

President Taped Lawyer Ties Ehrlich

DAY, JULY 17, 1973

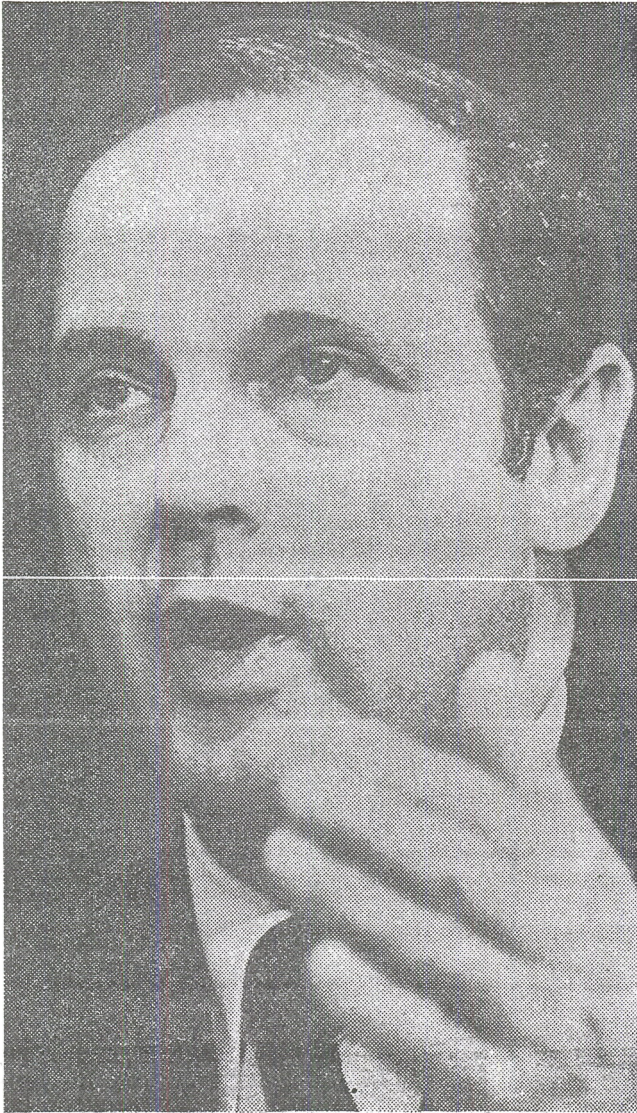
Phone 223-6000

Classified 223-6200
Circulation 223-6100

15c Beyond Washington,
Maryland and Virginia

10c

Talks, Phone Calls; man to Payments



By James K. W. Atherton—The Washington Post

Alexander Butterfield: Taping of conversations was 'to record things for posterity, for the Nixon library.'

Principal Offices Secretly Bugged Since Spring, 1971

By Lawrence Meyer 7/17/73
Washington Post Staff Writer

President Nixon has been routinely taping all his conversations and meetings in the Oval Office and cabinet room of the White House, in his Executive Office Building office and on four of his personal telephones, former White House aide Alexander P. Butterfield told the Senate select Watergate committee yesterday.

Butterfield, now the Federal Aviation Agency administrator, said the tape recording began in the spring of 1971 and was intended "to record things for posterity, for the Nixon library." Most participants in conversations with the President have not known they were being taped, Butterfield said, because only a few members of the White House inner circle were told about the several hidden recording devices.

Butterfield's testimony, acknowledged to be correct by the White House, indicates that the White House may have in its possession the means to prove that President Nixon knew nothing about the cover-up of the Watergate affair until March 21, 1973, as he has maintained, or that former White House counsel John W. Dean III was correct in testifying that President Nixon knew about the cover-up well before March 21.

Samuel Dash, chief counsel of the Senate committee, said yesterday that the committee will request White House tapes for specific dates. Dash said there should be "no obstacle to giving us the actual recordings . . . It's late in the day for anybody to raise withholding that information."

Deputy White House press secretary Gerald L. Warren declined to comment yesterday when asked if the White House would make the tapes available to the Senate committee.

Sources inside the White House said, however, that the

President was expected to stand by his most recent statement, a letter to committee chairman Sam J. Ervin Jr. (D-N.C.) saying that Mr. Nixon would neither testify before the committee nor release presidential papers to it. The sources included the tapes and any transcripts of the tapes as falling within the category of presidential papers.

Since July 7, the committee has been searching for a means to obtain information from President Nixon about the Watergate affair. Before his hospitalization on July 12, Mr. Nixon had agreed to meet with Ervin, who has repeatedly said that only the President and presidential papers involving Dean could show finally whether Dean's testimony about the President was correct.

Special Watergate prosecutor Archibald Cox also declined to comment yesterday on whether his office will seek any or all of the taped White House conversations. However, it is expected that he also will ask for tapes of conversations between Mr. Nixon and Dean, and for certain other tapes, including one of a talk that Dean said

former domestic adviser John D. Ehrlichman had with the President concerning executive clemency for convicted Watergate conspirator E. Howard Hunt.

According to Butterfield's testimony yesterday, all conversations were automatically taped in the White House Oval office where the President customarily receives official visitors ranging from personal friends and American business, political and labor leaders to foreign dignitaries.

Butterfield said Mr. Nixon's Executive Office Building office also is wired so that the sound of a voice automatically activates a recorder. President Nixon is said to enjoy the solitude of the Executive Office Building office but he has staff meetings there occasionally as well as in the White House Oval Office.

See HEARING, A17, Col. 1

HEARING, From A1

Butterfield said that meetings attended by the President in the cabinet room in the west wing of the White House also were taped by a manually operated recorder.

Four telephones—in the Oval Office, the Executive Office Building office, the Lincoln sitting room in the residential quarters of the White House and on President Nixon's desk in his study in Aspen cabin at Camp David—also are wired to tape all conversations held in them.

Butterfield said that he believed that when foreign dignitaries used Aspen Cabin, "the device was removed prior to occupancy."

Asked to explain why the extensive recording apparatus was installed, Butterfield said: "There was no doubt in my mind they were installed to record things for posterity, for the Nixon library. The President was very conscious of that kind of thing. We had quite an elaborate set-up at the White House for the collection and preservation of documents, and of things which transpired in the way of business of state."

Butterfield's testimony about the elaborate, secret taping system employed by President Nixon provided an ironic twist to the Watergate hearings, which were themselves precipitated by a bugging incident.

Previous witnesses at the hearings have described how White House aides, less elaborately than President Nixon and on their own, taped conversations either in their offices or on their telephones. White House aides Charles W. Colson, Dean, John D. Ehrlichman and H. R. Haldeman all have been mentioned in testimony as having taped conversations without informing the person to whom they were speaking that a recording was being made.

Butterfield testified before Herbert W. Kalmbach, Mr. Nixon's personal attorney, and after special White House counsel Richard A. Moore yesterday. Moore, who testified for a total of

2½ days, was pressed yesterday to explain why President Nixon failed to inform any law enforcement agency about violations of law after being informed of them by Dean.

Despite being read notes from official White House logs indicating that on March 13, 17 and 21 Dean told President Nixon about possibly illegal acts that had been committed, Moore asserted that "there is nothing here that I can find on which to predicate a question to the television audience that the President knew of criminal activity that he did not report. I do not find it here."

Moore's testimony, under questioning by Sen. Joseph M. Montoya (D-N.M.) and assistant chief counsel Terry Lenzner, illustrated apparent gaps in the version of events put out by the White House concerning President Nixon's knowledge of the cover-up and steps he took to disclose it publicly.

Lenzner, as Ervin has previously in questioning witnesses used Moore's testimony to demonstrate the necessity of President Nixon providing some means of

clearing up the contradiction between Dean—who says President Nixon had known of the cover-up since Sept. 15, 1972—and the President himself, who denies knowledge of the cover-up before last March.

Butterfield, following Moore provided the committee with a potential solution to the impasse.

Butterfield was first interviewed by the committee staff Friday afternoon in what was described as a "routine" session. At one point in the interview Dash told reporters Butterfield was asked if he knew whether an April 15 meeting between Dean and Mr. Nixon in the Executive Office Building office was taped as Dean had testified he suspected. Dash said that Butterfield answered, "Yes, it's possible and this is the reason."

Dash said Butterfield then described the recording apparatus installed by the Secret Service at the request of President Nixon

through White House chief of staff H. R. (Bob) Haldeman. Ironically, Butterfield testified that Dean was one of the many White House staff members who was never informed of the President's recording devices.

Butterfield testified initially that the system had been installed in the spring or summer of 1970 but corrected his testimony to say it was the spring of 1971 after Ervin read a letter from special counsel to the President J. Fred Buzhardt dating the system's first use by the President to 1971.

According to Butterfield, part of the recording system is linked to an electronic "locator" device run by security personnel, that shows President Nixon's whereabouts in the White House by lights for each of seven locations. Butterfield said that whenever Mr. Nixon is in the Oval Office or in his Executive Office Building office, and the light for that location is flashed, it automatically turns on tape recorders that begin taping when a person's voice is heard. Butterfield said the recorders "picked up all conversations or all noise" in the Oval Office and the Executive Office Building office.

The device in the cabinet room, which Butterfield said is manually activated by buttons in that room and another office, did not work as well. The conversations that Dean has testified he had with Mr. Nixon occurred in the Oval Office and in the Executive Office Building office.

The telephone tapes, Butterfield said, are activated simply by picking up the phone to make or receive a call. Dash said under recent Supreme Court rulings, which permit taping of conversations if there is "one party consent," no law is violated by the taping of conversations on the phone or in the various offices so long as President Nixon is aware of the recordings.

Butterfield said he was describing the system in order to be truthful in his testimony but that he was reluctant to discuss the matter. "It is very obvious that this could be—I cannot say that any longer—is embarrassing to our government," Butterfield said. "And also because I felt it could be something the President

would like to present at a later time in defense of his own position."

Dash said after yesterday's sessions that Halde- man and White House aide Lawrence Higby also had been asked by the Senate Committee about taping of conversations in the White House. Dash indicated, how- ever, that Butterfield's testi- mony was the first acknowl- edgement that such tapings took place.

Whether the tapes, which Butterfield said are main- tained by date by the White House, fall under the doc- trine of executive privilege described by President Nixon is an unanswered question.

In his May 22 statement, President Nixon said, "Executive privilege will not be invoked as to any testi- mony concerning possible criminal conduct or discus- sions of possible criminal conduct, in the matters pres- ently under investigation, including the Watergate af- fair and the alleged cover- up." It was under this inter- pretation that Dean testified before the Senate commit- tee about his conversations with the President.

President Nixon's state- ment of July 7, however, denied the committee ac- cess to presidential papers.

Ervin on July 11, while questioning former Attor- ney General John N. Mite- hell, gave his own definition of executive privilege: "I think a President is entitled to have kept secret confi- dential communications had between him and an aide or had among his aides which were had for the purpose of assisting the President to perform in a lawful manner one of his constitutional or legal duties."

Ervin continued, "And I think also that is the full scope and effect of execu- tive privilege. Since ... there is nothing in the Con- stitution requiring the Presi- dent to run for re-election, I don't think that executive privilege covers any politi- cal activities whatsoever. They are not official and have no relation to his of-

fice.

"I also take the position that executive privilege does not entitle a President to have kept secret informa- tion concerning criminal activities of his aides or any- body else because there is nothing in the Constitution that authorizes or makes it the official duty of a Presi- dent to have anything to do with criminal activities," Er- vin said.

Dash said following yes- terday's hearing that the committee would consider a request to the White House for tapes of specific dates mentioned in testimony when it meets in executive session Wednesday.

Reliable government sources said yesterday that Alfred Wong the former head of the technical ser- vices division for the Secret Service at the White House was in charge of installing the listening devices. Wong had recommended James W. McCord Jr., who was later convicted in the Watergate case, for McCord's position as head of security at the President's re-election com- mittee.

Secret Service agents Louis B. Sims and Ray mond C. Zumwalt, both presently assigned to the technical services division at the White House, were in charge of maintaining the

elaborate eavesdropping op- eration at the White House and changing the tapes, ac- cording to the sources.

There was some question yesterday whether the White House would let the agents testify before the Senate Watergate commit- tee, the sources said.

Moore, who preceded But- terfield at the witness table and who holds the title of special counsel to the Presi- dent, has testified that it is his "firm conviction" that President Nixon was not aware of the cover-up until March 21.

Moore on Friday re-

counted a conversation with President Nixon on April 19 in which Mr. Nixon acknowl- edged that Dean had told him about the Watergate cover-up on March 21, in- cluding the demands of Watergate conspirator E.

Howard Hunt Jr. for cash payments to remain silent about his involvement in the break-in at the offices of Daniel Ellsberg's psychia- trist.

Under questioning by as- sistant chief committee counsel Lenzner, who read from White House log sum- maries made by minority counsel Fred Thompson that were verified by the White House to be accurate, Moore consistently resisted ac- knowledging that the log summaries accurately re- flected conversations held by President Nixon.

Moore, under questioning by Lenzner, agreed that he had concluded on March 20 that "the President could not be aware of the things that Mr. Dean was worried about." Dean's concerns, ac- cording to Moore, included the cover-up and the in- creasing possibility that it would be unraveled pub- licly.

"Mr. Moore," Lenzner asked, "do you agree now that your understanding of the President's information and knowledge was basic- ally incorrect? That he did, in fact, have information at that meeting . . . on March 20 concerning Mr. Strachan (Gordon Strachan, an aide to Haldeman) and also pos- sible involvement in Water- gate and also involving the Ellsberg break-in? . . ."

"You have heard my state- ment on that, of course, that he (Nixon) did not, that it was my judgment that he did not," Moore replied. "I know of nothing to change that."

Lenzner then read Moore a portion of the White House log summaries stating that Dean had told President

Nixon "Strachan could be involved" on March 13 and that on March 17 "Dean told the President of the Ellsberg break-in but that it had nothing to do with the Watergate."

Does not that information, Lenzner asked Moore, "indi- cate that in fact your per- ception was wrong and Mr. Nixon, the President, did know about both Strachan's possible involvement and the Ellsberg break-in?"

"It seems to me," Moore replied, "the answer to that

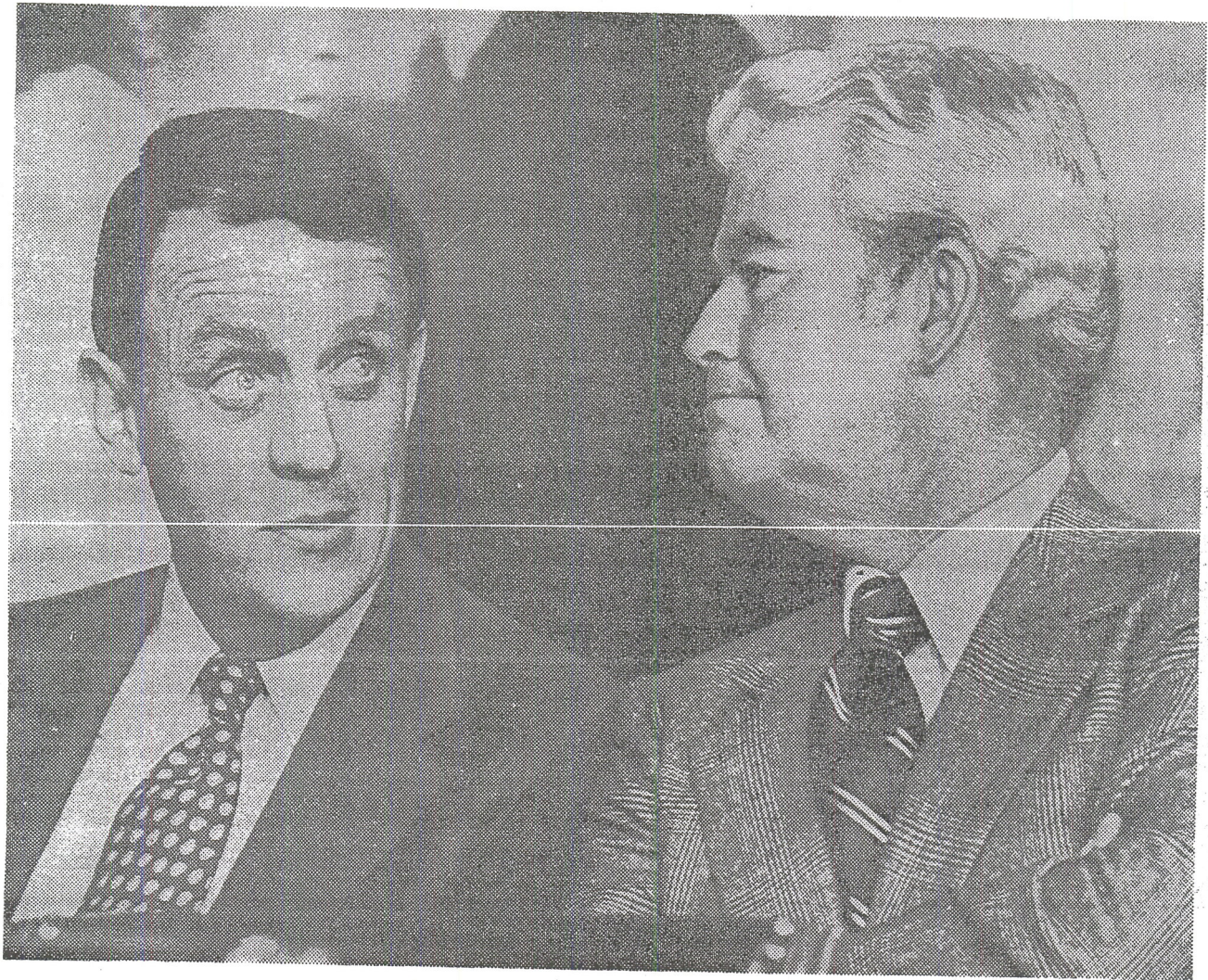


By James K. W. Atherton—The Washington Post

Alexander Butterfield drops hand on the shoulder of Herbert Kalmbach as he leaves the hearing room.

question can only be given to you by someone who was at the meeting and when you speak of the White House report, and you use the word White House as a building rather loosely, anything done in the White House is done by a person, and when you speak of this as a White House report, Mr. Thompson very candidly and properly has said this is his summary of a telephone conversation . . . All I know is what I saw and heard . . . It doesn't change my opinion one bit and I think if you want to get at that, you should ask someone who was at the meeting."

The hearings will resume at 10 a.m. today with Kalmbach continuing his testimony.



By Frank Johnston—The Washington Post

Herbert Kalmbach (left) confers with his attorney, James H. O'Conner, before testifying yesterday.