

Cover-Up Trial Focuses On Tapes' Admissibility

By George Lardner Jr.
Washington Post Staff Writer

The Watergate cover-up trial turned its stage over to bit players yesterday with testimony about tapes, transcripts and technicalities.

The big witness of the day was former White House aide Alexander P. Butterfield, the man who revealed the existence of the secret White House taping system that finally tumbled President Nixon from office.

Watergate prosecutors called him to the stand as they began the tedious process of laying the groundwork for the introduction of 26 Watergate recordings that lie at the heart of the alleged cover-up conspiracy.

Chief trial prosecutor James F. Neal said he expects the trial to return to "what this case is all about" next week.

Meanwhile, he forecasts a procession of Secret Service agents, White House archivists, grand jury stenographers and similar witnesses to get past the fine points of law

involved in the cover-up indictments.

At one point, the jurors were almost granted a holiday from much of what Neal described as "the boring stuff," but U.S. District Court Judge John J. Sirica ruled against the idea when defense lawyers said they might insist on a replay with the jury present.

"We're not going to do it twice," the judge said firmly. "That's a waste of time."

The key question before the court is the admissibility of 26 taped conversations involving the former President that Watergate prosecutors want to introduce without calling any of the participants in the meetings to the witness stand.

Butterfield, who now heads the Federal Aviation Administration, was offered instead as an expert witness who can and has singled out every voice on the tapes. According to the prosecution, he even changed one transcript that had Mr. Nixon coughing to a "cough"



H. R. (BOB) HALDEMAN
... disputes transcript

by former White House chief of staff H. R. (Bob) Haldeman.

Haldeman's lawyers protested that this was an improper way to introduce tape recordings, especially ones that might have been spliced, altered or erased.

Sirica, however, handed the prosecutors a preliminary victory by calling for the so-

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called "foundation testimony" first and announcing that he would then rule on the admissibility of the tapes.

Even supposing that some of them were erased, Assistant Watergate Special Prosecutor Richard Ben-Veniste argued that the tapes were still valid evidence.

Whatever may have been eliminated from the tapes, he argued, would surely not help the defendants and whatever might have been added to the recordings would surely not harm them.

"Watergate is a most novel, unique and unusual case," Ben-Veniste declared. In the case of the tapes, he said with the jurors out of the room, it simply shows that "alleged conspirators sometimes bug themselves."

Alluding to one contested tape recording at the outset of yesterday's session, Sirica gave Haldeman's lawyers little comfort on what it contained.

The prosecution's transcript had the former White House chief of staff using the word "Gemstone," the secret code word for the espionage that included the Watergate break-in, in a conversation with Mr. Nixon on June 23, 1972, just six days after the bugging was discovered at Democratic National Headquarters here.

Haldeman's chief counsel, John J. Wilson, had contended that his clients actually used the word, "convention" or something like that—anything but "Gemstone."

Sirica said he and his law clerk listened to the tape over the weekend.

"I couldn't come up with a word like 'convention' or anything like that," he informed Wilson yesterday morning. "I get 'Gemstone'."

The judge said it would be up to the jury to decide what was said in any event.

The rest of yesterday's session dealt largely with ancil-



Associated Press

Jeb Stuart Magruder is shown leaving court after finishing his 5 days of testimony Monday.

lary charges in the cover-up indictment, such as allegations that former Attorney General John N. Mitchell and former White House aide John D. Ehrlichman lied to the FBI during the original Watergate investigation. The three FBI agents who interviewed them

were called to the stand in quick succession.

The Watergate grand jury accused both Mitchell and Ehrlichman of lying in claiming to the FBI men that they had no knowledge of the Watergate break-in on June 17, 1972, beyond what they

had read "in newspaper accounts of that incident." The charges carry a maximum penalty of 5 years in prison and a \$10,000 fine—which is even stiffer than sentences carried by the key conspiracy counts against all five years in prison and a \$5,000 fine.