

Watergate Figure Calls 'Bugs' Legal

1/17/73

By Lawrence Meyer

Washington Post Staff Writer

James W. McCord Jr., one of the two remaining defendants in the Watergate trial, will try to argue that he had a legal reason to bug Democratic Party headquarters because he was trying to protect Republican officials from possible danger, McCord's lawyer said yesterday.

Explaining the "relatively unused theory" of the "law of duress," attorney Gerald Alch said, "If one is under reasonable apprehension, regardless of whether he is in fact correct, he is justified in breaking a law to avoid the greater harm — in this case violence directed at Republican officials up to and including the President."

In court papers filed before the trial began, the prosecution dealt with such an argument, asserting that "an allegedly 'good' motive" is never by itself a defense for a crime.

Alch's statement to reporters was one of series of developments on the seventh day of the trial before chief U.S. District Judge John J. Sirica.

Sirica said he had listened to tapes of a newspaper interview with Alfred C. Baldwin III, a key prosecution witness, and had heard "one or two names mentioned." Sirica said he was referring the matter to the prosecution "for whatever action they may think appropriate."

• The prosecution said that Baldwin, who has said he monitored telephone conversations in the Democratic headquarters from a hotel across the street, will be called to testify today.

• A metropolitan policeman gave the first public account. See WATERGATE, A6, Col. 1

WATERGATE, From A1

of how he, and two other officers searched the Democratic National Committee's offices in the Watergate on June 17 and arrested five men, including McCord, inside, with one of them saying, "Keep your cool, you got us."

McCord and G. Gordon Liddy, both former officials of the Committee for the Re-election of the President, are being tried on charges of conspiracy, burglary and illegal wiretapping and eavesdrop-

ping stemming from the June 17 break-in at the Democratic headquarters. Five others — former White House aide E. Howard Hunt Jr. and four men from Miami who said they reported to Hunt — already have pleaded guilty to the charges against them.

Shortly before the afternoon session began yesterday, Sirica called the lawyers to the bench to discuss distributing a transcript he had made of tapes of an interview The Los Angeles Times conducted with Baldwin. The defense sought the tapes on the grounds that Baldwin's statements could be useful in impeaching his testimony.

"There are one or two names mentioned and I'm going to call them to the attention of government counsel for whatever action they think appropriate," Sirica said.

As a key government witness, Baldwin has been interrogated at length by the prosecutors. The judge did not elaborate on the names.

In The Times article based on the interviews with Baldwin, it was reported that he could not recall the names of re-election committee officials who received copies of the logs he made of the phone conversations Baldwin said he monitored.

Baldwin is reported to have told others that he could remember the names of three White House or Nixon campaign aides who received memos describing the telephone conversations: White House congressional liaison aide William E. Timmons, and campaign aides Robert Odle and Glenn Sedam.

Sources close to the Watergate investigation have said that Baldwin, a former FBI agent, named Odle and Timmons from memory and picked out Sedam's name from a list when interviewed by the FBI. All have denied receiving the memos.

Odle's name is on the prosecution's witness list. No mention has been made of the other two men at the trial.

The fullest account given of how five men were arrested inside the Democratic offices was given by the prosecution's seventh witness, Officer John B. Barrett of the metropolitan police. Barrett followed Frank Wills, a Watergate security guard who testified he had become suspicious and called police after twice finding the same doors taped so that they would not lock.

Barrett said he and two other police officers responded to a radio call and arrived at the Watergate at about 1:45 a.m. After a quick briefing from Wills, Barrett said, the officers — dressed in casual clothes — began surveying the building. They found a door taped on the eighth floor,

where the Federal Reserve has offices, but found no other doors unlocked.

Barrett said he was called to the sixth floor, the location of the Democratic Party offices, where a door from the stairs to office corridors was taped open and "scratch marks were apparent" on the lock.

After finding one office "in disarrayed fashion . . . messed up," Barrett said he drew his service revolver "because I felt this might be something good, that there might be someone in there."

The search was continued, Barrett said, and they found the platform preparation room, where the 1972 party platform was being prepared, "in even more disarrayed fashion." The two officers with him, Sgt. Paul Leper and Carl M. Shoffler, went briefly out on the adjoining terrace, but found nothing, Barrett said.

Barrett said he and the others continued looking, with Barrett moving toward the office of party chairman Lawrence F. O'Brien. Finally, Barrett said, he came to a spot in the office where a cubicle for a secretary had been created with a partition, steel on the bottom and frosted glass on top. Barrett, a tall, thin man with reddish-brown hair and a beard told the jury, "I was hesitant to go around that corner. I just had a feeling."

While he hesitated, Barrett said, "an arm appeared . . . just inches from my face" on the other side of the glass. "Needless to say, I was alarmed. I jumped back . . . back pedaled here very quickly . . . I yelled out, 'Hold it, police.' 'I'm sorry,' he corrected himself, 'I didn't say, 'Police.'"

"I saw numerous hands. As they went up, I saw gloves, similar to a surgeon's gloves—blue and white. . . . I said, 'Come out.' The gentlemen came out," Barrett said.

At that point, Barrett recalled, "I believe it was Sturgis said, 'Keep cool, you got us.'" Frank Sturgis was one of the five men arrested inside the Watergate along with McCord, Bernard L. Barker, Eugenio R. Martinez and Virgilio R. Gonzales.

Among the items taken from the men, Barrett said, were about \$1,300 in \$100 bills, burglar tools, bugging devices, two cameras, photographic lights, about 60 rolls of assorted film and several pieces of false identification on Sturgis. In addition, Barrett said, McCord had applications for college media press credentials for the Democratic convention in his suit jacket pocket.

Alch, McCord's lawyer, told

reporters his defense strategy after finishing his cross-examination of the fifth prosecution witness, Thomas J. Gregory. Gregory had testified that he was recruited by Hunt to spy on Democratic presidential candidates.

Gregory also identified McCord as having come to the campaign headquarters of Sen. George S. McGovern in an unsuccessful attempt to plant a bug in the offices of Frank Mankiewicz or Gary Hart, the two top campaign aides to McGovern. McCord at the time, in mid-May, was security coordinator of the re-election committee.

Alch, in cross-examining Gregory, asked if he had seen any contributions to the McGovern campaign made by the Vietnam Veterans Against the War, the National Peace Action Coalition or the People's Coalition for Peace and Justice. Gregory said he was "not sure" about contributions from the National Peace Action Coalition because of the coding system the McGovern campaign used for contributions and he knew of no contributions from the other two groups.

[NPAC, VVAW and PCPJ have conducted numerous demonstrations in recent years but have consistently advocated orderly, lawful and nonviolent expressions of antiwar sentiment. They have enforced discipline at their activities with trained marshals and their events have generally been peaceful.]

[However, one faction of PCPJ was responsible for the 1971 Mayday disruptions in Washington. Leaders of that faction took pains to emphasize in advance that its actions were directed against the idea of government conducting business as usual while the war continued and not against any individuals or organizations.]

Sirica interrupted Alch to tell him. "I think you're going pretty far afield. When it comes time, you can put your defense on." Alch said he wanted to call Gregory as a defense witness later in the trial.

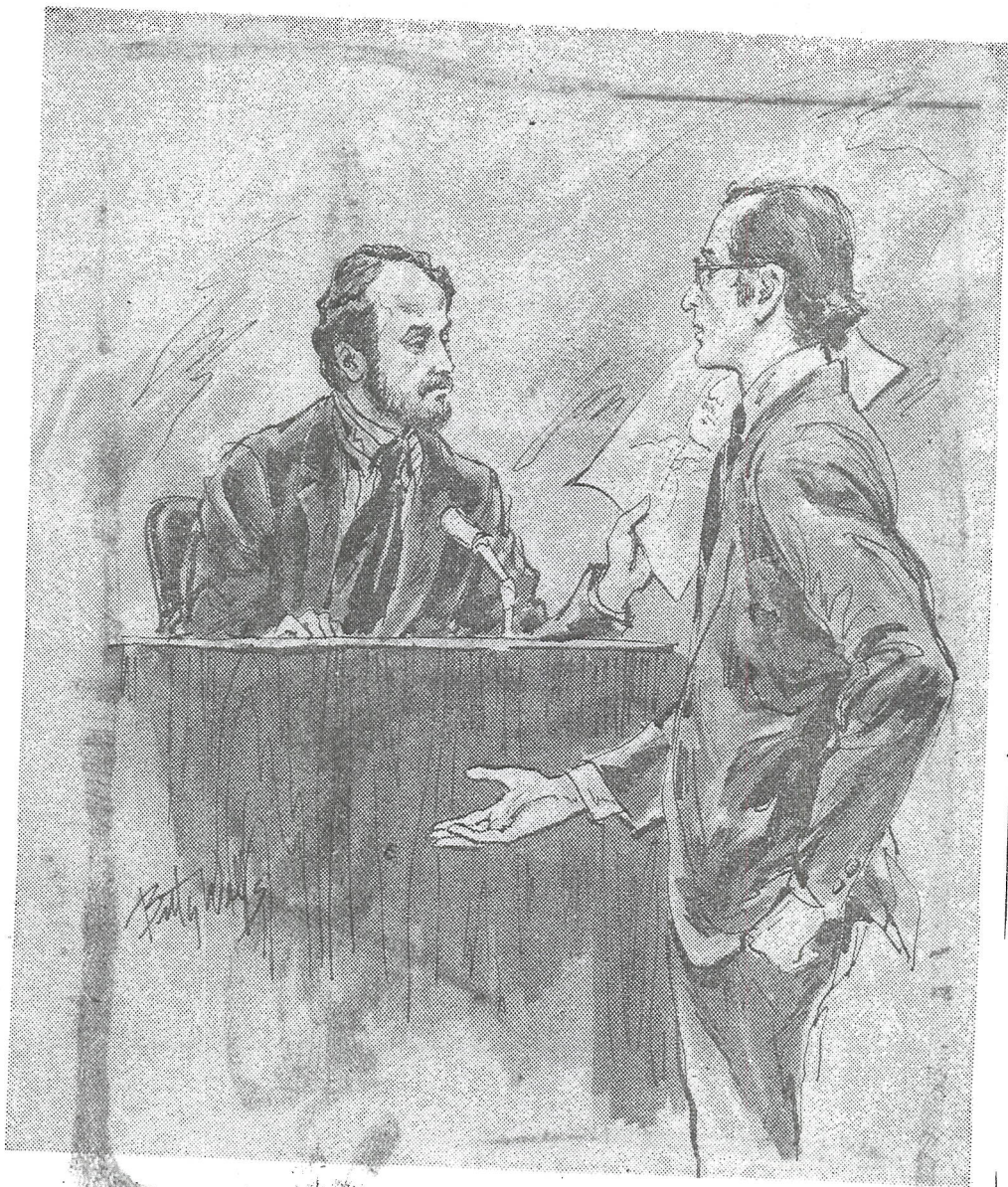
McCord's defense, Alch said, will be based on the "theory of law that if a man has reasonable grounds to anticipate violence to himself and others, he can technically violate the law to avoid greater harm."

In his opening statement to the jury, Silbert said that Baldwin would testify that McCord instructed him, "made it perfectly clear to Mr. Bald-

winn that he was interested in conversations whether personal or political, of a sensitive nature."

The prosecution has taken the position in its proposed instructions to the jury at the

conclusion of the case that the government does not have to prove a particular motive "nor is an allegedly 'good' motive ever by itself a defense where the act done or omitted is a crime."



Prosecutor Earl J. Silbert examines District policeman John Barrett. Sketch by Betty Wells