

Shift by McCord Is Linked to Advice of Former Counsel to Senate Inquiries

By CHRISTOPHER LYDON

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WASHINGTON, March 27.— Bernard Fensterwald, a maverick lawyer and periodic battler against the secret machinery of Federal law enforcement, began advising James W. McCord Jr. about three weeks ago and apparently provided the tinder that has touched off the new explosion of Watergate charges.

It was in Mr. Fensterwald's plush offices here over the weekend that McCord, the convicted former security chief of the Nixon re-election campaign, told Senate investigators that high White House and campaign officials had advance knowledge of the Watergate bugging.

In brief interviews yesterday and today, Mr. Fensterwald said he had only been sitting in for Gerald Alch, McCord's court counsel, who was out of town.

But Mr. Alch's partners in the Boston firm headed by F. Lee Bailey said today that Mr. Fensterwald had entered the case without their knowledge or invitation and that they had been "completely surprised" by the sudden shift in McCord's behavior in the five days since Mr. Fensterwald got involved. Mr. Bailey remarked this afternoon, "We didn't know Fensterwald was in the case until we read it in the papers."

Aided Senate Inquiries

Mr. Fensterwald, 52 years old, is an independently wealthy son of a clothing merchant in Nashville. He established an intensely controversial reputation more than a decade ago as a counsel to a number of Senate inquiries — first into price fixing, later into the drug industry and finally into wiretapping by Government investigators.

The last set of hearings — "the ones that did us all in," he has said — sought to establish that the Government used illegal wiretaps to collect evidence against James R. Hoffa, the teamsters' union president, among others.

The hearings led to new legislation restricting electronic surveillance, but they also prompted disclosures that the late Senator Edward V. Long of Missouri, chairman of the subcommittee for which Mr. Fensterwald worked, had split legal fees with one of Hoffa's lawyers. The disclosures helped defeat Senator Long in 1968 and hastened the end of Mr. Fensterwald's government service.

In recent years Mr. Fensterwald former and directed the Committee to Investigate Assassinations, specially those

of John F. and Robert F. Kennedy and the Rev. Dr. Martin Luther King Jr. For the last year Mr. Fensterwald has been counsel of record for James Earl Ray, the convicted killer of Dr. King, and he is currently representing Ray in a habeas corpus proceeding to free him from jail in Tennessee.

Mr. Fensterwald explained today that he had been following the Watergate case for months. He first became directly involved, he said, in January, after McCord was convicted for burglary, unretapping and conspiracy and Judge John J. Sirica set McCord's bail at \$100,000.

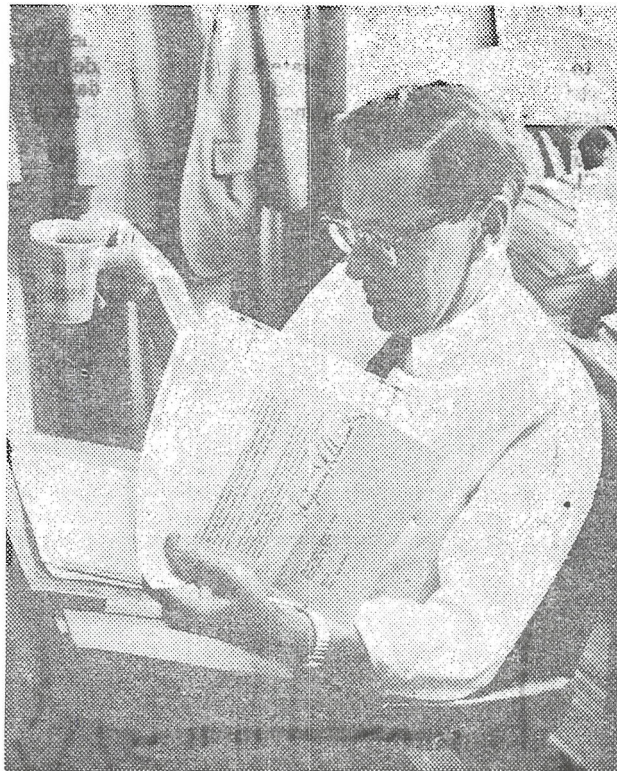
"I got into the case originally at the request of one of Mr. McCord's friends who thought I could assist McCord and Gerry Alch in getting bail reduced," he said.

Those efforts were unavailing, but Mr. Fensterwald said he then helped raise the cash that freed McCord on March 7. According to governmental sources, McCord and his family put together \$60,000 on their own and Mr. Fensterwald put up the \$40,000 remainder.

Mr. Fensterwald would not confirm those figures or that he contributed his own money.

"I did assist in raising the ball," he said, but he added, "There were a number of people involved. He's got friends in places you wouldn't suspect."

Mr. Fensterwald said he first met McCord when McCord walked out of the District of Columbia jail on March 7. But Mr. Fensterwald said he had never discussed the letter that McCord sent to Judge Sirica. Jyn tonBEya last week, charging political



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Bernard Fensterwald at work in Washington

pressure and perjury in the Watergate trial and reopening the search for high-level managers of the raid on Democratic headquarters here last June.

Mr. Fensterwald said he went to court last Friday morning to observe the sentencing. When Judge Sirica read the letter from McCord, Mr. Fensterwald said, "I was just as surprised as Gerry Alch and everybody else in the courtroom."

Shortly thereafter, in or near the courthouse, Mr. Fensterwald says McCord asked him to help in the approach to investigators from the special Senate committee examining the Watergate affair.

Mr. Fensterwald insists he was repeatedly in touch with Mr. Alch on the case, but he acknowledged today that unless McCord told Mr. Alch of the plan to talk with the Senate investigators, Mr. Alch would not have known about it.

Mr. Alch has a vivid recollection of talking with McCord outside the courthouse early Friday afternoon. As Mr. Alch

prepared to leave for a weekend in Florida, he says he arranged to represent McCord before Judge Sirica again the following Thursday and bade his client farewell.

But Mr. Alch evidently had no warning that in the meantime that McCord would name John W. Dean 3d, counsel to President Nixon, and Jeb Stuart Magruder, deputy director of the Nixon campaign, in tape-recorded interviews with lawyers for the Senate Watergate committee.

Mr. Fensterwald said today that there was no deep mystery or grand strategy in his advice to McCord. He wants simply, he said, to help his new client respond to Judge Sirica's admonition that all the Watergate defendants help the Senate and a new grand jury get to the bottom of the case—presumably in hope of getting their sentences reduced.

Mr. Fensterwald said he had urged McCord "to take the judge's words to heart." But he says it was McCord's idea, not his own, to tell his story to the Senate investigators.