

Mystery Message to McCord Tied to Lawyer in Nixon Drive

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The mysterious message to Watergate conspirator James W. McCord Jr. that he would be receiving a telephone call, which McCord says contained an offer of executive clemency, was linked yesterday to a lawyer for the Committee to Re-elect the President.

William O. Bittman, identified in Senate testimony by McCord's former lawyer, Gerald Alch, as the person who passed along word that a "friend" would be telephoning McCord, said in a statement yesterday that he had received that message from Paul L. O'Brien, one of the counsels for the President's re-election committee.

Bittman said that in the course of a telephone conversation, O'Brien told him that he "understood a friend of Mr. McCord's who was unknown to Mr. O'Brien planned to call him in response to some letter Mr. McCord previously sent."

Bittman said he "simply repeated Mr. O'Brien's statement to Mr. Alch," with whom he was meeting at the time. O'Brien could not be reached for comment yesterday.

McCord told the Senate Select Watergate committee last week that he did receive a telephone call that night, Jan. 8, 1973, and was told by an anonymous caller that he would receive executive clemency if he pleaded guilty and remained silent in the Watergate break-in case.

The caller said he was passing along the clemency offer from John Caulfield, a former White House aide who had recruited McCord for the job of security director of the Nixon re-election committee, the job McCord held when he was arrested in the offices of the Democratic National Committee at the Watergate.

Caulfield has testified before the Senate committee that he, in turn, transmitted the message on orders from former White House counsel John W. Dean III. Caulfield further testified that he believed at the time that President Nixon knew the offer was being made.

With his statement to reporters yesterday, Bittman, who represents Watergate conspirator E. Howard Hunt, sought to disassociate himself from the effort to pressure McCord to remain silent.

Bittman's statement came as Alch faced stiff questioning from members of the Senate committee about his conduct of McCord's defense, another statement intended to clear up his own role in representing McCord.

In his statement, Fensterwald did not deal directly with the principal allegation made against him Wednesday by Alch—that on March 24, shortly after he became one of McCord's lawyers, Fensterwald told Alch in a telephone conversation, "We (he and McCord) are going after the President."

He said his contact with McCord began when a mutual friend asked him to help raise some of McCord's \$100,000 bail. McCord subsequently asked him "to assist him legally," Fensterwald said.

"The country wants to know the truth about Watergate and related events," Fensterwald said, "... if having the truth brought out means implicating the President or some of his top staff, so be it."

The statement was prepared for delivery before the Senate committee, but was never handed over because Fensterwald decided it wasn't necessary after listening to Alch's testimony yesterday. Officially then, Alch's assertion about Fensterwald has not been rebutted.

However, in a telephone interview with The Washington Post, Fensterwald did deny having told Alch he was "going after" Mr. Nixon.

"I'm sure I said to him in one form or another on several occasions," Fensterwald explained, "that if McCord's leads are corroborated, that this is going to lead straight to the President because the President is the only one who can grant executive clemency."

Fensterwald said he left this explanation out of his statement because he considered it "rather long." He

added that he expected senators would ask him about the allegation if he was called to appear before the select committee. Yesterday morning, the committee considered calling Fensterwald but decided not to at this time.

"We see no reason to try to decide a controversy between the two lawyers (Fensterwald and Alch) with respect to their personal conversations," Committee Chairman Sen. Sam Ervin (D-N.C.) said.

Alch, however, was subjected to nearly three hours of questioning from senators about discrepancies between his statement Wednesday and McCord's testimony last Friday and on Tuesday.

At one point, Sen. Herman Talmadge (D-Ga.) observed: "It is perfectly obvious, of course, to all members of the committee that the testimony of Mr. Alch varies significantly from that of Mr. McCord in a number of instances. I want all witnesses to be put on notice that at an appropriate time whenever there is any evidence of perjury, I expect the staff of this committee to submit a transcript of that possible perjury to the appropriate prosecuting attorney for action as the situation may arise."

Alch, at another point, suggested that he, McCord and Fensterwald all take lie detector tests. Sen. Howard Baker (R-Tenn.), ranking minority member on the committee, expressed interest in the idea, but the matter was not resolved.

Also left unresolved yesterday were the principal points of contention between Alch and McCord. First, whether Alch ever suggested to McCord, a 19-year veteran of the Central Intelligence Agency, that McCord implicate the CIA in his defense against the Watergate bugging and break-in charges.

Second, whether Alch was involved in any way, or had any knowledge of, pressure on McCord to accept executive clemency in return for remaining silent and pleading guilty.

Alch contended that the matter of using the CIA defense arose at a meeting of lawyers representing the seven Watergate defendants.

"It was raised," said Alch, "in this type of way: Is there any CIA involvement in this thing? And at that point, it was pointed out the fact that all defendants had some prior connection with the CIA and at least one of them had been found with documents which purported to be or were alleged to be forged CIA credentials."

Alch was asked who raised the possibility of the CIA defense and he replied: "I am not sure. It may have been Mr. Bittman. I cannot be positive."

In his statement yesterday, Bittman did not dispute that version of the incident. "His (Alch's) testimony," he said, "comports precisely with my own knowledge of the facts."

Alch did not dispute either that McCord was genuinely concerned over what the Senate committee's chief counsel, Samuel Dash, described as "a conspiracy to have him implicate the CIA in the Watergate case."

"I have no knowledge to contradict that statement," Alch said.

McCord's concern prompted him to write an unsigned letter to Caulfield warning of dire consequences if the CIA were dragged into the Watergate case. It was apparently that letter to which O'Brien was referring when he told Bittman that McCord would be hearing from someone "in response to a letter."