have a good chance of winning the necessary Senate approval, several sources reported yesterday.

The change in Silbert's prospects for confirmation on Capitol Hill, according to these sources, stem from two factors:

- The retirement of one of his chief critics, Sen. Sam J. Ervin Jr. (D-N.C.), the Senate Watergate committee chairman, who, while still vehemently opposed to Silbert's confirmation, is now powerless to do anything about it.

- Further Watergate disclosures, since Silbert's nomination hearings last summer, tending to show that the Watergate cover-up was being directed by the highest White House officials, including President Nixon.

Thus, Silbert's inability to link high White House and Nixon re-election committee officials to the June, 1972, break-in at Democratic National Headquarters now is better understood.

"Time has helped rather than hurt Silbert," said one Democratic aide to the Senate Judiciary Committee, the panel that must first approve Silbert's nomination before the entire Senate can act. "It turned out we now know how much he was up against."

The aide also said that "no event which has occurred since the close of Silbert's nomination has done anything other than support his version of what he did." In addition, the source said, lawyers on the Watergate prosecution team have praised Silbert's handling of the Watergate probe in conversations with Judiciary Committee staff lawyers.

With Ervin's retirement, the most vocal—and only announced—Judiciary panel opponent is Sen. John V. Tunney (D-Calif.), who says Silbert's confirma-

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EARL J. SILBERT

... criticism fades

Silbert Seen Gaining Senate Approval

SILBERT, From E1

tion would be tantamount to approval of the government's initial handling of the Watergate case.

Tunney says that Silbert "mishandled the original Watergate investigation either because of political pressures or (because he) conducted the investigation in a less than competent manner."

But through an aide, Tunney conceded that while he had not taken a head count, Silbert's confirmation "looks pretty good."

An aide to Sen. Roman Hruska (R-Neb.), ranking GOP member of Judiciary and one who supports the Silbert nomination, also said Silbert apparently has the votes to win confirmation, in part because "the vocal opposition was Ervin."

The Committee chairman, Sen. James O. Eastland (D-Miss.), said he plans to vote for Silbert because "I think he's (been) a good prosecutor"

during the year he has been acting U.S. attorney.

Another key Judiciary member, Senate Minority Leader Hugh Scott (R-Pa.), also was reported leaning toward confirmation, while most other Committee members said they have not taken positions on Silbert.

Silbert first was nominated to the top federal prosecutor's job for the District last January by former President Nixon, but his appointment was never acted on by the Judiciary Committee pending resolution of impeachment proceedings against President Nixon. Even after Mr. Nixon's resignation, no action was taken and the nomination then automatically died during the congressional election recess.

President Ford asked that Silbert be confirmed in the lameduck session of the 93d Congress, but no action was taken. President Ford submitted the nomination a third time earlier this week because the White House said the President believed Silbert would be a "topnotch U.S. attorney."

During the summer hearings on Silbert, Ervin unsuccessfully tried to obtain Silbert's "prosecutorial statement," his theory on who was involved in the Watergate case beyond the original defendants. Witnesses said the statement would support Silbert's handling of the probe.

Watergate prosecutors refused then to turn the memorandum over to Ervin, and a spokesman for the Watergate prosecutor's office said yesterday he did not know whether it would be released in new hearings on Silbert's nomination.

Tunney said he would try to obtain the statement for the new hearings, which Committee Chairman Eastland said would be "pro forma." No hearing dates have been scheduled.

In a telephone interview, Ervin said he has not modified his views on Silbert, saying that "in the most favorable light, he did not follow up on the leads he should have."

Silbert declined to comment on his renomination.