

Who is Laurence Silberman?

The right-wing political career of judge in Secret Service decision

Martin McLaughlin
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The judge who declared that Clinton was 'at war with the US government' is a long-time political operative in the right-wing of the Republican Party. In 1980 Silberman served as a Reagan campaign aide carrying out some of the most delicate and politically sensitive assignments. He was dubbed the Reagan-Bush campaign's 'ambassador to Iran' for his behind-the-scenes contacts with the Khomeini regime.

The Republican campaign was seeking to determine whether Khomeini intended to release any American hostages, held in the US embassy in Tehran, before the election. By some accounts, Reagan and Bush sought to forestall any such 'October surprise,' which would presumably have aided the Democratic incumbent Jimmy Carter, and Silberman conveyed their sentiments to the Iranians.

Silberman's reward was a nomination to the Court of Appeals for Washington DC, the most political and powerful circuit court because it handles most cases involving the federal government. His most important decision on the Court of Appeals came in the case of Lt. Col. Oliver North, the principal figure in the Iran-Contra affair. Silberman and fellow justice David Sentelle, a former aide to arch-right-wing Republican Senator Jesse Helms, voided the convictions of both North and Admiral John Poindexter in 1990. Their intervention played a key role in sabotaging the investigation by Iran-Contra special prosecutor Lawrence Walsh.

Silberman's close ally Sentelle was largely responsible for the 1994 decision to remove Whitewater prosecutor Robert Fiske and replace him with the more conservative and highly partisan Republican Kenneth Starr as Independent Counsel. Sentelle chaired the three judge panel which removed Fiske and appointed Starr in his place. The other two

members of the panel were retired judges who normally follow the direction of chairman. When Silberman declares that Starr alone represents the US government, he is silent on how the right-wing judge--a former colleague of Silberman's on the Circuit Court bench--came to be chosen.

It is important, given Silberman's fervent defense of the powers of Starr today, to contrast his position ten years ago on Lawrence Walsh. Unlike Starr, the Iran-Contra prosecutor was investigating real White House crimes: an illegal war against Nicaragua in which tens of thousands died, illegal arms shipments to Iran, and the establishment of a secret and unaccountable paramilitary force to conduct military and intelligence operations, behind the backs of Congress and the American people.

The Iran-Contra investigation was being blocked by the Bush administration, which refused to permit classified CIA documents to be turned over to North and other defendants, citing 'national security.' This was a transparent maneuver to hamstring the prosecution, in which the White House encouraged North, Poindexter & Co. to seek the documents and then instructed the CIA to refuse them, in order to create an appealable issue.

As Walsh pointed out later, in his book on the Iran-Contra coverup, the judiciary itself played a key political role. He wrote: 'a powerful band of Republican appointees waited like the strategic reserves of an embattled army. The final evaluation of the immunity Congress had granted Oliver North and John Poindexter would be the work of yet another political force--a force cloaked in the black robes of those dedicated to defining and preserving the rule of law. Although the judiciary is theroretically a neutral arm of government and judges are expected to eschew partisan

politics, the underlying political nature of all government institutions was evident when a three-judge panel from the United States Court of Appeals for the District of Columbia Circuit reviewed Oliver North's conviction in 1990.'

Silberman and Sentelle required the Independent Counsel to prove that neither the prosecutors nor any of the witnesses had been affected by the testimony given by North and Poindexter during weeks of nationally televised congressional hearings. This impossible requirement--essentially the proof of a negative--was the basis for dismissing the convictions of the two military officers who directed the illegal arms trafficking operation.

Silberman's cynical reversal of position--from condemning the Independent Counsel in Iran-Contra to demanding unquestioned obedience to the dictates of Kenneth Starr--demonstrates the essentially political nature of the struggle which is now taking place in Washington.

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