

Kalmbach: 'I Feel I Should

Following are excerpts of the testimony by Herbert W. Kalmbach, President Nixon's personal attorney, before the Senate select Watergate committee yesterday.

The excerpts begin with questions by Sen. Joseph Montoya (D-N.M.) about the secrecy with which Kalmbach, at the request of former White House counsel John W. Dean III and former Presidential assistant John D. Ehrlichman, raised \$220,000 from Nixon campaign contributors for distribution to the Watergate burglary defendants last year:

Montoya: Now, as you look back in retrospect, Mr. Kalmbach, and in view of the secrecy that was imposed upon you and what you had to go through in order to develop a line of communication in carrying out your mission, do you feel that you proceeded correctly?

Kalmbach: In retrospect, Senator, I feel that it was something I should not have been involved in . . .

Montoya: Acknowledging that you would have done this differently, would you have gone to the President, your client and friend, and told him everything that was going on?

Kalmbach: Sir, at the time, I of course understood that it was a proper assignment.

Montoya: Well, you understood that it was proper because you had been assured by Mr. Ehrlichman, and Mr. Dean that it was a proper assignment and that is, all you knew about it?

Kalmbach: Yes sir.

Montoya: Well, you have been practicing law for quite a few years.

Kalmbach: Yes sir.

Montoya: . . . didn't you try to put this as a lawyer in the proper context and come up with some grave concern on your part?

Kalmbach: No sir. At the outset, it was a matter of complete and implicit trust in Mr. Dean and then in Mr. Ehrlichman. There was no question in my mind that these men would ask me to do anything improper.

Montoya: Now, did you feel that it was the proper thing to raise money for these defendants when there were implications not only in the press, but also in conversations that money was being used to silence these defendants?

Kalmbach: No sir. I had understood at the time that Mr. Dean made the request of me, and then again, when Mr. Ehrlichman confirmed Mr. Dean's authority and the propriety of this assignment, I understood then it was for a proper purpose.

Montoya: . . . All right. Now, would you say that when (a campaign contributor) gave you this

money, in view of your presence there, in view of the fact that he knew you were the President's emissary and that the President was running for re-election, that the money would be used for political purposes?

Kalmbach: Yes, sir.

Montoya: And it was not used for political purposes, was it?

Kalmbach: It was used for the legal defense of the defendants and for the families' support . . .

Montoya: Now, if you used this money for these defendants and you were right in so using it, then (the contributor) is going to be subject to the payment of a gift tax, would you say? You are an income tax lawyer and have become well versed with the tax laws of this country.

Kalmbach: The question as to the tax, I am not certain on that point, Senator. It was used for the purpose indicated. There might be a gift tax problem there.

Montoya: Well, if it was not used for political purposes and it was used for some other purpose, there is a question there as to whether that transfer of money was exempt from the gift tax?

Kalmbach: Yes, sir.

Montoya: I understand that you did not call the President because you assumed that the President knew about all these things.

Kalmbach: Senator, I did not speak with the President. I spoke to Mr. Dean and Mr. Ehrlichman and had no belief that I should speak to the President about this matter.

Montoya: Well, you indicated earlier that if you had known what you know now in retrospect, if you had realized all these things, you certainly would have called the President about all these ramifications.

Kalmbach: If I had known at the time when I met with Mr. Dean that he was asking me to do an illegal act, I would have immediately gone to Mr. Ehrlichman and spoken to him about it, because I just could not believe, and it is incomprehensible to me to feel that I could possibly believe that anyone, Mr. Dean as counsel to the President, later Mr. Ehrlichman, assistant to the President for domestic affairs, could ask the President's personal attorney to do an illegal act.

Senator (Daniel K.) Inouye (D-Hawaii): Were you convinced that the activities in which you were involved were completely legal?

Kalmbach: Yes, sir. Absolutely.

Inouye: Can you advise this committee as to exactly how much all of the attorneys have received?

Kalmbach: Sir, in the assignment that I undertook?

Inouye: Yes, sir, or their clients, whichever.

Kalmbach: Well, sir, my memory is that I caused approximately \$220,000 to be given to Mr. (Anthony) Ulasewicz, which was disbursed. Now, as to the total amount that was given to attorneys from the \$220,000 plus or minus, I would think it is between \$100,000, \$130,000, in that area, I am not certain.

Inouye: Who were the attorneys who received the money?

Kalmbach: Well, I have testified, Senator, that Mr. (William) Bittman received, I believe \$25,000, and that Mrs. Hunt distributed the funds to other attorneys.

Inouye: Who were the other attorneys?

Kalmbach: . . . I think Mr. (Harold) Rothblatt, I think Mr. Bailey was one of the names.

Inouye: Will you identify them fully, sir?

Kalmbach: I do not know the first name, Senator.

Inouye: Who is Mr. Bailey?

Kalmbach: I think he was the attorney, I think, for Mr. McCord.

Inouye: What is his first name?

Kalmbach: I am not certain.

Inouye: Is it F. Lee Bailey?

Kalmbach: I do not know. Just Mr. Bailey. Mr. Rothblatt — excuse me, Senator, I think Mr. Margolis was another of the attorneys . . .

Inouye: At no time did you question the propriety, at no time did you question the wisdom, of Mr. Dean. If Mr. Dean had advised you to take a certain step in relation to one of our clients, let's say United Airlines has a case before the CAB and Mr. Dean says you should advise your client to do such and such, would you without question so advise United Airlines?

Kalmbach: No sir, I would not have. But there was an assignment being given to me by Mr. Dean on behalf of others that he simply named as "we" and again it was a matter of absolute trust that I go forward.

Inouye: In retrospect are you now convinced that you were involved in a criminal activity?

Kalmbach: In retrospect now, in this testimony, realizing from what Mr. Dean has testified that this was improper, an illegal act. It is just as if I have been kicked

Not Have Been Involved?

in the stomach.

During the afternoon session, Sen. Sam Ervin (D-N.C.) chairman of the committee, questioned Kalmbach about the money he raised for the seven Watergate defendants:

Ervin: You have stated that you got \$75,000, I believe mostly in \$100 bills, from Maurice Stans, and a contribution of \$75,000 in a wrapped-up package of money from Mr. Jones of the Northrup Company. That makes \$150,000. Where did you get the other \$70,000?

Kalmbach: From Mr. (Frederick) LaRue, senator.

Ervin: So with the \$75,000 you got from Maurice Stans, the \$70,000 from Fred LaRue, and the \$75,000 you got from Mr. Jones, you managed to distribute in a surreptitious manner to the families and counsel of the people indicted in the Watergate affair sums totaling \$220,000?

Kalmbach: Substantially that.

Ervin: And you did this at the instance of John Dean and Fred LaRue and with the approval of John Ehrlichman?

Kalmbach: Yes, sir . . .

Ervin: . . . did you not understand that you were being given an assignment that was so confidential in nature, it was going to be hid from everybody except those concerned?

Kalmbach: Well, Mr. Chairman, I was again, just understood that it was to be absolutely confidential . . .

Ervin: Well, does not abso-

lute confidentiality imply absolute secrecy?

Kalmbach: Yes, sir.

Ervin: Well, does not absolute secrecy imply hiding things from the world in general?

Kalmbach: Well, in this, Mr. Chairman, in the election year that was the case in mid-year 1972, I was advised that the reason for the confidentiality, the absolute secrecy, was for that purpose and to avoid misinterpretation.

Ervin: Well, are not the people entitled to know more in an election year when they have to choose a President than at any other time?

Kalmbach: They are entitled to know, yes, sir.

Ervin: Well, it is inescapable to me that this arrangement was set up in order to conceal what was, the distribution of this money and the identity of the parties who were distributing it and the identity of the parties who were receiving it. Is that not an inescapable conclusion from your testimony?

Kalmbach: From my testimony, Mr. Chairman, it is true that the reason I was asked to do this was to raise these funds for these individuals and for attorneys and the reason for the confidentiality requirements was expressed to me as I have testified. . . .

Ervin: Now, didn't you suspect that when you raised this money and distributed it in this surreptitious manner to the lawyers and families of the parties that had been indicted in the Watergate that you were aiding the Nixon campaign for re-election?

Kalmbach: I was carrying out an assignment, Mr. Chairman.

Ervin: Well, didn't you suspect that you were asked to do this because it would aid the campaign of the President for re-election?

Kalmbach: No sir. I was doing this for the purpose that I stated, that it was an assignment. I thought a moral obligation had in some manner been created and I was raising funds for the purposes stated. . . .

Ervin: Now, as I deduced from the testimony you gave under examination to Sen. Talmadge . . . you suspected that there was some connection between somebody, either in the White House or somebody involved in the Committee to Re-elect the President, and the burglary at the Watergate.

Kalmbach: Yes, sir.

Ervin: Yes.

Kalmbach: I think again that Mr. Dean, whether he was speaking—and I don't know who he was speaking for when he came to me and I still don't. But I felt that he had ties and I knew that he had ties with the Committee to Re-elect, and, of course, ties in the White House.

Ervin: And when you talked to John Ehrlichman about this, John Ehrlichman told you that it was an important assignment, that you should carry it out, and that if this money was not raised, they would have our heads in their laps.

Kalmbach: No, sir, he did say that it was an important assignment, that John Dean did have the authority, and that I should go forward.

The statement that Mr. Ehrlichman made about heads in the laps was meant that if, this is the reason for the secrecy procedures, that if in fact, I didn't follow these secrecy procedures and it got into the press, it could be misinterpreted and would jeopardize the campaign.

Ervin: Well, he did tell you that if this mission was not kept secret, this assignment was not kept secret, that they would have our heads in their laps. And you took that to mean that "they" were some Democrats.

Kalmbach: Yes, sir.

Ervin: Or the public press?

Kalmbach: Yes, sir . . .

Kalmbach was then questioned by Sen. Inouye about the chain of command at the White House and who might have authorized the burglary and bugging of the Watergate headquarters of the Democratic National Committee:

Inouye: In your testimony you indicated that someone pressed the "green button" thereby putting into motion the Watergate burglary, something that you described as being idiotic and I agree with you it was idiotic and monumentally stupid.

However idiotic, I gather from your testimony that you assumed that this burglary was carried out to benefit the re-election campaign of the President of the United States. Is my assumption correct, sir?

Kalmbach: Yes, sir, I would agree with that.

Inouye: Therefore, there existed . . . this moral obligation?

Kalmbach: I believe so, sir.

Inouye: But, however, you did not know as to the identity of the person who pressed the green button?

Kalmbach: No, sir.

Inouye: Now, when Mr. Dean directed you to raise these funds for humanitarian purposes, and was later assured by Mr. Ehrlichman that Mr. Dean was authorized to ask you to risk your career and carry out this covert fund-raising, you must have assumed that these men either participated in pressing the button or knew who pressed the button, is that assumption correct, sir?

Kalmbach: Yes, sir.

Inouye: And without question, you obeyed the direction of Mr. Dean and Mr. Ehrlichman?

Kalmbach: Without question.

Inouye: Because you were certain that, as you said, they were trusted implicitly by the President of the United States?

Kalmbach: And, sir, trusted by me.

Inouye: And everything in that was done, I know was done in the President's best interest

Kalmbach: Everything that was done, I know was done in the President's best interest and in the best interest of the campaign.

Inouye: I do not suppose you listened to Mr. Dean because you were convinced he was the button pusher or the mastermind?

Kalmbach: I did not understand that he was the button pusher. I think Mr. Dean was — had received the assignment to approach me, knowing whoever gave him the directions, senator, knowing that I would trust Mr. Dean.

Inouye: Now, in the hierarchy of influence authority in the committee and in the White House above Mr. Dean you will find Mr. Ehrlichman, is that not correct, sir?

Kalmbach: Yes, sir.

Inouye: And above Mr. Ehrlichman, Mr. Haldeman?

Kalmbach: Yes, sir.

Inouye: And above Mr. Haldeman?

Kalmbach: Yes, sir, the President.

Inouye: The President. I do not suppose you considered Mr. LaRue to be the mastermind?

Kalmbach: No, sir. I think Mr. LaRue again was doing what had been requested of him.

Inouye: I do not suppose you considered Mr. Ehrlichman to be the button pusher?

Kalmbach: I did not know, senator. I just did not.

Inouye: What did you think when Mr. Ehrlichman told you that Mr. Dean had authority? From whom?

Kalmbach: I was not certain, senator. I did not know whether it was someone in authority at the committee to re-elect or someone in authority at the White House. I just did not know.

Inouye: Was it possible that someone in the committee to re-elect would have ordered Mr. Ehrlichman to do something? Was there anyone greater in influence or authority in the committee?

Kalmbach: No, senator, no one could have ordered Mr. Ehrlichman to do anything but Mr. Ehrlichman—

Inouye: It would have to be Ehrlichman, the button pusher, Mr. Haldeman the button pusher or someone higher than Mr. Haldeman.

Kalmbach: Well, senator, I think it could be someone in authority in the Committee to Re-Elect, and Mr. Ehrlichman was advised of this, and Mr. Ehrlichman agreed that this was the proper thing to do. I don't know what went through his mind. I know when I spoke to Mr. Ehrlichman he told me that "It was proper and to go forward, Herb," and without more and that was good enough for me. But I do not know, senator, I do not know

whether Mr. Ehrlichman knew that it was someone in authority at the Committee to Re-Elect or someone else.

Inouye: In listening to your testimony, would I be correct to contend that it is your suggestion to the committee that your candidate for the button pusher is Mr. Ehrlichman?

Kalmbach: No sir, I don't have a candidate for, as the button pusher. I had the feeling, as I think I have expressed, senator, that it was someone in authority at the Committee to Re-Elect but I don't know.

Inouye: My final question, sir. Throughout your testimony you used certain words. For example, you were directed by Mr. LaRue to, for example, when Sen. Talmadge questioned you, to distribute \$400,000 to unknown persons?

Kalmbach: Yes sir.

Inouye: And you didn't know for what purpose and you didn't ask for what purpose?

Kalmbach: That is correct.

Inouye: Are you suggesting to this committee that in this assignment your sole job was that of a messenger?

Kalmbach: Yes sir, that is really what it amounted to. This job as trustee was to act when I was requested to do so by Mr. Haldeman or one of his deputies.

Inouye: Don't you feel that it was rather demeaning as a senior partner in a prestigious law firm to be used as a messenger by people like Dean and Haldeman, and Ehrlichman?

Kalmbach: Yes sir.

Inouye: I thank you very much, sir. Thank you very much, Mr. Chairman.

Ervin: Senator (Lowell) Weicker (R-Conn.) . . .

Weicker: Do you know Mr. James Knapp?

Kalmbach: Yes, sir . . .

Weicker: Have you ever told Mr. Knapp anything in the way of a relationship between you and Mr. Haldeman, the fact that possibly you might be being used by Mr. Haldeman? Did you ever converse with Mr. Knapp on this subject?

Kalmbach: I think I have been, in recent times, I think I have indicated that I feel that I was used.

Weicker: That you were used?

Kalmbach: Yes, sir.

Weicker: . . . Do you feel that you have been used by Mr. Haldeman in this matter?

Kalmbach: Yes, sir.

Weicker: You do? Do you feel you have been used by Mr. Ehrlichman?

Kalmbach: If they, senator, if they had knowledge of the true, what has been alleged to be the true purpose of this (the payments to the defendants) and did not advise me, then I think I was used.

Weicker: Do you feel that you have been used by Mr. Ehrlichman within that response?

Kalmbach: I do, sir.

Weicker: Do you feel you have been used by Mr. Mitchell?

Kalmbach: In that same context, yes, sir.

Weicker: Do you feel you have been used by Mr. Dean?

Kalmbach: Again, the same.