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In this April, 1974, photo Silbert prepares to testify before Senate panel.

## WXPost AUG 2 1975 Senate Rebuffs White House, Returns Silbert's Nomination

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The White House was notified yesterday that Earl J. Silbert's controversial nomination to be U.S. attorney here, first submitted to the Senate 18 months ago, will be returned in 30 days with no action taken on it.

The notification came as the Senate adjourned until Sept. 3 under an agreement that all pending nominations will remain in force except those specifically designated to be sent back to the White House.

The only other nomination reportedly returned is that of Isabell Burgess as a member of the National Transportation Safety Board.

It would still be possible for the President to resubmit the nomination of Silbert, whose role as prosecutor in the original Water-

gate controversy investigation has made him a center of controversy.

However, Sen. John V. Tunney (D-Calif.), a principal opponent of Silbert's confirmation, who requested that the nomination be returned, expressed the hope that it would not be resubmitted.

According to Tunney, a letter from Sen. Mike Mansfield (D-Mont.), the Democratic majority leader, giving notice of the impending return of the nomination, was sent to the White House at 6 o'clock last night.

A White House press spokesman said he knew nothing of the letter and offered no comment. Silbert also said he had not heard of the notice and declined to comment.

Silbert originally was appointed to the U.S. attorney's post, in which he serves as the District's chief

prosecutor, by judges of the U.S. District Court on Jan. 2, 1974.

Such an appointment does not technically require Senate confirmation as do presidential appointments. Hence, even if the nomination was returned and not resubmitted, Silbert could remain in office until he chose to resign or until the President named a successor who was confirmed.

Silbert, a 1960 graduate of Harvard Law School and a member of the prosecutor's office here since 1964, was appointed U.S. attorney by President Nixon on Jan. 29, 1974.

The nomination subsequently expired without Senate action and was twice resubmitted by President Ford.

The long delay by the Senate Judiciary Committee in acting on the nomination

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### SILBERT, From E1

came against a background of criticism that Silbert's original Watergate probe did not aggressively pursue clues that would have led to White House involvement in the break-in and subsequent cover-up.

Recently, Tunney released a small portion of a 1973 White House transcript in which presidential aide H. R. Haldeman told Mr. Nixon that Silbert was limiting the Watergate investigation.

Silbert attacked the released material, asserting that it had "nothing to do with" what Mr. Nixon or his former chief of staff thought about Silbert's investigation.

Silbert cited other tapes in which he and his team were referred to as "bloodthirsty and zealots."

In addition, a spokesman for the Watergate special prosecutor's office said the office "has always maintained there were no improprieties in the original investigation."

Senate rules normally require that all nominations be returned if the Senate recesses for 30 days or more. The rule was waived for the

current recess with the agreement that Senate leaders could invoke the rule at any senator's request.

Tunney and Sen. James Abourezk (D-S.D.) objected to Silbert in a letter to Mansfield that was forwarded last night to the White House, Tunney said.

Citing the appointment of new leadership at the Justice Department since the nomination was last submitted, Tunney said, "They ought to have an opportunity to look at the record."

Asserting that Silbert would face a "tough fight" in seeking confirmation, Tunney said that the recently released section f tape and their criticisms made of Silbert "might lead the Justice Department to believe it might be best to ask Silbert to withdraw."

Under Senate procedure, the office of the secretary of the Senate would return the nomination to the White House 30 days after the recess.

The source and nature of the reported objection to the National Transportation Safety Board nominee could not be immediately learned last night.