

Transcript of Kalmbach-

Ehrlichman Call

9-5-76/1/73
Following is the transcript of an April 19, 1973, telephone conversation between John D. Ehrlichman, then the President's top domestic affairs adviser, and Herbert W. Kalmbach, the President's personal attorney. The Senate select Watergate committee obtained a transcript of a tape recording of the call and introduced the transcript into the hearing record yesterday.

Ehrlichman: Hi, how are you?

Kalmbach: I'm pretty good. I'm scheduled for 2 tomorrow afternoon.

Ehrlichman: Where—at the jury or the U.S. attorney?

Kalmbach: At the jury and I'm scheduled at 5:30 this afternoon with (principal assistant U.S. attorney Earl J.) Silbert.

Ehrlichman: Oh, are you?

Kalmbach: Yeah. I just wanted to run through quickly several times, John, in line with our conversation. I got in here last night and there was a telephone call from (GOP attorney Paul) O'Brien. I returned it, went over there today and he said the reason for the call is (Nixon Aide Frederick) LaRue has told him to ask him to call me to say that he had to identify me in connection with this and he wanted me to know that and so on.

Ehrlichman: Did he tell you about (John) Dean?

Kalmbach: Nope.

Ehrlichman: Well Dean has totally cooperated with the U.S. attorney in the hopes of getting immunity. Now what he says or how he says nobody seems to be able to divine but he...

Kalmbach: The whole enchilada?

Ehrlichman: He's throwing off on Bob (Haldeman, White House chief of staff) and me heavily.

Kalmbach: He is?

Ehrlichman: Yep.

Kalmbach: He is.

Ehrlichman: And taking the position that he was a mere agent. Now on your episode he told me before he left, so to speak, he Dean, told me that really my transaction with him in-

volving you was virtually my only area of liability in this thing and I said, 'well, John, what in the world are you talking about?' He said, well I came to you from (John) Mitchell and I said Mitchell needs money could we call Herb Kalmbach and ask him to raise some. And I said, and Dean says to me, and you said yes.

And I said yep, that's right. And he said well that does it. And I said well that's hard for me to believe, I don't understand the law but I don't think Herb entered into this with any guilty intent and I certainly didn't and so I said I just find that hard to imagine. Now since then I've retained counsel.

Kalmbach: Oh, you have?

Ehrlichman: Very good and who agrees with me that it is the remotest kind of nonsense but the point that I think has to be clarified, that I'm going to clarify if I get a chance, is that the reason that Dean had to come to me and to Bob where you were concerned is that we had promised you that you would not be run pillar to post by Maurice Stans.



By Frank Johnston—The Washington Post
Sen. Talmadge ponders point during Watergate testimony.

Kalmbach: And also that you knew I was your friend and you knew I was the President's attorney.

Ehrlichman: Sure.

Kalmbach: Never do anything improper, illegal, unethical or whatever.

Ehrlichman: Right.

Kalmbach: And.

Ehrlichman: But the point is that rather than Mitchell calling you direct Mitchell knew darn well that you were no longer available.

Kalmbach: Yep.

Ehrlichman: Now this was post April 6, was it not?

Kalmbach: Yep, April 7.

Ehrlichman: So that Mitchell and Stans both knew that there wasn't any point in calling you direct because we had gotten you out of that on the pretext that you were going to do things for us.

Kalmbach: That's right.

Ehrlichman: And so it was necessary for Dean to come to me and then in turn to Bob and plead a very urgent case without really getting into any specifics except to say you had to trust me, this in very important and Mitchell is up his tree, or, you know, I mean is really working, he didn't use that phrase, but is really exercised about this. And I said well, John, if you tell me it's that important, why yes.

Kalmbach: You know, when you and I talked and it was after John had given me that word, and I came in to ask you, John is this an assignment I have to take on? You said, yes it is period and move forward. Then that was all that I needed to be assured that I wasn't putting my family in jeopardy.

Ehrlichman: Sure.

Kalmbach: And I would just understand that you and I are absolutely together on that.

Ehrlichman: No question about it, Herb, that I would never knowingly have put

you in any kind of a spot.

Kalmbach: Yeah. Well and when we talked you knew what I was about to do, you know, to go out and get the dough for this purpose; it was humanitarian...

Ehrlichman: It was a defense fund.

Kalmbach: . . . to support the family. Now the thing that was disquieting about this thing with O'Brien was that he said that there is a massive campaign evidently under way to indict all the lawyers including you, Herb, and I was a little shocked and I guess what I need to get from you, John, is assurance that this is not true.

Ehrlichman: Well I don't know of any attempt to target you at all. My hunch is that they're trying to get at me, they're trying to corroborate. See what they said to Dean is that he gets no consideration from them unless they can corroborate Haldeman and my liability.

Kalmbach: God, if I can just make it plain that it was humanitarian and nothing else.

Ehrlichman: Yeah, and the point that I undoubtedly never expressed to you that I continually operated on the basis of Dean's representations to me.

Kalmbach: Yep. It was not improper.

Ehrlichman: Right.

Kalmbach: And there was nothing illegal about it.

Ehrlichman: See, he's the house lawyer.

Kalmbach: Yep, exactly, and I just couldn't believe that you and Bob and the President — just too good friends to ever put me in the position where I'm putting my family on the line. And it's just unbelievable, unthinkable. Now shall I just—I'll just if I'm asked by Silbert I'll just lay it out just exactly that way.

Ehrlichman: Yeah, I wouldn't haul the President into it if you can help it.

Kalmbach: Oh, no, I will not.

Ehrlichman: But I think the point that which I will make in the future if I'm given the chance that you were not under our control in any sort of a slavery sense but that we had agreed that you would not be at the beck and call of the committee.

Kalmbach: And, of course, too, that I act only on orders and, you know, on direction and if this is something that you felt sufficiently important and that you were assured it was altogether proper, then I would take it on because I always do it and always have. And you and Bob and the President know that.

Ehrlichman: Yeah, well, as far as propriety is concerned I think we both were relying entirely on Dean.

Kalmbach: Yep.

Ehrlichman: I made no independent judgment.

Kalmbach: Yep. Yep.

Ehrlichman: And I'm sure Bob didn't either.

Kalmbach: Nope and I'm just, I just have the feeling, John, that I don't know if this is a weak reed, is it?

Ehrlichman: Who, Dean?

Kalmbach: No, I mean are they still going to say well Herb you should have known.

Ehrlichman: I don't know how you could. You didn't make any inquiries.

Kalmbach: Never. And the only inquiries I made, John, was to you after I talked to John Dean.

Ehrlichman: And you found I didn't know just a whole helluva lot.

Kalmbach: You said this

is something I have to do and . . .

Ehrlichman: Yeah, and the reason that I said that, as you know, was not from any personal inquiry but was on the basis of what had been represented to me.

Kalmbach: Yeah, and then on—to provide the defense fund and to take care of the families of these fellas who were then . . .

Ehrlichman: Indigent.

Kalmbach: Not then been found guilty or not guilty.

Ehrlichman: And the point being here without attempting to induce them to do a damn thing.

Kalmbach: Absolutely not and that was never, that was exactly right.

Ehrlichman: OK.

Kalmbach: Now, can I get in to see you tomorrow before I go in there at 2?

Ehrlichman: If you want to. They'll ask you.

Kalmbach: Will they?

Ehrlichman: Yep.

Kalmbach: Well, maybe I shouldn't.

Ehrlichman: They'll ask you to whom you've spoken about your testimony and I would appreciate it if you would say you've talked to me in California because at that time I was investigating this thing for the President.

Kalmbach: And not now?

Ehrlichman: Well, I wouldn't ask you to lie.

Kalmbach: No, I know.

Ehrlichman: But the point is

Kalmbach: But the testimony was in California

Ehrlichman: The point is. Well, no your recollection of facts and so forth.

Kalmbach: Yes, I agree.

Ehrlichman: See, I don't think we were ever seen together out there but at some point I'm going to have to say that I talked to O'Brien and Dean and (Deputy campaign director Jeb Stuart) Magruder and Mitchell and you and a whole lot of peo-

Kalmbach: Yeah.

Ehrlichman: And so it would be consistent.

Kalmbach: Do you feel, John, that calling it straight shot here, do you feel assured as you did when we were out there that there's no culpability here?

Ehrlichman: Yes.

Kalmbach: And nothing to worry about?

Ehrlichman: And Herb from everything I hear they're not after you.

Kalmbach: Yes, sir.

Ehrlichman: From everything I hear.

Kalmbach: Barbara, you know.

Ehrlichman: They're out to get me and they're out to get Bob.

Kalmbach: My god. All right, well, John, it'll be absolutely clear that there was nothing looking towards any cover-up or anything. It was strictly for the humanitarian and I just want . . . when I talked to you I just want you advise me that it was alright on that basis.

Ehrlichman: On that basis.

Kalmbach: To go forward.

Ehrlichman: That it was necessary.

Kalmbach: And that'll be precisely the way it is.

Ehrlichman: Yeah, OK. Thanks, Herb. Bye.