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RECORDING OF THE DICTABOLT
RECORDING OF THE TELEPHONE
CONVERSATION BETWEEN JOHN
EMMICHMAN AND ATTORNEY
GENERAL KLEINENST ON
MARCH 28, 1973

ITEM 16.1

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TRANSCRIPT PREPARED BY THE WATERGATE SPECIAL PROSECUTION FORCE
OF THE DICTABELT RECORDING OF THE TELEPHONE CONVERSATION BETWEEN
JOHN EHRLICHMAN AND ATTORNEY GENERAL KLEINDIENST ON MARCH 28, 1973

EHRLICHMAN: Uh, President wanted me to cover with you.
Are you on a, on an outside line?

KLEINDIENST: I'm at my parents' house.

EHRLICHMAN: Oh, fine, OK, so it's a direct line?

KLEINDIENST: No problem.

EHRLICHMAN: Ah, Number one, he wanted me to ask you those two things that I did yesterday about the grand jury and about Baker. Ah, he had me call Pat, Pat Gray and have Pat contact Lowell Weicker to ask Weicker about this second story that he put out yesterday to the effect that he had information about White House involvement. And, uh, Weicker told Gray that um, uh, he was talking there about political sabotage and not about the Watergate.

KLEINDIENST: Talking about the Segretti thing.

EHRLICHMAN: Yeah.

KLEINDIENST: Yeah.

EHRLICHMAN: Yeah. And that uh, he was quite vague with Pat as to what he had.

KLEINDIENST: Yes. I called him, I called him also, you know, after I talked to the President

EHRLICHMAN: Yeah.

KLEINDIENST: on Monday

EHRLICHMAN: Right.

KLEINDIENST: . . . and he had said [inaudible]

EHRLICHMAN: Well, the President's feeling is that, uh, it wouldn't be too bad for you in your press conferences in

the next couple of days to take a, to take a swing at that.

KLEINDIENST: OK.

EHRlichman: And just say, uh, "we contacted the Senator because we continue to exercise diligence in this thing and we're determined to track down every lead and, uh, it turns out he doesn't have anything."

KLEINDIENST: I would really, uh, at this delicate point question the advisability of provoking, you know, a confrontation with Weicker. He's essentially with us. He and Baker get along good.

EHRlichman: Is he?

KLEINDIENST: Baker has had a long talk with him and told him to shut up and he said that he would and I talked to him on Sunday and, you know, after he said he didn't have anything, uh, but he's kind of an excitable kid and [clears throat] we just might, we just might not want to, you know, alienate him, and I think that if he finds himself in a direct word battle with the White House and me and he gets his, you know, his face [chuckle] loses face about it,

EHRlichman: Yeah.

KLEINDIENST: I think it, in the long run we might need that guy's vote.

EHRlichman: I see.

KLEINDIENST: You know.

EHRlichman: You think, you, you don't think that this is evidence of, uh, alienation to the point of, uh, no, return then?

KLEINDIENST: No. You mean by Lowell?

EHRlichman: Yeah.

KLEINDIENST: No I don't.

EHRlichman: OK.

KLEINDIENST: But it's, you know, he's pretty disenchanted with the whole concept of it. And, he's also, you know, talking like a Connecticut politician. . .

EHRlichMAN: Well, use your own judgment on it, Richard.

KLEINDIENST: And, uh, on TV I guess 7 or 8 times since Sunday when I finished my testimony before my appropriations committee Monday. All three networks were out there. I referred to the letter that I sent to Sirica and I also emphasized and repeatedly said (a) the President wants this investigated, let the chips fall where they will, but secondly that if anybody has any information you know, uh we not only want it, we expect to get it so we can investigate it and if necessary indict other people.

EHRlichMAN: Right.

KLEINDIENST: And that anybody who withholds information like that, you know, is, uh, obstructing justice.

EHRlichMAN: Right.

KLEINDIENST: But I did not refer to Weicker.

EHRlichMAN: OK.

KLEINDIENST: And my, my judgment right now is not to do so.

EHRlichMAN: OK, OK.

KLEINDIENST: It might get to that point. The hell with him.

EHRlichMAN: Well.

KLEINDIENST: If we get to that point, uh . . .

EHRlichMAN: . . . our [clears throat], our, um, uneducated and uninformed impression was that he was trying to develop, uh, uh, an attack line here on, uh, the White House or the President.

KLEINDIENST: Well, if that, if we would conclude, you know, that that is what he's up to and that he is completely alienated, you know, then I say we've got to take him on.

EHRlichman: Well, keep, keep track of that, and, uh, you'll be talking to Baker and, and you get a feel of it. OK. Now, the President said for me to say this to you. That, um, the best information he had and has is that neither Dean nor Haldeman nor Colson nor I nor anybody in the White House had any prior knowledge of this burglary.

KLEINDIENST: Right.

EHRlichman: He said that, uh, he's counting on you to provide him with any information to the contrary if it ever turns up.

KLEINDIENST: I shall.

EHRlichman: And, uh, you just contact him direct. Now, as far as the Committee to re-elect is concerned, uh, he said that, uh, uh, uh, serious questions are being raised with regard to Mitchell, and, uh, he would likewise want you to communicate to him any, uh, uh, evidence or inferences from evidence, uh, on that subject.

KLEINDIENST: Well, with respect to them, unless [clears throat] something develops, you know, with these 7 people who were convicted, John, all those people testified under oath before a grand jury, and their testimony was not contradicted, uh, and until something comes along, I, take this fellow McCord, you know, let's say

EHRlichman: Yeah.

KLEINDIENST: Implicated Dean and Magruder.

EHRlichman: Yeah.

KLEINDIENST: Uh, if he has something besides his own testimony, you know, in addition to that to refute the sworn testimony of people, then you'd have to do it. The comment that I made yesterday about McCord was, you gotta take him for . . .

EHRlichman: What he is. Yeah.

KLEINDIENST: . . . convicted felon.

EHRlichman: Yeah.

KLEINDIENST: He's facing a long jail sentence, and he has all kinds of motives to say all kinds of things, but I also pointed out that [clears throat] most of the people, well, these people who were involved were interviewed by the FBI and they testified under oath before a grand jury to the contrary of what McCord is saying. So, but I, I, I, understand the President's direction -- be mindful of it.

EHRlichman: He's, he's concerned about Mitchell, and, uh. . .

KLEINDIENST: So am I.

EHRlichman: Uh, he, he would want to have a private communication from you if you are, uh, possessed of any information that you think he ought to have, uh, with regard to John.

KLEINDIENST: I understand.

EHRlichman: Uh, now, uh, he's, uh, he . . .

KLEINDIENST: You ought to think about, John, when you talk to the President, if, if McCord or Liddy or Hunt or any of these 7, you know, uh, testify under oath

specifically, you know, that to their knowledge you know, they have a basis for saying so -- that Mitchell or any of these guys knew about it,

EHRlichman: Um, uh.

KLEINDIENST: Then we, we have a very serious problem. We've got a, you know, possible perjury, we've got a possibility of going back to the grand jury, to have the grand jury determine whether any one of them should be indicted. When you talk about Mitchell, you know, uh, and myself, you know, that really creates, you know, the, the highest [chuckle] form of, you know, conflict of interest.

EHRlichman: Yeah.

KLEINDIENST: Like thing.

EHRlichman: Yeah.

KLEINDIENST: And we might want to give some thought to, uh, having, in such an event, having a special prosecutor. [clears throat]

EHRlichman: What is the procedure for that?

KLEINDIENST: Well, I don't know. I, I think that the, the President could appoint somebody as a special prosecutor, direct the FBI to cooperate with him, give him, give him an opportunity to hire some attorneys, you know, on his staff and let him just, uh, have complete authority to have his own investigation, and if there's evidence that comes out that smacks of criminal behavior, have him present it to a grand jury, you know, and then proceed with it.

EHRlichman: Could, could you have somebody brief out how that's done?

KLEINDIENST: Uh. . .

EHRlichman: Just so we know?

KLEINDIENST: OK.

EHRlichman: And, um, uh, uh, the question would be whether the President or Sirica or you or, or, you know, who actually does it.

KLEINDIENST: Yes. Well, it wouldn't be the judge. The judge has no, no jurisdiction to do anything.

EHRlichman: All right.

KLEINDIENST: I think it would be the President. . .

EHRlichman: All right.

KLEINDIENST: who would do it.

EHRlichman: OK.

KLEINDIENST: But I, I, it has its own problems 'cause by doing that, you, in effect, say publicly, "well, OK, the Department of Justice, the Attorney General, the U. S. Attorney and the FBI, you know. . .

EHRlichman: All corrupt and. . .

KLEINDIENST: "all corrupt"

EHRlichman: Yeah.

KLEINDIENST: "I've now found that out, and"

EHRlichman: Yeah.

KLEINDIENST: "evidently I've got to get myself a new. . .

EHRlichman: Right.

KLEINDIENST: "new special . . ."

EHRlichman: Well, of course, we've resisted that.

KLEINDIENST: I know it.

EHRlichman: Right straight through.

KLEINDIENST: That's the thing, but, but I, I think that we have to do it in the event that it appears that Mitchell himself is going to be involved in

EHRlichman: I get it.

KLEINDIENST: any further litigation, because all the men who are doing this were people that worked for him, he appointed, you know, uh, and I think when, if it came down to him, that that's when I would seriously start thinking about recommending something like that.

EHRlichman: Also this, this business of the grant of immunity to witnesses before the grand jury, now is that peculiarly in the province of the court?

KLEINDIENST: No, that's the Department of Justice.

EHRlichman: That is?

KLEINDIENST: In almost every criminal case of any consequence when we convict somebody, then the next thing we do is haul them back in before a grand jury, give them immunity and find out what they know.

EHRlichman: Uh huh.

KLEINDIENST: Uh, we have to do it in this case. We were always going to do it in this case, notwithstanding Sirica.

EHRlichman: Yeah.

KLEINDIENST: Part of the limitation posed upon us, John, is that we were the only ones who couldn't comment during all this.

EHRlichman: Right.

KLEINDIENST: You know, we had the [inaudible] in progress. . .

EHRlichman: Right.

KLEINDIENST: litigation. We've got these men's constitutional rights. But [clears throat] you have two really

distinct situations here. You have the Water-gate inquiry by Senator Ervin. You know, that's a political

EHRlichman: Yeah.

KLEINDIENST: type of thing. And then you have the obligation imposed upon us to investigate criminal conduct.

EHRlichman: Yup.

KLEINDIENST: And, and they are two separate, distinct operations. This is getting all fuzzed up in the public's mind.

EHRlichman: What, um, uh, what progress are they making right now; have you had a reading on it?

KLEINDIENST: Well, the last time I talked was with Henry, uh, uh, Monday [clears throat] because of Sirica's, uh, sentencing procedures, it got a little boxed up. Sirica has really loused this thing up. Uh, so, I, I don't know. I'm going to talk to Peterson this morning before too long. If there's any significant I'll call you back.

EHRlichman: OK, great.

KLEINDIENST: OK, John.

EHRlichman: That's all I had on my list.

KLEINDIENST: Thanks, John.

EHRlichman: Now, um, he said that, uh, there was a possibility he'd like to see you in San Clemente Saturday morning.

KLEINDIENST: Saturday morning?

EHRlichman: First thing. So you might just keep that in the back of your mind. Don't rearrange any of your schedules or anything,

KLEINDIENST: Right.

EHRlichMAN: But, uh, I'll let you know if that materializes.

KLEINDIENST: OK, bye.

EHRlichMAN: We'd send a chopper up to LA for you.

KLEINDIENST: Thank you.

EHRlichMAN: OK.

KLEINDIENST: Thank you.

EHRlichMAN: Thank you.

KLEINDIENST: Bye.