

A Watergate Disclosure

Kleindienst Was Almost

Washington

Leon Jaworski reversed himself in March 1974, while he was Watergate special prosecutor, and stopped an eight-count felony indictment against former Attorney General Richard Kleindienst one day before it was to be filed, according to newly disclosed documents.

Jaworski, according to the documents, made his last-minute decision after listening to the pleas of two well-known Washington criminal lawyers, Herbert J. Miller, who was Kleindienst's attorney, and William J. Hundley, a friend of the former attorney general.

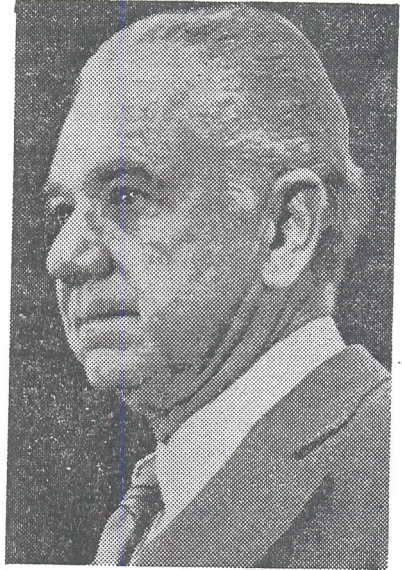
The documents say that Jaworski twice before had approved the staff-drafted indictment, which charged perjury, obstruction and false declaration arising out of Kleindienst's 1972 appearance before the Senate Judiciary Committee in support of his nomination as attorney general.

Details of the intricate and apparently tense behind-the-scenes negotiations in 1974 are in documents obtained under the Freedom of Information Act by the Fund for Constitutional Government, a public interest group.

Among the Watergate prosecution documents obtained was a censored version of a history of the Kleindienst case prepared in 1975 by Richard J. Davis, who took over as head of the team that investigated allegations involving International Telephone and Telegraph



RICHARD KLEINDIENST
Former attorney general



LEON JAWORSKI IN 1973
Start of his Watergate job

Corp.

The argument by Miller and Hundley that swayed Jaworski, according to the document, was that when Kleindienst first went to Jaworski's predecessor, Archibald Cox, with information about White House involvement with ITT, Kleindienst was promised favorable consideration if any case were brought against him.

The session with Jaworski, Miller and Hundley was a "highly charged session," according to the document. Staff prosecutors, who also were present, argued that the claim of favorable consideration

was "baseless."

Nonetheless, the next day, on the eve of filing the felony indictment, Jaworski told his staff he had decided he would require Kleindienst to plead only to a misdemeanor charge.

Had he been tried and convicted of a felony, it is doubtful that Kleindienst could have resumed the practice of law. After his eventual plea to a misdemeanor, a three-judge ethics panel in the District of Columbia declined to impose any disciplinary action.

The memorandum cited a re-

Indicted

peated appeal by Miller that Kleindienst be left "with a chance to go home to Phoenix and start again as a lawyer." Miller said, according to a footnote, that "his client wanted to leave Washington quietly."

At the time, according to Justice Department foreign agent registration records, Kleindienst was representing Algerian interests who paid him a \$60,000 fee.

During the ten days after Jaworski stopped the felony indictment, he and his staff carried on what is described as a vigorous and sometimes bitter debate.

At one point, Jaworski informed his staff that Miller had said Kleindienst would take a lie detector test to prove that he had not withheld any information. The prosecutors agreed that a polygraph should be taken, "because if he failed the test, we might convince Jaworski to change his decision" to seek only a misdemeanor indictment.

The document does not show whether a polygraph was taken; that portion is excised.

It does trace in detail, however, how the facts in the Kleindienst case were "stretched" to permit a one-count misdemeanor plea on a charge of "refusal to answer questions" from a congressional committee.

Focus of the Kleindienst investigation was his 1972 confirmation statement that, with regard to ITT antitrust matters in the Justice

Department, "I was not interfered with by anybody at the White House; I was not importuned. I was not pressured. I was not directed."

The prosecutors, according to the memorandum, turned up documents at the Justice Department that showed Kleindienst and the assistant attorney general for antitrust, Richard M. M. McLaren, had asked White House aide John Ehrlichman in April, 1969, "for permission" to proceed with the case involving an ITT subsidiary.

They found another document on which it was noted in handwrit-

ing that "Ehrlichman wanted (former Senator Everett) Dirksen and Congressman (Bob) Wilson" notified about another ITT case.

The prosecutors summarized their analysis of Kleindienst's testimony in the memo by saying, "despite his assertion to the contrary, (he) had not carefully limited his answers to make them literally truthful. Instead the record showed that he had gone out of his way to make false statements aimed at covering up the true facts."

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