

# Text of a Memo Sent to

Following is the text of a memo sent to H. R. (Bob) Haldeman, chief of staff for President Nixon until he resigned April 30, from Charles W. Colson, a special counsel to the President, which was made available to the Senate select committee investigating Watergate at yesterday's hearing:

March 30, 1972

MEMO. FOR: H. R. HALDEMAN

FROM: CHARLES COLSON

SUBJECT: ITT

There are four points in the analysis you outlined to MacGregor and me this morning with which MacGregor, Wally Johnson and I disagree:

1. Mitchell, Kleindienst or Mardian dealing with Eastland and MacGregor presumably dealing with the other members of the Com-

mittee guarantees a divided approach. One or the other has to call the shots. Kleindienst has already this morning told MacGregor that he, MacGregor, should not deal with any of the other Republican Senators (Scott, Cook, etc.) but rather should deal only through Hruska. In the kind of day-to-day operation this is, that is simply an untenable arrangement.

I know you and the President are concerned that all of us are taken away from other more important matters. You should be, however, equally concerned that Mitchell in the last 30 days has done little with respect to the campaign and that may be a more serious loss than MacGregor's time and mine.

2. On the one hand, you have the assessment of Kleindienst, Mardian and

Mitchell as to what will happen in the Committee and on the Floor. On the other hand, you have the legislative assessment of MacGregor, Colson and Johnson which is very different. (Johnson spent from 1968-1970 as Minority Counsel of this same Committee and has been involved in all of the confirmation battles of from the Committee end or this Administration either from the Justice Department end. He left the Committee to go to Justice in 1970. MacGregor spent 10 years in Congress. I spent 5 years as a senior Senate assistant and 9 years in law practice, involving very considerable contact with the Hill. The Justice team simply has not had the same experience.)

Admittedly it is all opinion at this point, but Johnson, MacGregor and I unani-

mously do not believe that Kleindienst can be confirmed by June 1. Johnson does not feel he can be confirmed at all and on this point I am at least doubtful. I emphasize that this is an opinion and a judgment call. Lots of things could happen: We could get a big break in the case; the media could turn around and become sympathetic to Kleindienst; the Democrats could decide that they are better having him in the job than beating him. Obviously, there are many unforeseen possibilities, but as of now that is our best assessment. I would think that whatever decision we make now should be based on the most knowledgeable—and I would add the most detached—assessment of our legislative prospects.

Wally Johnson has done a detailed analysis of the various procedural moves that are likely to be made in Committee or on the Floor. He is not shooting from the hip. He has analyzed it and a Senate vote in his judgment cannot be achieved by June 1; the Democrats will only let it come to a vote if they have votes to reject Kleindienst, which is the least desirable outcome. Neither Johnson, MacGregor or Colson are prepared to predict whether we can hold the votes necessary to confirm him should the nomination in fact get to a vote.

3. Assuming MacGregor, Johnson and Colson are correct, then setting June 1 as our deadline date merely puts the hard decision off to a time when it will be considerably more volatile politically than it is today. Kleindienst's withdrawal

## Haldeman by Colson on ITT Case

will then be an admission of defeat but it will come two months closer to the election. There will have been two months more of rancor and publicity. In June Kleindienst will be a hot issue for the Democratic Convention. Confirmation of Kleindienst's replacement will also be vastly more difficult in June than it would be now. Obviously this again is opinion.

4. The most serious risk for us is being ignored in the analysis you gave us this morning—there is the possibility of serious additional exposure by the continuation of this controversy. Kleindienst is not the target; the President is, but Kleindienst is the best available vehicle for the Democrats to get to the President. Make no mistake, the Democrats want to keep this alive—whatever happens to Kleindienst—but the battle over Kleindienst elevates the visibility of the ITT matter and, indeed, guarantees that the case will stay alive. It may stay alive in any event and hence the key question not addressed in your analysis is whether pendency or withdrawal of the Kleindienst nomination serves to increase the Democrat's desire to continue. That is the hardest call to make but for the following reasons it may be the most important point to make.

Neither Kleindienst, Mitchell nor Mardian know of the potential dangers. I have deliberately not told Kleindienst or Mitchell since both may be recalled as witnesses and Mardian does not understand the problem. Only Fred Fielding, myself and Ehrlichman have fully ex-

amined all the documents and/or information that could yet come out. A summary of some of these is attached (:)

1. Certain ITT files which were not shredded have been turned over to the SEC; there was talk yesterday in the Committee of subpoenaing these from ITT. These files would undermine Griswold's testimony that he made the decision not to take the appeal to the Supreme Court. Correspondence to Connally and Petersen credits the delay in Justice's filing of the appeal to the Supreme Court in the Grinell case to direct intervention by Peterson and Connally. A memo sent to the Vice President, addressed "Dear Ted," from Ned Gerrity tends to contradict John Mitchell's testimony because it outlines Mitchell's agreement to talk to McLaren following Mitchell's meeting with Geneen in August 1970.

It would carry some weight in that the memo was written contemporaneous with the meeting. Both Mitchell and Geneen have testified they discussed policy only, not this case, and that Mitchell talked to no one else. The memo further states that Ehrlichman assured Geneen that the President had "instructed" the Justice Department with respect to the bigness policy. (It is, of course, appropriate for the President to instruct the Justice department on policy, but in the context of these hearings, that revelation would lay this case on the President's doorstep). There is another internal Ryan to Merriam memo, which is not in the hands of

the SEC; it follows the 1970 Agnew meeting and suggests that Kleindienst is the key man to pressure McLaren, implying that the Vice President would implement this action. We believe that all copies of this have been destroyed.

2. There is a Klein to Haldeman memo dated June 30, 1971 which of course precedes the date of the ITT settlement, setting forth the \$400,000 arrangement with ITT. Copies were addressed to Magruder, Mitchell and Timmons. This memo put the AG on constructive notice at least of the ITT commitment at that time and before the settlement, facts which he has denied under oath. We don't know whether we have recovered all the copies. If known, this would be considerably more damaging than Rieneke's statement. Magruder believes it is possible, the AG transmitted his copy to Magruder. Magruder doesn't have the copy he received; he only has a Xerox of the copy. In short, despite a search this memo could be lying around anywhere at 1701.

3. The Justice Department has thus far resisted a request for their files, although their files were opened to Robert Hammond, one of Turner's deputies and a hold-over who is now a practicing Democratic lawyer in Washington. Hammond had access to several memos that could be embarrassing. Whether he kept them or not is unknown, but it is probable that he recalls them. One is a memo of April, 1969 from Kleindienst and McLaren to Ehrlichman

responding to an Ehrlichman request with respect to the rationale for bringing the case against ITT in the first place. There is a subsequent April, 1970 memo from Hollin to McLaren stating that Ehrlichman had discussed his meeting with Geneen with the AG, and suggesting to McLaren that Mitchell could give McLaren "more specified guidance." There is another memo of September 1970 from Ehrlichman to the AG referring to an "understanding" with Geneen and complaining of McLaren's actions. There is a May 5, 1971 memo from Ehrlichman to the AG alluding to discussions between the President and the AG as to the "agreed upon ends" in the resolution of the ITT case and asking the AG whether Ehrlichman should work directly with McLaren or through Mitchell. There is also a memo to the President in the same time period. We know we have control of all the copies of this, but we don't have control of the original Ehrlichman memo to the AG. This memo would once again contradict Mitchell's testimony and more importantly directly involve the President. We believe we have absolute security on this file within Justice, provided no copies were made within Justice and provided there are no leaks. We have no idea of the distribution that took place within Justice.

4. Merriam's testimony will of necessity involve direct contact with Jack Gleason. I can't believe that after Merriam's testimony, Gleason will not be called as a witness.