

Kleindienst Glances Backward

By Sanford J. Ungar
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CHICAGO—Richard G. Kleindienst is still a Nixon loyalist.

But as one of the victims of the Watergate affair, he has begun to evaluate the administration he served for 4½ years with the frank and critical attitude of an outsider.

Looking back on the central issue in his hotly disputed 1972 confirmation hearing for Attorney General, for example, he is still convinced that the settlement of federal antitrust suits against the International Telephone and Telegraph Corp. had nothing to do with ITT's pledge of money for the 1972 Republican National Convention.

Kleindienst acknowledges, however, that he "would not be surprised" if some administration officials led ITT on in order to get the convention money and then "never delivered" favors expected by the corporation.

He continues to believe that it was proper to bring charges against Daniel Ellsberg and Anthony Russo Jr. for disclosure of the top-secret Pentagon papers.

But he blames "those jerks in the White House" for events—including the burglary of Ellsberg's psychiatrist's office—leading to the dismissal last May of the case against Ellsberg and Russo.

Once last November's



RICHARD G. KLEINDIENST
... a retrospective

presidential election was over, Kleindienst said, the White House "didn't give a damn" about the Ellsberg case. . . "They considered it a political, rather than a legal, matter."

Kleindienst, who resigned as Attorney General last spring because of his close association with persons implicated in the Watergate scandal, spoke out on those and other subjects during an interview in his hotel suite at the Palmer House in Chicago, where he was attending the recent convention of the Federal Bar Association.

He stepped down after a one-year term as president

of the FBA, an organization of attorneys currently or formerly employed by the federal government.

Now in private law practice in Washington, he arrived here from a business visit to Mexico City and was leaving after the convention on a similar trip to Paris and Algiers.

Kleindienst reminisced about his stormy career as Attorney General—"I came in on ITT and went out on Watergate; what a record!"—and was frank to admit that he had often been at odds with the White House.

He declined, however, to criticize directly President Nixon or his personal aides, except for former White House domestic affairs chief John D. Ehrlichman, whom he described as "impulsive, impetuous... and self-serving."

On the central, crucial question of the Watergate affair, President Nixon's possible involvement, Kleindienst had this to say:

"Based on every piece of factual information I know, I do not believe that the President had prior knowledge of the Watergate burglary (at Democratic National Committee headquarters) or participated in the cover-up."

But he specifically added that "I am not going to express any subjective opinion at this time" which goes beyond the available "factual

information." Any such opinion, he said, could be "highly prejudicial" to people still under investigation.

Much of the interview dealt with the constitutional crisis now faced by the Nixon administration.

Ironically, Kleindienst indicated that if he were still running the Justice Department, he might take positions on those crises which were more favorable to the White House than are the positions of his successor, Attorney General Elliot L. Richardson.

Kleindienst said he agrees legally—if not politically—with President Nixon's refusal to release secret tapes of White House conversations related to the Watergate affair.

Under the doctrine of separation of powers among the three branches of government, he insisted, "the tapes are his (Mr. Nixon's) and are not amenable to the judicial process or to a subpoena from Congress."

Kleindienst stressed that his opinions on legal issues, while authoritative until a few months ago, are now purely speculative and based on no more information than the average citizen has gotten from the news media since last spring.

"I don't think I will be consulted," he said with a laugh, referring to his status outside the administration.

See KLEINDIENST, E5, Col. 3

KLEINDIENST, From E1

The former Attorney General insisted that "nobody"—not Watergate Special Prosecutor Archibald Cox, the Watergate grand jury or Chief U.S. District Court Judge John J. Sirica in Washington—has a right to hear the President's tapes without Mr. Nixon's permission.

"I don't think the President should've had the tapes," Kleindienst said, indicating he considered it unfair to record conversations without telling all parties to them. But once the tapes exist, he argued, the

Chief Executive is entitled to exclusive control over them.

He outlined two hypothetically parallel situations, in which he said he had no doubt that a privilege of confidentiality would be upheld:

- A demand by the Senate Judiciary Committee for the internal documents and memoranda that went into decisions of the U.S. Supreme Court.

- A subpoena by a federal grand jury run by the Attorney General for documents indicating how the Senate Judiciary Committee arrived at legislative decisions.

The former Attorney General complained of a tendency in the press to take sides in any such constitutional confrontation on the basis of political preference rather than genuine principle.

He said he recalled an occasion in the early 1960s when one Eastern newspaper "had orgasms in defense of John F. Kennedy over the confidentiality of presidential papers. They editorialized, 'How can Congress do this to such a beautiful young man?'"

"You simply cannot make law based on individual circumstances," he added.

Kleindienst said that whichever way the Supreme Court ultimately resolves the dispute over the tapes, he hopes the decision will be unanimous, because the issue is a "matter of the gravest importance for the future of the court and of constitutional government in this country."

He suggested that the high court could have considerable difficulty enforcing an eventual decision that the President must turn over the tapes, if Mr. Nixon does not consider it the "definitive" judgment of which he has spoken.

Mr. Nixon could, for example, order the U.S. marshal not to serve the Supreme Court's opinion on him, Kleindienst said, pointing out that the marshal serves at the pleasure of the President.

In the final analysis, Kleindienst observed, the President will be faced with "a political question" concerning the tapes—one which will have to be resolved on the basis of political consideration.

The former Attorney General had these remarks on other subjects during the interview:

• At one point during his confirmation hearings to become Attorney General, the White House tried to dump him overboard but he was rescued by supporters in the Senate.

Kleindienst confirmed long-standing speculation that the White House was furious with him for requesting that his hearing be re-opened after the ITT controversy broke.

He said he had always wanted testimony at the hearing from ITT lobbyist Dita D. Beard, a central figure in the controversy, and was puzzled by the White House desire to keep her away.

But he was also critical of Democrats on the Senate Judiciary Committee, especially Sen. Edward M. Kennedy (D-Mass.), for turning his hearings "into a political trial."

• It was clearly improper for Ehrlichman to offer the job of FBI director to U.S. District Court Judge W. Matt Byrne Jr. while Byrne was still presiding over the Pentagon Papers trial in Los Angeles, and that Ehrlichman has distorted the record by claiming publicly that the approach had Kleindienst's approval.

However, Kleindienst said that Byrne was also to blame, for initiating a second meeting with Ehrlichman after their first discussion.

At several points, Kleindienst, who described himself as a one-time "very forthright, aggressive advocate of this administration" stopped short of attacking the White House for its treatment of him. He said he is "not yet" prepared to discuss that matter publicly.

To make "subjective comments" about administration officials, even those who have been critical of him, Kleindienst said, would be "improper, unprofessional and the repudiation of the relationship I voluntarily entered into with these people."