

Text of Report on Kissinger's Role in Wiretaps

Special to The New York Times

WASHINGTON, Aug. 6—
Following is the text of the observations and conclusions of the Senate Foreign Relations Committee report on its most recent inquiry into Secretary of State Kissinger's role in the White House wiretapping program:

The purpose of the committee's inquiry was not to investigate the wiretap operation per se. Nor does the committee consider it necessary to make definitive findings of fact on each of the allegations that have been made concerning Dr. Kissinger's role in the wiretapping. In fact, this new record may raise additional questions about certain aspects of the wiretap program. But, we believe it should lay to rest the major questions raised about Secretary Kissinger's role.

The committee had no illusions about the difficulty of establishing precisely what took place in the wiretap program. There are some discrepancies between the F.B.I. documents and the testimony of participants in the program. Probably it will never be possible to determine exactly what took place. More than five years have passed since the wiretaps were initiated and time has taken its toll in life, memory, health, and records.

¶Some questions can be answered only by President Nixon.

¶Others could be answered only by the late J. Edgar Hoover.

¶Some inconsistencies between the testimony and the F.B.I. documents can be resolved only by Mr. William C. Sullivan, who is physically unable to testify.

¶Other aspects will remain a mystery due to apparent gaps in the F.B.I. documents.

Recollections of participants have become hazy and uncertain with the lapse of time.

Realizing the impossibility of laying to rest every question about the wiretap program and Secretary Kissinger's role in it, the committee set a more modest and realistic objective. The committee approached this inquiry with two questions in mind:

[1]

Is there a basis in ascertainable fact to conclude that Dr. Kissinger misrepresented his role in the wiretapping during his testimony last year?

[2]

Would the committee, with all of the information it now has concerning the wiretap-

ping program, reach the same conclusion it did last September that "...Dr. Kissinger's role in the wiretapping of 17 Government officials and newsmen did not constitute grounds to bar his confirmation as Secretary of State?"

After considering all of the testimony and relevant materials, the committee has concluded that the answer to the first is "no," and the answer to the second is "yes."

In making this inquiry the committee has not addressed itself to the legality of the wiretaps involved. It is neither passing judgment on the constitutionality of warrantless wiretaps for foreign policy/national security purposes nor on whether these individual wiretaps were properly justified if, in fact, warrantless wiretaps for such purposes were legal at the time. These are matters for the courts to decide.

Assurances Cited

But it should be noted that Dr. Kissinger's participation in the wiretapping came after assurances by the Attorney General that such wiretaps were lawful and by Mr. Hoover that similar wiretaps were carried out under previous administrations. It is highly unlikely that anyone with Dr. Kissinger's background, largely within the academic world, would question assurances of legality and precedents from the nation's chief law enforcement officers. In carrying out his orders from the President, Dr. Kissinger was acting on the assumption, backed by Attorney General Mitchell and F.B.I. director Hoover, that the wiretaps were perfectly legal.

The committee has not found any significant inconsistencies between Dr. Kissinger's testimony of last year as to his role in wiretapping and the new evidence now available. It matters little whether the President's decision to use wiretaps in an effort to trace the source of leaks was made in April 25, 1969, as now appears to be the case, or May 9, 1969, as Dr. Kissinger had thought when he testified last year. None of the discrepancies that has emerged pierce the heart of the issue here: Is there solid reason to doubt that Dr. Kissinger was truthful last year in describing his role?

To be sure, there are inconsistencies between the F.B.I. documents and the testimony. For example, in the documents, there is a letter from Mr. Sullivan to Mr. Hoover dated May 20, 1969, which states that Dr. Kissinger came to Mr. Sullivan's

office that morning and "...read all the logs." Dr. Kissinger cannot recall such a visit, and Mr. Sullivan assured the committee that he neither saw nor talked to Dr. Kissinger during the entire time the wiretap program was in operation.

Much of the recent controversy over Dr. Kissinger's role seems to be a question of semantics, particularly over the meaning of the words "initiate" and "request" in relation to his participation in the wiretapping. Words in F.B.I. documents or on Presidential tape cannot be considered as definitive statements either of what transpired or of Dr. Kissinger's part in the over-all program. They should be considered only in relation to the framework of the over-all policy ordered by the President and the total evidence now available.

Did Dr. Kissinger initiate the wiretap program by urging it on the President? Or, did he merely participate in the wiretapping, carrying out a program ordered by the President, as he testified last year?

Assertion by Nixon

In a letter to the committee dated July 12, 1974, in response to a committee request for additional information, the President wrote:

"I ordered the use of the most effective investigative procedures possible, including wiretaps, to deal with certain critically important national security problems. Where supporting evidence was available, I personally directed the surveillance, including wiretapping, of certain specific individuals.

I am familiar with the testimony given by Secretary Kissinger before your committee to the effect that he performed the function, at my request, of furnishing information about individuals within investigative categories that I established so that an appropriate and effective investigation could be conducted in each case. This testimony is entirely correct; and I wish to affirm categorically that Secretary Kissinger and others involved in various aspects of this investigation were operating under my specific authority and were carrying out my express order."

the committee, "I did not initiate the program, I did not recommend the program, and I had nothing to do with its establishment. I then participated, according to criteria that had been laid down in the President's office." The President stated that he initiated the program.

Dr. Kissinger's role, as he described it last year and again this year, was that of assisting in implementing a program ordered and directed by the President. The committee has received no new information which contradicts that description of his role.

Semantic problems arise again in the question of whether or not Dr. Kissinger "initiated" individual wiretaps. Secretary Kissinger testified last year that he supplied names to the F.B.I. of those fitting the criteria agreed upon in the meeting with the President but that "in supplying the names we did not specifically request a tap, although we knew, of course, that this could be, was a probable outcome." In testimony this year he explained that: "Insofar as the submission of a name triggered a series of events which resulted in a wiretap, it could be said that the submission 'initiated' the tap.

Contradictions Noted

There are unexplained contradictions between the testimony and the documents relative to the wording of individual wiretap requests. Documents concerning "requests" for wiretaps were generally prepared without the benefit of personal contact between the drafter and the "requester," whose real identity is sometimes doubtful. Upon questioning, Mr. Bernard Wells, the F.B.I. agent who handled the preparation of most of the papers relative to the program stated that the wording on the individual request forms could not be taken literally.

The committee was unable to settle to its satisfaction some questions about the initiation and termination of certain wiretaps. But it did establish to its satisfaction that Secretary Kissinger's role in the program was essentially as he described it in testimony last year.

In summary, the committee is of the opinion that it has appropriately inquired into Dr. Kissinger's role in the wiretapping, pursuant to his request following the recent controversy, and the committee now concludes that there are no contradictions between what Dr. Kissinger told the committee last year and the totality of the new information available. The committee reaffirms its position of last year that his role in the wiretapping "... Did not constitute grounds to bar his confirmation as Secretary of State." If the committee knew then what it knows now it would have nomination favorably to the Senate.