

Bernard Fensterwald, Lawyer For Watergate Burglar, Dies

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By J.Y. Smith
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Bernard Fensterwald, 69, a lawyer who directed some highly publicized Senate investigations and later represented James McCord, the Watergate burglar who told a federal judge about the Nixon White House ties to the break-in and wiretapping, died of a heart attack April 2 at Alexandria Hospital.

Mr. Fensterwald, who was stricken at his home in Alexandria, had been in the private practice of law since 1969. He was a senior partner in the firm of Fensterwald & Alcorn, which has offices in Vienna and Arlington.

The son of a prominent family in Nashville, Mr. Fensterwald often attracted controversy. It was suggested from time to time that he had worked for the CIA, and he seemed to relish the air of mystery that this created. He would answer queries about it with vague statements to the effect that there was "no evidence" that he was connected to the agency.

In 1970, he took over the defense of James Earl Ray, the convicted assassin of the Rev. Martin Luther King Jr., and handled his appeals.

A close student of the assassinations of President John F. Kennedy and Robert F. Kennedy, he was an outspoken critic of the Warren Commission's conclusion that there had been no conspiracy in President Kennedy's death. He formed a private Committee to Investigate Assassinations, and at his death he was president of the Assassination Archives and Research Center. The center is a privately funded nonprofit organization in Washington that collects material on the King and Kennedy assassinations.

From 1959 to 1968, Mr. Fensterwald held high staff posts on Senate subcommittees on constitutional amendments, antitrust and monopoly and administrative practice and procedure. He directed investigations of price-fixing, the drug industry and finally of allegedly illegal wiretapping of James R. Hoffa, the president of the Teamsters Union.

Despite aggressive examination by Mr. Fensterwald, the Hoffa probe failed to prove wiretapping had been used illegally. But it led to new laws restricting electronic surveillance.

It also helped end the political career of Sen. Edward V. Long (D-Mo.), who chaired the committee for which Mr. Fensterwald worked. It was revealed that the senator had split legal fees with one of Hoffa's lawyers, and he failed in his bid for reelection in 1968.

In 1973, Mr. Fensterwald took on the defense of James McCord, the former security chief of President Nixon's 1972 reelection campaign and one of the five persons arrested in the burglary at the Watergate office building in June of that year.

Having been convicted of the break-in, McCord wrote a famous letter to U.S. District Judge John J. Sirica in which he told how White House and campaign officials had advance notice of the burglary and then sought to cover up their roles in it. The letter gave new impetus to efforts to find high-level officials responsible for it and eventually led to Nixon's resignation.

Mr. Fensterwald was a graduate of Harvard University and its law school and received a master's degree in international law from the School for Advanced International Studies of Johns Hopkins University. He served in the Navy in the South Pacific in World War II.

He was in Washington briefly after the war and moved here permanently in 1950, when he was named assistant to the legal adviser at the State Department. In 1956, he resigned to work for Sen. Estes Kefauver (D-Tenn.) in his campaign as the Democratic nominee for vice president.

In addition to his law practice, Mr. Fensterwald was the founder and president of U-Store Inc. and Records Management Inc., which are private warehouse and record storage companies in the Washington area.

He was a member of the Alexandria Y and in helped found its Y's Men. He also was a member of the Historic Alexandria Resource Commission and the Army Navy Country Club.

His marriage to Elizabeth Fensterwald ended in divorce.

Survivors include his wife, Patricia Fensterwald of Alexandria; one son by his first marriage, Bernard Fensterwald III of Reston; three stepchildren, Patrick Marlette of Sacramento, Calif., David Marlette of Falls Church and Margaret Alice Cox of Taipei, Taiwan; a sister, Ann Eisenstein of Nashville, and six grandchildren.