

Dean: Nothing I Could Do,

This Was Out of My Hands . . .

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Following are excerpts from yesterday's testimony by former White House counsel John W. Dean III before the Senate select Watergate committee, beginning with questioning by Sen. Joseph Montoya (D-N.Mex.) on meetings Dean said he held with Presidential assistants H. R. (Bob) Haldeman, John D. Ehrlichman and Richard Moore in La Costa, Calif., in February, 1973, to discuss paying the convicted Watergate conspirators to maintain their silence.

Montoya: Now, will you as succinctly as possible, as briefly as possible, relate for the record now just exactly what those discussions were with respect to the cover-up?

Dean: Well, we had a lengthy discussion ranging over two days, and I have estimated between 12, 14—10, 12, 14 hours—I do not know how many hours totally were spent, in a discussion, that basically were focusing on how to deal with this Committee. At the end of that discussion, on the last day of the discussion, on Sunday afternoon, what I described as the bottom line question came up, because everything depended upon the continued silence of the seven individuals who had either been convicted or had pleaded guilty. Would they remain silent during the duration of these hearings? I was asked that question.

I said, I cannot answer that question, because I do not know. All I know is that they are still making money demands.

Preceding that, there had been a good bit of discussion between Mr. Haldeman and Mr. Ehrlichman and back and forth to Mr. Mitchell as to who was going to raise the necessary money. I reported to them that there was nothing I could do, that was out of my hands, that Mr. Mitchell had felt it was not his responsibility to raise this money and he was not interested in doing it. Mr. Ehrlichman and Mr. Haldeman said that they thought it was his.

Finally, they asked Mr.

Richard Moore, who was also attending the meeting, to go to Mr. Mitchell and lay it on the line that it was Mr. Mitchell's responsibility.

Now, I assume they did that because Mr. Moore had spent time at the Department of Justice working very closely with Mr. Mitchell and knew Mr. Mitchell. He was an older man and they felt probably sending Mr. Moore as a direct emissary from them, rather than myself when I had failed to accomplish what they thought was necessary, might solve the problem.

I later learned that Mr. Moore indeed did go to New York and did raise this with Mr. Mitchell, but Mr. Mitchell virtually ignored the matter when it was raised by Mr. Moore.

Montoya: Were these particular conferences at San Clemente designed to just discuss the matter of Watergate?

Dean: They were designed to discuss how to deal with this Senate Select Watergate Committee so that the cover-up would not unravel up here before this Committee.

Montoya: That is all, Mr. Chairman. Thank you.

Ervin: Senator Edward Gurney (R-Fla.)?

Gurney: Thank you, Mr. Chairman.

Just a few questions, Mr. Dean. I would like to go back to the Herbert Kalmbach meeting again, when you and he first discussed this cover-up money.

Dean: On the 29th, Senator?

Gurney: The 29th of June, (1972).

Dean: Yes.

Gurney: You are absolutely certain about that date? It could not have occurred in July, could it have?

Dean: The first meeting I had with him was when I flew in — he took the last flight, I believe, out of Los Angeles. We met the next morning. The records — he very seldom stayed at the Mayflower Hotel and he was staying at the Mayflower

Hotel and I would assume that if the Committee investigators would check the records of the Mayflower Hotel, they could confirm that date. That is the best of my recollection, that it was the 29th . . . I was to meet him in the coffee shop and I recall we sat down in the booth and it did not appear very private in the booth, so we decided to go to his room to discuss the matter.

Gurney: And that was there in the Mayflower Hotel?

Dean: That is correct.

Gurney: Well, the committee has subpoenaed the records of the hotel. I have a letter here from the Mayflower, and also one from the Statler Hilton. I would like a Committee staffer to give these copies to the witness.

Now, as you will see today, the letter is from the

Mayflower Hotel, dated June 27, 1973 . . .

"Dear Senator Gurney, in reply to your request of June 27, 1973, to the best of our knowledge, the records do not reflect a Mr. Herbert B. Kalmbach as being a registered guest during the period of June 1, 1972, through July 1, 1972. Very truly yours, Ray Sylvester, Senior Assistant Manager."

Then the other letter from the Statler Hilton, again addressed to me . . . "Attached, please find photostatic copies of a previous subpoena served on the Washington Statler Hilton, registration card and folio B 86403, for Mr. Herbert W. Kalmbach who was registered in our hotel from June 29-30, 1972. . .

Now, as I recall, you have testified three times very positively that you met with Mr. Kalmbach in the coffee shop of the Mayflower Hotel.

Dean: Absolutely. That is correct.

Gurney: And then retired to his room in the Mayflower. How do you account for these records here?

Dean: The only thing I can suggest is that Mr. Kalm-

bach may have been registered under another. Let me elaborate on that.

Mr. Kalmbach often discussed matters in a code name. For example, after our discussion, he began referring to Mr. Hunt as "The Writer." He began referring to Mr. Haldeman as "The Brush." He began referring to Mr. Mitchell as "The Pip." These would be the nature of our discussions and this might explain the fact that he decided not to use his own name in registering in the hotel.

I think the person that could answer that best is Mr. Kalmbach, because I have a very clear recollection of walking into the coffee shop, meeting in the coffee shop, going to his room. It was a small room. He had not really had a chance to get a good night's sleep because he had been flying all night. To maintain further privacy, I recall him also turning on the television next to the adjoining door and we sat on the other side of the room and had the conversation in which I relayed to him everything I knew at that point in time. So I think Mr. Kalmbach will have to answer that question as to why his name does not appear on the register.

Gurney: Well, it also occurred to me that that could be the case, that he was using an assumed name, but then when we ran into this other record at the Statler-Hilton Hotel, it just does not make sense. If he was coming into the city under an assumed name so that no one would know he was here and no later record could be found, why in the world would he register under his own name at a nearby hotel, the Washington Hilton, and then engage another room over in the Mayflower to meet with you? It just does not add up.

Dean: I see what you are saying. I have testified the Mayflower and I am never sure which is the Mayflower and which is the Statler-Hilton. The hotel I recall is the one that is on 16th Street up from the White House. I know I walked up from the office to his room.

Gurney: How long have



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Before beginning fifth day of testimony, John Dean chats with his wife Maureen.

you lived in Washington?

Dean: I have been here about 10 years.

Gurney: And you don't know the difference between the Washington-Hilton and the Mayflower Hotel?

Dean: I continually get them confused, I must confess.

Gurney: Well, I must say I am reminded of your colloquy with the Chairman yesterday, Mr. Dean, when you said what an excellent memory you had right from school days right on down; that is why you were able to reconstruct—

Dean: That is right, my memory is good, but I confuse some names often. I don't pretend to have a perfect memory. I think I have

a good memory, Senator.

Gurney: But you can't remember really now, after testifying three times very positively, whether it was the Statler-Hilton or the Mayflower?

Dean: Well, Senator the point in substance here is the fact that the meeting did occur. We met in the coffee shop. We went from the coffee shop to his room. We had an extended discussion of the matter, and that is very clear in my recollection, the substance of the event.

Gurney: And one of the reasons I am curious about this, really, it is less an attempt to try to confuse you than it is an attempt to try to pin you down. You

haven't tried to conceal the meeting, and Mr. Kalmbach, of course, knows all about it, too.

Dean: That is correct . . .

Gurney: Well, could that

particular meeting you speak of at the Mayflower have occurred some other time? Could it have been a later meeting or an earlier meeting?

Dean: No sir. To the best of my recollection, this was the first time we ever talked about this matter and these were the circumstances under which we talked about it, when he flew in from California . . .

Gurney: Let me just try to refresh your recollection. Could this meeting have taken place out in front of the Hay-Adams Hotel?

Dean: In front of the Hay-Adams Hotel?

Gurney: That is right, that you walked over from your office and he walked over from his hotel and met out in front of the Hay-Adams and discussed it there?

Dean: I have testified to a subsequent occasion when we met, after he had the money in his possession, as he told me, and I believe he told me he was going to meet with Mr. (Attorney) Ulasewicz at that time. That was in Lafayette Park. I can recall very clearly being in Lafayette Park, because we stood and we each put our foot up on the bench and we were looking back over at the White House and talking. He had his attache case with him. I had walked out of my office and this was some time after this initial meeting.

Gurney: That couldn't have been the initial meeting, at least according to your recollection?

Dean: No, sir.

Gurney: Well, I guess we will just have to wait for Mr. Kalmbach and find out what he remembers . . .

Dean: I might go back over one point. The name of the coffee shop at the Statler Hilton is the Mayflower.

(Applause)

Ervin: The audience please refrain from applause or demonstrating their reaction to any testimony.

Gurney: Is that what your

attorney just told you?

Dean: Yes, he did . . .

Gurney: Let me ask you, Mr. Dean, what does that mean now, what is your testimony so that we can get it on the record here?

Dean: What I would like to say is I have a very clear recollection of meeting with Mr. Kalmbach in the coffee shop before our meeting in his room. I think Mr. Kalmbach can resolve, if it is important to the Senator, the particular location of that meeting. To me there was the substance of the meeting that was the important thing and I think I have relayed to the Committee the full substance of the meeting and what occurred as a result of the meeting.

Gurney: Now, what is your testimony as to what hotel?

Dean: To the best of my recollection, it was the Mayflower but I am perfectly— if I am incorrect I will stand corrected . . .

Gurney: Another point that I am interested in here is this meeting of March 21 with the President which, of course, was an extremely important meeting. I was going over that yesterday, and there was one part of that that I must say totally confused me. I just did not understand it.

Summarizing briefly, you mentioned, of course, that you talked to the President about perjury being committed, you talked about the cover-up, if it was going to continue it would require more perjury and more

money because of the demands that were being made upon, by these convicted people, and you said it was time for the surgery on the cancer itself and all those involved to stand up and account for themselves.

In other words, a rather complete briefing to the President on the whole Watergate affair. I just touched some of the highlights there.

But, then, you also made this statement: "After I finished I realized that I had not really made the President understand because he asked me a few questions, after he asked me a few questions he suggested it

would be an excellent idea if I gave some sort of briefing to the Cabinet and that he was very impressed with my knowledge of the circumstances but he did not seem particularly concerned about their implications."

Well, I just say I overlooked that, I think, totally when the testimony was first given, and I must say it does not seem to make any sense to me at all.

If the President was now fully knowledgeable about this whole cover-up business, and a part of it, as I think you have indicated before the Committee here, why in the world would he want the Cabinet briefed?

Dean: Well, as I — when the matter came up, the conversation had tapered down and we were into a light question and answer session about some of the areas that I had gone into, and I must say that I had a similar reaction, and I said to the President, "Mr. President, I do not think this is the sort of thing that I could give a briefing on even a tailored-down briefing on."

But he felt it might be important that I explained some of the parameters of the problem and the like. It was not a lengthy matter. I felt at some times during my presentation that he was very sort of impressed with the way I was giving the presentation. I tried to, I was trying to, really give one of the most dramatic speeches I had ever given in my life.

Gurney: Well, it still is totally—

Dean: I might add I never did give a briefing to the Cabinet and that was dropped immediately in the conversation. I added that because it stuck in my mind that as one of the points that I really did not feel that I had made the full implications of this thing clear but that is the sort of thing that as you noted in the testimony, it was noted very clearly in my mind when the suggestion came up.

Gurney: Well, that occurs to me too, that maybe the President did not understand for some reason. I cannot imagine a President of the United States, knowing that his two chief aides, Mr. Haldeman, Mr. Ehrlich-

man, yourself, and Mr. Colson, LaRue, Mardian, Magruder, Mitchell, all these people being involved in this criminal activity or possibly involved in this criminal activity, I do not want to accuse them of crimes over this national television here, but these supposedly were all involved in this and then there was a cover-up money with his personal attorney Mr. Kalmbach and all of these things went on, and if he knew that, as I understand your thesis is how in the world would he have suggested anybody who had total knowledge of this like you, suggested them to go to

the cabinet and tell them about it?

Dean: May I respond in two parts? Several times you have stated that I have a thesis. I have no thesis, I have no wish other than to report by this Committee the facts as I know them.

Secondly, this was a part of a dialogue that followed. I do not think the President had any intention of sending me in to report in full as I had just reported to him. I made it, the comment, in my testimony because it stuck in my mind as evidence of the fact that the President did not really still realize the implications of what I was talking about and it recalled to me the similar and earlier occasions when I tried to raise with him my own involvement in this matter and explain the obstruction of justice involvement and he did not seem to want to hear it or get into it or anything of that nature. So that is why it is in the testimony because it is the sort of thing, Senator, as you, when you re-read the testimony it pops right off that page and it stuck right in my mind the same way.

Gurney: Well it did, and I must say it rather startled me, I really did not understand why I did not hear it the first time, and that same thing occurred to me that maybe even on March 21 he was not totally aware of all of these things that you testified to here these last five days.

Otherwise I cannot understand why he would have suggested that you go to the

Cabinet with it.

Well, let us get on here. Late in March or early April you did decide that you had had enough of this business and that you wanted out of it. . . .

You decided that you had had enough of this cover-up, and you wanted to get out of it, and go on your own course, and as I would put it maybe come clean, is that a fair way of saying it?

Dean: Senator, what I wanted to do I was trying to work internally within the White House. I was very anxious to get the President out in front on this issue. I had conversations from Camp David with Mr. More, exploring further ideas. We had explored this on countless occasions, on how to end it, how to get the President out in front of it, have the President taking the action to end it, decisive action to end it. By the time I went to Camp David I realized that I had not accomplished what I was trying to do internally and began to think about that I might have to be the one to stand up and take my own steps.

Gurney: And taking your own steps, of course, would be revealing and telling the whole story, is that not what you mean?

Dean: That is correct.

Gurney: Well, now, you went before the grand jury last week, did you not?

Dean: That is correct.

Gurney: Did you tell them the whole story?

Dean: I decided to exercise my constitutional rights at that point in time.

Gurney: What do you mean by that?

Dean: I invoked the 5th Amendment.

Gurney: You did not tell them anything, did you?

Dean: No, sir, I did not.

Shaffer: I hate to interrupt, Senator—

Gurney: I might point out to the Chairman, because I do think that we ought to have the rules understood, that the witness counsel

may defend his constitutional rights but the attorney cannot testify here or make statements on his own behalf or even on behalf of his client, as I understand the rule the Committee is operating under, is that correct?

Ervin: I don't know what the counsel wants to say.

Shaffer (Dean's attorney): I would say it in a way that is a proffer. I would like to defend my client's constitutional rights and by so doing I would like to call the attention of the Chair the fact that in 1959 our Supreme Court decided the case of United States versus Gruenwald and in that case the Supreme Court said that it is not proper cross-examination and it is not inconsistent for a witness on one occasion to take his Fifth Amendment right and on another occasion testify. . . .

Gurney: Mr. Chairman, I would like to address myself precisely to the point we are talking about. Under the rules of procedure for the Committee on Presidential Campaign Activities, Rule 20 says, "The sole and exclusive prerogative of the counsel shall be to advise such witness when he is testifying of his legal rights and his constitutional rights." . . .

Gurney: No question has been posed that I know of to the witness at this moment that interferes with his constitutional rights. I simply asked him if he had gone before the Grand Jury, he said he had and he said he had taken the Fifth Amendment. . . .

Ervin: I want to say since the rules of the Committee have been invoked, I would like to call the attention of the Committee to Rule 16 which says "Any objection raised by a witness or his counsel to procedures or to the admissibility of testimony and evidence, shall be ruled upon by the Chairman or presiding member and such ruling shall be the rulings of the Committee unless a disagreement thereon is expressed by a majority of the Committee present. In the case of a tie, the ruling of the Chair will prevail." I interpret that the right to give counsel, the right to object to the

admissibility of testimony.

Gurney: I do so too. So why doesn't the counsel state his objection.

Shaffer: I did, Mr. Chairman and my suggestion is, simply stated, it is improper to raise the question that on a previous occasion he raised the Fifth Amendment.

Ervin: I would state it a little differently. The Supreme Court has held the fact that if a witness can be impeached by testimony that on the previous occasion he pleaded the Fifth Amendment that the value of the Fifth Amendment to the witness would be virtually destroyed.

Shaffer: I adopt that statement.

Gurney: I am not exactly sure whether I asked him that question or not. I asked him if he had been before the Grand Jury and told his story and I think his reply was no, that he took the Fifth Amendment is my recollection of the answer.

Dean: It was, the only answer I could give to your question, Mr. Chairman, is why my counsel came to his feet.

Late yesterday afternoon, Sen. Howard Baker (R-Tenn.) went over Dean's April 15, 1973, meeting with the President once more.

Baker: Mr. Dean, I am sorry, it is 3 o'clock and I am going to run out of time, and I am going to miss another vote, but would you tell me of your conversation with the President on April 15?

Dean: All right, I will go into that. I was a little rattled by the fact that I had not been to the President to tell him that I had been to the prosecutors when I went in. To be rather specific, he realized I was rattled and I had had enough rapport with him by this time that I was comfortable in dealing with him. I had thought on the way in, I wonder if I am being set up by the President. Now, this was an awful thought to run through my own mind, because I knew that Haldeman and Ehrlichman knew that anything the President asked me, I would answer and I would answer truthfully. You just do not lie to the President of the

U.S. So the President offered me a cup of coffee.

Baker. First of all, where was the meeting?

Dean. This was in the Executive Office Building.

Baker. All right, in the President's office there?

Dean. In the President's office, correct.

Baker. Who was present?

Dean. The only persons that were present were myself other than when Mr. Sanchez came in with some Coca Cola for me and went back out.

Baker. All right, sir, go ahead.

Dean. I told the President

that I had been to the prosecutors. I told him I did not believe this was an act of disloyalty, I felt I had to go and do it. I said I thought in the end that it would be considered an act of loyalty and I felt that when I made my decision to go, that was the way I felt.

I told him that in my discussion with the prosecutors, I had discussed my own involvement and the involvement of others.

I told him that I had not discussed any conversations I had with him with the prosecutors, and I had not had any dealings with the prosecutors vis-a-vis myself and the President.

At one point in the conversation, I recall the President asking me about whether I had reported to him on the fact that Mr. Haldeman had been told by me after the second meeting with Mr. Mitchell on Feb. 4, 1972, about what occurred in that meeting.

I said, yes, I had.

The, the President raised the fact that this had come up in a discussion he had had with Henry Petersen, and Petersen had raised with him why had not Haldeman done something to stop it.

Then, the President went on to tell me, he said, well, now, John, you testify to that when asked. Now, I want you to testify to that when asked, that you told Mr. Haldeman.

At one point in the conversation—and I am just rambling through the high points and not going through every detail here —

at one point in the conversation, we talked about the fact that Liddy was remaining silent. The President at this point — I told him that I thought that Mr. Liddy was looking for some sort of signal. He told me that he got from Petersen, I believe, the President had the impression that Liddy was looking for a signal.

I said, yes, that is my understanding, also, that Mr. Liddy is looking for some sort of signal. I said, what might be the signal is that you are to meet with Liddy's attorney.

At this point, he picked up the telephone and called Mr. Petersen.

Baker. "He" being the President?

Dean. "He" being the President. Once he got Mr. Petersen on the telephone, the President winked at me and said, like I was not in the office, began his conversation with Mr. Petersen about the fact that he was willing to talk to Liddy's lawyer if necessary to give Mr Liddy the signal to talk.

Mr. Petersen—I didn't hear the other end of the conversation, but he talked about some other things to Mr. Petersen. I don't know what they were.

Baker. What else? We are speaking of April 15.

Dean That is correct.

I recall also the President asking me about Henry Petersen and my assessment of Henry Petersen, and I assume this was prompted by the message that I had sent to the President earlier regarding Mr. Petersen when I sent a message through to him that I didn't want to talk to Ehrlichman. I told him I thought that Mr. Petersen was a man who was one of the most able criminal lawyers in the business, that he could give the President a good assessment of the entire circumstance. I told him that he ought to take his own personal counsel from Mr. Petersen.

Now, I didn't feel like telling the President that he had problems, but I thought that I was giving the President a very clear signal that he might want to talk to Mr. Petersen about his own situation.

I told him that I didn't think that Mr. Petersen

would want to do anything to see the Presidency harmed and that Mr. Petersen was a very, very well respected man at the Department of Justice who plays it right down the middle and he will give you the best advice in the world. And that is my assessment of Mr. Petersen.

Baker. What else happened? What else was said by the President or by you?

Dean. The President at that time expressed appreciation for my evaluation of Mr. Petersen:

I recall, and this is not in my testimony because it is now falling on something that I remembered at the end of the Petersen conversation, there was also some discussion about my feelings about appointing a special prosecutor. He said something to the effect that, I don't think we need a special prosecutor at this time, do you?

I said, I think that Mr. Petersen is an honorable, capable man to handle the job.

Baker. Was there anything else?

Dean. At some point in the conversation, and I believe this was toward the earlier part of the conversa-

tion, the question came up as to whether I had immunity from the government as a result of my dealings with the prosecutors. I told the President that my lawyers had discussed this with the government, but I assured him — and this is very clear in my mind, because it later came back to surprise me when I read a subsequent statement of the President — I told the President that I had no deal, I can assure you, with the government at

The President at that point said, and I remember this very clearly, he said, John, I will do nothing, I assure you, to interfere in any way with your negotiations with the government. And that would be fairly close to the words I believe he used.

I think I mentioned earlier also — I don't know if just in this sequence of going through this particular meeting — that the President asked me if I remembered the date at which I had given him the report on the implications of the

Watergate, and I said that, before I got my answer out, he said, I think that was on March 21. Do you recall if that is correct or not?

And I said I had to check my own records to find out what date that was.

Baker. Now, let me examine that a little more. The President asked you what?

Dean. He asked me if I remembered what day it was in March that I had given him my report on the implications of the Watergate some words to that effect again. Before I got my answer out, he said, I believe it was on the 21st.

I said to him that I would have to check my records or check the records to determine exactly what day that was.

And I might add that that came up again on Monday afternoon, when he told me he had checked and determined that indeed, that was the 21st.

Baker. What else, sir?

Dean. We had some discussion about the fact that I had discussed no national security matters with the prosecutors, or he instructed me that I could not deal with national security matters or any matters with regard to executive privilege. I assured him that I had not at that point had any such conversations with the prosecutors.

It was toward the end of the conversation that he raised on his own and asked me if I remembered when he had mentioned the fact that it would not be any problem to pay a million dollars and I said, yes, I recall that conversation. He said, well, of course, I was joking, I was only joking when I said that.

Then shortly after that, I recall that he got up from his chair and walked behind his chair to the corner of

the office. I don't know if it is the chair he normally sits in when he is in the Executive Office Building, but he has one favorite chair over beside his desk. He got up and went around the chair and in back of the chair and in a barely audible tone to me, but I could hear what he was saying, he said, "I was foolish to talk with Colson about Executive clemency or Hunt, was not I?"

I don't recall making any statement or response to that. It was sort of a declarative statement and I said nothing.

Baker. What else?

Dean. Well, as I say, shortly after he got out of his chair, I don't recall him getting back in his chair and we began exchanging some pleasantries as I was leaving the office.

As I was leaving the office, he said to me, say hello to your pretty wife and some things of this nature, which I came home and conveyed to her, because she always liked to hear those things.

Then also, as I was standing by the door, I remember I had the door open and I turned to the President, who was standing not 10 feet away from me, and told the President that I certainly hoped that the fact that I was going to come forward and tell the truth did not result in impeachment of the President. And I told him that I hoped the thing would be handled right, and he assured me that it would be handled right.

And the meeting ended on that note.

Baker. Is that the last meeting or conversation you had with the President?

Dean. No sir, I met with him the next Monday morning, in which he called me and asked me to come in the office. I received a call while I was, before I really left to come in.

Baker. Hold it just one minute. The next meeting would have been April what?

Dean. April 16.

Baker. And is that the last meeting?

Dean. No sir—well, there were two meetings on the 16th, one call on the 17th, and then a call on Easter morning.