

Panel Asks President For Files, Tapes

Kalmbach Felt He Was 'Used'

By Peter A. Jay

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Herbert W. Kalmbach, describing himself as an unwitting accomplice in activities he now sees as criminal, told the Senate select Watergate committee yesterday that he may have been "used" by four of President Nixon's former top aides.

If the aides knew that nearly \$220,000 in clandestine payments he channeled last year to the seven accused Watergate defendants was intended to buy silence, Kalmbach said, he would "feel that I was used . . . by people who knew the true purpose of this assignment" and recruited him to raise the money.

Near the end of a long day of questioning, his second before the committee, Kalmbach listed those who he thought might have ordered the money raised for illegal purposes as former presidential assistants John D. Ehrlichman and H. R. (Bob) Haldeman and former Attorney General John N. Mitchell.

He said he is now "certain" that former presidential counsel John W. Dean II, the man who gave him his orders for the raising and distribution of most of the money, knew it was for the burglars' silence and not—as Kalmbach said Dean told him—simply a fund for their legal defense and their families' support.

In an exchange with Sen. Lowell P. Weicker (R-Conn.) late in the day, Kalmbach said emphatically he now believes that the men closest to the President — men in whom he said he had had the utmost trust — had taken advantage of him. This exchange occurred:

Weicker: Do you feel that
See KALMBACH, A25, Col. 4
KALMBACH, From A1

you have been used by Mr. Haldeman in this matter?

Kalmbach: Yes, sir.

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

Kalmbach: . . . if they had knowledge of the true, what has been alleged to be

the true purpose of this and did not advise me, then I think I was used.

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

Kalmbach: I do, sir.

Weicker: . . . by Mr. Mitchell?

Kalmbach: IN THE same context, yes sir.

Weicker: . . . by Mr. Dean?

Kalmbach: Again, the same.

Kalmbach, a Californian who is President Nixon's personal lawyer and has raised millions of Republican campaign dollars since 1968, also said Ehrlichman—a man in whom he said he once had "absolute trust"—spoke to him by telephone about his impending testimony the day before he was called before a grand jury investigating the Watergate case.

A transcript of that conversation, which Kalmbach said was tape recorded by Ehrlichman without his knowledge, was introduced into evidence before the committee yesterday. The tape was obtained by federal prosecutors along with masses of other material subpoenaed from Ehrlichman.

In the taped conversation, which occurred on the afternoon of last April 19, 1973, when Kalmbach telephoned Ehrlichman at the White House, Ehrlichman said that "Dean has totally cooperated with the U. S. attorney in the hopes of getting immunity . . . (and is) throwing off on Bob (Haldeman) and me heavily."

April 19 was the day that Dean made a public statement vowing that he would not be made "a scapegoat in the Watergate case," and two days after President Nixon said there "major developments" in the Watergate matter and announced that he would now allow his key aides to testify.

Kalmbach made his telephone call to Ehrlichman, he said, after hearing that "there is a massive campaign under way to indict all the lawyers" connected with the case. He asked Ehrlichman for "assurance that this is not true."

Ehrlichman reassured him that he didn't "know of any attempt to target you at all." Then, according to the tape, he spoke to Kalmbach about his grand jury testi-

mony—scheduled for the next afternoon.

"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," Ehrlichman said, "because at that time I was investigating this thing for the President."

"And not now?" Kalmbach asked.

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

If Kalmbach had testified before the grand jury that the conversation had taken place in California, he would have been committing perjury.

Ehrlichman's attorney, John J. Wilson, said yesterday that he had no idea why his client had taped the conversation with Kalmbach.

Under questioning by the committee, Kalmbach said several times yesterday that the tape was made without his knowledge or consent. He said that the recorded conversation, in his view, was "self-serving" on Ehrlichman's part.

But he did not comment on the suggestion of committee chairman Sam Ervin (D-N.C.) that perhaps the tape represented an effort by Ehrlichman to "advance the theory that John Dean should be made a scapegoat . . . bearing the full responsibility for any impropriety or unethical aspects of the disuse of the money."

Kalmbach, referring yesterday to Dean's testimony that the money was given to the Watergate burglars as part of a massive cover-up of their White House connections, said it is now clear to him in retrospect that the secret fund-raising mission assigned him by Dean and Ehrlichman was improper and illegal.

"It is just as if I have been kicked in the stomach," he said. Yesterday, as on Monday, Kalmbach testified that it had been his belief at the time that the money was to be used for "humanitarian purposes" — relief for the families of the burglars, and legal fees.

Ehrlichman and Dean told him, he said, that secrecy was imperative in the operation because otherwise it would be "misinterpreted" by the Democrats and used against the President's campaign for re-election.

Haldeman, Ehrlichman and Mitchell have all testified (or said in sworn

statements) that they knew money had been raised for the Watergate defendants, but assumed it was for humanitarian purposes.

Unless it can be established that the money was used to buy the silence of the seven men the payments cannot be used as grounds for prosecution on charges of obstruction of justice.

In the telephone conversation with Kalmbach he taped on April 19, Ehrlichman explicitly calls the money "a defense fund" he said was given "without attempting to induce them (the defendants) to do a damn thing."

Kalmbach, who testified in detail on Monday and again yesterday about the complicated system by which he distributed quantities of \$100 bills to the Watergate defendants, said he now favors legislation that would bar the use of large amounts of cash in political campaigns.

The members of the committee questioned Kalmbach closely on his work as the Watergate paymaster for a two-month period last summer. Why, each senator wanted to know, did he do something that smacked so strongly of illegality?

"I thought I was performing a service for the people Mr. Dean referred to as 'we,'" he replied. These people he identified as Dean, Ehrlichman, Haldeman and Mitchell.

At no point in his two days on the stand did Kalmbach implicate the President, his legal client for the past four years, with any aspect of the Watergate case or its cover-up.

But he made it clear he knew Dean was not giving him instructions entirely on his own initiative. He was aware that in the White House hierarchy the lines of authority ran from Dean to Ehrlichman to Haldeman to the President, he said, but he did not know whose order started the abortive Watergate operation into motion.



Photos by James K. W. Atherton—The Washington Post

Kalmbach, after being told how funds were used:
"It is just as if I have been kicked in the stomach."

He thought, he said, "it was someone in authority at the Committee to Re-Elect, but I don't know."

At one point, Sen. Ervin Jr. (D-N.C.) demanded of the witness: "Have you ever known a political party to engage in humanitarian acts like this before or since?"

Kalmbach responded only that he believed at the time that the fund-raising was proper.

Was it possible that "it never occurred to you that the fact that money was paid to the people who did burglarize the Watergate would raise a suspicion they were paid to keep silent?" Ervin wanted to know.

Kalmbach, answering with one of the few traces of emotion he showed throughout his two days of testimony, declared that "It did not. I would not have undertaken any assignment for any illegal act. I would not."

Earlier, Ervin had been pressing him about \$75,000 in cash Kalmbach said he raised from Nixon supporter Thomas V. Jones, the chairman of the board of the Northrup Corporation in California. (Jones has said he only gave Kalmbach \$50,000, under the assumption it was a legal political contribution.) What, Ervin wanted to know, had Kalm-

bach said the money was for?

"I told Mr. Jones I was raising funds for a special assignment and I did not go beyond that," Kalmbach replied.

"You didn't tell him whether it was a special assignment to create a foundation for the feeding of transatlantic whales or something?" Ervin asked.

Although Ervin appeared unfatigued by the long series of hearings, other members of his committee were growing weary by afternoon. "I'm exhausted and a bit depressed," said Sen. Daniel K. Inouye (D-Hawaii) during a recess.

Kalmbach gave some additional details yesterday about the way the Watergate money was distributed.

Of the \$219,000 he raised or was given, he said, nearly \$150,000 was given to Dorothy Hunt, the wife of convicted Watergate conspirator E. Howard Hunt Jr., to pass on to attorneys representing the defendants. Mrs. Hunt died in an airplane crash last December while carrying \$10,000 in \$100 bills.

Under questioning by Sen. Herman E. Talmadge (D-Ga.), Kalmbach said that in 1970 he had been instructed to distribute \$400,000 in Republican campaign funds left over from 1968. The funds were given by Kalmbach to unknown messengers during two meetings in a New York hotel and one meeting in Los Angeles.

He said he had "heard" comments to the effect that the money found its way to Alabama to be used in an unsuccessful campaign to stop the gubernatorial campaign of George C. Wallace, but that he wasn't sure that was true.