

REMEMBERING WATERGATE
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National Association of Former U.S. Attorneys
October 3, 2009

When Mike McKay called me several months ago about the gathering here in Seattle of the former U.S. Attorneys, he asked me if I'd be willing to talk about the so-called Saturday Night Massacre which took place 36 years ago this month..

In the first place, in accepting Mike's challenge, I forgot that at my age, I have trouble remembering what happened yesterday much less 36 years ago, but since I forgot that I forget, I said ok.

Secondly, I apologize in advance for all the I's in my remarks, but personal remembrances entails the use of too much vitamin 'I'. So here goes.

And by the way, what I can't remember, I Googled, which is much more accurate than my memory.

This is the first time I have tried to put all this down for public consumption. Think of this as a story.

In April of 1973, our country was headed for a crisis that would test our constitutional system. An acting President would soon stand accused of lying to the American people about his role in the Watergate break-in and subsequent cover-up. “What did he know and when did he know it?”, would ask Senator Howard Baker in the Ervin Committee hearings that commenced later that same spring.

These questions were increasingly on my mind as a result of revelations in the Washington Post the week just ending. It was Friday, April 21, 1973 and I was tending my rose garden in suburban Maryland, having taken the day off from my duties as Administrator of the Environmental Protection Agency. Howard Baker’s questions, while still academic to me, were troublesome regarding the President I served and wanted to admire. As Administrator of the Environmental Protection Agency, I was a bystander to the rapidly unfolding Watergate events. I had no need to answer those

questions – only observe others struggling with their awful meaning. This all changed with startling suddenness that afternoon when my wife, Jill, informed me from our front door that Air Force One was calling. Only in Washington can buildings (as in, “the White House said...”) and planes talk. The call was a summons from the President, who was returning from a speech in New Orleans, to meet him in the oval office at 4:00pm that afternoon. I had no idea what he wanted nor did Air Force One tell me.

I, in turn, summoned my driver (we all had drivers in those days) who maneuvered me to the White House at the appointed hour. I had been in the oval office many times during my tour in the Nixon Administration but this time was a first for me. When I was ushered in, there sat the President alone! Always before, there had been at least one aide, usually Bob Haldeman, taking notes. This had to be serious. Almost immediately, the President asked me to let him send my name to the Senate as the next Director of the FBI. Needless to say, this caught me a bit off guard. I asked him what had happened to Pat Grey, whose nomination had been pending for almost a year since J. Edgar Hoover’s death. He told me that Grey, in his Senate

confirmation hearings, had admitted to destroying some documents relevant to the Watergate investigation and that he was finished.

“Would I take the job?” he asked. Among other inducements, he told me it would amount to a pay raise. (By the way, this was not a fact, as both EPA Administrator and FBI Director were at the same Executive level and thus earned the same pay.) I had never seen the President so agitated. I was worried about his stability. He told me that on Sunday he was going to fire Haldeman, John Ehrlichman, Richard Kleindienst, the Attorney General, and John Dean, the White House Counsel. He had not yet informed these gentlemen of their fate and he asked me to keep this news to myself.

It would be a gross overstatement to say that being the Director of the FBI had been a lifelong ambition of mine. I had spent many years in and around law enforcement, first for five years in the Indiana Attorney General’s office and then for two years as an Assistant Attorney General in the U.S. Department of Justice. I recognized vigorous and just law enforcement was important to our country. I had great respect for the FBI as an institution. With no

offense intended to the audience, I just did not want to spend an appreciable part of my life pursuing the investigation of federal crimes. I told the President that.

We talked about the situation for over an hour, with him constantly urging me to take the job and my demurring. We finally compromised. I would report to the FBI on Monday, as Acting Director, and stay there overseeing the Watergate investigation until we could recruit a permanent successor to Hoover. By the way, the tape of this conversation has never been released so for now you will have to take my word for who said what.

In truth, my memory of the events of that day and the six months that followed are quite vivid more than 35 years later. Let me recount a few of the sharper events, incidents and impressions of that time.

Once we had struck a deal, the President called in Ron Ziegler, his Press Secretary, and began to discuss how and where the announcement of my appointment would be made. All of the

President's woes seemed to slip away. He was now in charge again. He was getting ready, through me, to take on the press. He suggested I go to EPA and make the announcement personally. I told him most of the environmental reporters at EPA hardly knew where the FBI was and were not equipped to properly handle such a story. Ziegler and I convinced him that we would have to confront the White House Press Corps with the news and we might as well do it in the blue room and now. He agreed.

I had to put one final question to him, "Are you in any way involved in the Watergate? The press will ask me that question and I have to have your answer." He made a most convincing case to me that he was in no way involved in anything to do with the Watergate or its cover-up.

I so informed the press when the inevitable question was asked and they reacted with their usual trusting demeanor. More like a roar that sounded like "see you".

My understanding and always supportive wife expressed some uncharacteristic pique at hearing of my new duties as FBI Director over the 6 o'clock news. There hadn't been time to call, I protested. She was unimpressed with my rendition of the exchange between the President, Ziegler and me on how to handle the situation.

I can hardly forget my first morning as FBI Director, on the Monday following my meeting with the President. On my desk upon arrival was a letter to the President from the Deputy FBI Director and the Associate Directors protesting my appointment. The Deputy Director assured me nothing personal was intended, they just felt it was inappropriate to have a bird watcher as Hoover's successor. The Deputy Director, Mark Felt, of 'deep throat' fame, who was actively lobbying for the job as Director subsequently resigned when confronted by me for leaking classified information to the N. Y. Times – an unforgivable sin for an FBI agent.

That same morning, I attended a hastily called staff meeting in the Attorney General's office at which Dick Kleindienst emotionally announced his resignation. He was extremely bitter at being lumped

with Haldeman, Ehrlichman and Dean and forced by the President to resign with them. The meeting, with many of my old colleagues at the Department present, was punctuated by several emotional, even resentful speeches directed at the White House staff and the President himself, then a most unusual occurrence at the Department of Justice, which has been repeated in recent years in ways familiar to all of us.

My first two weeks at the FBI were absorbed by the Watergate investigation and the search for and subsequent discovery of wiretap records of 17 newsmen and White House employees, particularly those working for Henry Kissinger. The records were found two weeks into my tenure on a Saturday in the safe of John Ehrlichman. An FBI agent, sent by me to the White House to guard those records and others in Ehrlichman's office, was badly shaken when the President of the United States seized his lapels and asked him what he was doing there.

I think it is fair to say that nothing I did at the FBI, in my short tenure there, so endeared me to the FBI agents and employees as

my recovery of those wiretap records. To the FBI, lost records were like a permanent and open wound that badly needed closing. After stitching the wound, any number of FBI employees would stop me in the hall and thank me for having recovered those records.

After considerable discussion with the President, I held a press conference the Monday after the Saturday discovery of the records. It was the first formal press conference ever held by an FBI Director and caused considerable consternation before being held and relief upon its conclusion.

On the Sunday following my meeting with the President, Elliott Richardson was nominated to be the Attorney General, succeeding Kleindienst. He would not be confirmed for more than three weeks. The Senate Judiciary Committee was insisting on the appointment of a special prosecutor. It was only when Archibald Cox, a Harvard law professor and Solicitor General in the Kennedy Administration, was agreed upon by the Senate, Richardson and the President that Elliott Richardson was finally confirmed. His support for Cox as special prosecutor was made a condition of his confirmation by the Senate.

Cox was at the Department and functioning before Richardson was confirmed.

With the advent of Cox, my job now shifted. I was managing an investigation on behalf of a law enforcement official whose appointment had been forced by the U.S. Senate. His job was to thoroughly and dispassionately look into the allegations of wrongdoing directed at many White House employees, including the man who had asked me to be the Director of the FBI. Cox and I met or communicated almost daily over the next several weeks. Our relationship could not have been better. I think it is fair to say we were both determined to carry out our assignments as well as possible. I had known him only as a professor of mine at Harvard. When we first met, I reminded him that he had once told me to get my feet off the desk in front of me. He was not amused.

When Richardson arrived at the Department in late May, the Ervin Committee hearings were just beginning. I was following that testimony and getting daily reports on what evidence was being uncovered by the FBI in its ongoing investigation. Each day it

seemed I was learning something I wish I didn't know. Alexander Butterfield's dramatic revelation before the Ervin Committee in June of 1973 about the existence of tape recordings of all conversations in the oval office during the Nixon presidency was startling to us all. Certainly, a gun had been found. Time would tell whether it was smoking.

Toward July, the Ervin Committee hearings wound down and Clarence Kelly, a former FBI agent and Kansas City Police Chief, was nominated as FBI Director. On July 9, 1973, he was sworn in at a large outdoor ceremony in Kansas City. It was my last day as Acting Director of the FBI. I had served 79 days. When I arrived at the ceremonial site in Kansas City, I was denied admittance to the platform by some very skeptical members of Kansas City's finest. It was only the chance intervention of Kelly himself that permitted me to witness his seizing of the reins. It reminded me of my father's admonition that you wouldn't worry about what other people thought of you if you realized that 99% of the time, they don't.

My short tenure at the FBI increased tremendously my respect for that institution and its people. Whatever else Hoover was, he was a superb manager. The FBI really works. It had a clear mission, organizational processes aimed at achieving that mission and a dedicated and highly motivated work force. In spite of the Washington, D.C. office of the FBI being wracked by allegations of collusion or worse, as a result of the Watergate, the field offices and personnel of the Bureau were largely untouched and unaffected. I concluded the strength of the FBI as an institution is a very important asset to this country and should be carefully guarded.

In late June, Elliott Richardson told me the U.S. Attorney from Baltimore had briefed him on a burgeoning bribery scandal in which several witnesses had implicated Vice President Spiro T. Agnew. Five separate individuals had sworn, under oath, that they had been giving the Vice President money for the last eight years in return for favors. It had started when he was County Executive of Baltimore County and continued through his term as Governor and service as Vice President. He had been handed envelopes with money in them in the basement of the White House! Over the next three and a half

months, Elliott, two of his aides, Jonathan Moore and Richard Darman, prominent in the Reagan/Bush Administration, and I spent every waking hour puzzling over how to manage the Vice presidential investigation, which we felt, might result in his impeachment by the House and trial by the Senate while our increasingly beleaguered President was himself struggling for survival.

After considerable private and, by September, public ranting and threatening, on October 9th, Agnew signed a 40-page affidavit confessing to all manner of crimes and violations of public trust, filed a nolo contendere plea to the charges against him in a Baltimore federal court and resigned. The affidavit was released to the public. The bribery case against Agnew was as strong as I have ever seen against anyone. In spite of signing the condemnatory affidavit, he continued to the day he left this earth to publicly protest his innocence. The capacity we humans have to rationalize away our demonstrable wrongs and to try to convince the inattentive, they are right, never ceases to amaze me. Maybe it's the way we humans keep our sanity.

When I was preparing to leave the FBI in late June, Elliott asked me to stay on as the Deputy Attorney General, and help him sort through the mess our leaders had gotten themselves and our country into. He said he had asked the President to appoint Dean Snead of Duke Law School, the current Deputy A.G., to a judgeship and nominate me in his place. The President had not given him an answer but said he would think about it. Earlier, in June, Elliott told me that Al Haig, who was then White House Chief of Staff, had indicated to him that the President was about to ask me to take Haig's place. I then told Elliott, I was making a commencement speech on that coming Saturday at Ohio State University in which I was quite critical of the White House and, by inference, the President for their handling of the Watergate. After the speech, I heard no more about the White House Assignment.

When Elliott asked me about the Deputy job, I told him my stay at the FBI and oversight of the Watergate investigation had convinced me that the President was heavily involved in the cover-up of the Watergate crime and possibly the break-in itself. I further told him that, if in the course of the President trying to decide whether to

appoint me as the Deputy, he or Al Haig asked me what I thought, I would tell them. Richardson said he had not concluded the President was guilty of anything and he intended to press forward with my nomination. He indicated the President's reaction to my nomination, as Deputy might be a good test of the depth of his involvement in the Watergate. After much hesitation by the President, I was again summoned to the White House in early August by Haig and offered the job of Deputy Attorney General. Haig never asked me what I thought of or had found at the FBI regarding the Watergate charges. Instead, he launched into a lengthy and spirited defense of the President's character and innocence and said my nomination would be sent to the Senate immediately. I thanked him very much and left.

I was confirmed by the Senate as Deputy Attorney General in late September of 1973. Like Elliott, when asked by the Senate Judiciary Committee, I indicated my support for the appointment of Archibald Cox as special prosecutor. I held the job of Deputy Attorney General for 23 days.

On Monday, October 15th, after Agnew resigned, I was headed for Grand Rapids, Michigan. The President had named Gerald Ford, the Republican minority leader in the House, as his successor. Since, under the 25th Amendment to the constitution, Ford had to be confirmed by the Senate and the House, the FBI was conducting a full field investigation routinely held for all presidential appointees. Only for Grand Rapids, 75 FBI agents descending on that city and interviewing everyone who had ever heard of Gerald Ford was anything but routine. I was going to Grand Rapids to help calm things down.

Before leaving, I stuck my head in the Attorney General's office and told Elliott of my destination. Whereupon he quickly said, "We've got an even worse problem than Agnew." That's not possible, I replied. "Yes, it is, the President wants to fire Cox." My reply reflected by belief at the time. "Don't worry" I said, "When it comes right down to it, he'll never do it. The American people won't tolerate it." I was wrong about the first, but right about the second.

Archibald Cox had been struggling, since the existence of the oval office tapes had been revealed, to obtain transcripts of key conversations with the President relating to his alleged involvement in the cover-up. Several witnesses had recounted to Cox and his staff conversations they had had with the President regarding the Watergate cover-up. If electronic records of those conversations existed, Cox wanted them. He asked for them directly, through the Attorney General and finally through the courts. The President had, by this time, hired his own counsel. Since he was being investigated by the Department of Justice, this put the Attorney General in a kind of “no man’s land”. Elliott was fond of calling himself the lawyer for the situation. Among other lawyers, the president had retained Charles Alan Wright, a University of Texas law professor and constitutional law expert, to lead the President’s defense against Cox’s effort to obtain the tapes. Mr. Wright had consistently advised the President that, as the country’s chief executive, he need not turn over any documents to anyone that he deemed protected by the doctrine of executive privilege or whose confidentiality was necessary to protect national security.

The President's problem was not legal it was political. Whether his legal position had any merit was irrelevant in the face of growing public demand for full disclosure. Resisting a reasonable request by the Special Prosecutor for the clarifying effect of recorded conversations flew in the face of that public demand. The President's increasing recalcitrance just further fueled public skepticism and eventually overwhelmed his defense.

It seemed to me, on that Monday in October, that the President would ultimately realize that his position was untenable and relent. I went to Grand Rapids firm in that conviction.

During the next two days, I was in constant communication with Elliott and his staff. The situation with the White House was obviously deteriorating. On Wednesday night, I came back to Washington several days earlier than planned.

During the course of that fateful week, Elliott was working diligently to affect a compromise. The President had agreed to prepare a summary of the nine tapes sought by Cox, and ordered to

be released by the Court of Appeals, and to give that summary and the tapes themselves to Senator John C. Stennis, Democrat of Mississippi. Stennis was to verify the authenticity of the summary and turn it over to the Special Prosecutor. First Elliott and then Wright tried to convince Cox that he should accept the offer. Wright attached the additional requirement that Cox seek no further tapes from the White House. Elliott had felt this final stipulation unreasonable and had never agreed to submit it to Cox. This was significant, as on Friday evening, October 19, the President sent his Attorney General a letter directing him to inform Cox "...that he is to make no further attempts by judicial process to obtain tapes, notes, or memoranda of presidential conversations..." When Elliott received the letter late Friday afternoon, he called Cox and read him the language but told him he was not giving the order.

It has become clear since that, the President all along intended either to force Cox's resignation or induce Richardson to fire him. The reason was simple, Cox was getting too close. In the nine tapes in question, or those subsequently acquired by the Special Prosecutor, were several smoking guns. This was why my earlier

assumption about the willingness of the President to fire Cox was wrong. The act of firing Cox was that of a desperate man. Adverse public reaction must have seemed preferable to handing your accuser the still hot weapon with your fingerprints all over it.

Richardson was attempting to work out a compromise that would accommodate all legitimate and honorable interests. The President's intentions were neither. Elliott had to proceed as though the situation could be salvaged but his efforts were foredoomed.

On Friday night, October 19, Cox could have complied with the presidential directive, resigned or refused to obey the order. He chose the latter, thereby making his discharge inevitable.

On Saturday, October 20th, at 11:00am, Cox held a dramatic press conference reciting the President's order and refusing to carry it out. He said he was also rejecting the Stennis plan and going back to court to force the President to comply with the order to produce the tapes.

His press conference was no sooner over than Haig called Richardson and told him the President wanted him to fire Cox. Elliott requested an audience with the President. It was immediately granted. He was back in his office before 5:00pm where Bob Bork, the Solicitor General and I were awaiting his return. He began to describe a meeting that obviously hadn't gone swimmingly, when my secretary told me Al Haig was on my phone. The Deputy's office is immediately below the Attorney General's and accessible by elevator.

My conversation with Haig was brief. He told me the President wanted me to fire Cox. He indicated the President's displeasure with the way Cox had conducted his duties. I told Haig that I had been thinking about this all week and believed Cox had done nothing wrong. Under the terms of Cox's appointment, the Attorney General had reserved the right to discharge him but "only for extraordinary improprieties" on his part. I had endorsed this language upon being confirmed as Deputy Attorney General. In fact, I told Haig, I believed the President was fundamentally wrong in proceeding against Cox. I, therefore, would have to refuse. Haig persisted, citing the Yom Kippur war, which had erupted in the Middle East on October 6 and

how important it was at this time that the President not suffer any domestic setbacks. He suggested I fire Cox now and if I still felt troubled, I could resign next week. He ended by reminding me this was an order from my Commander in Chief.

I told Haig that I would not resign until next week if the President would withhold his order to fire Cox until that time. If he was worried about the situation in the Middle East, then I was willing to wait. Haig was not impressed and asked if the Solicitor General, Bob Bork was around. At that time, the Solicitor General was third in command at the Department of Justice and there the chain of command stopped. It's not clear what would have happened if Bork had refused. I put the phone down and went back to Elliott's office and informed Bork he had the same caller. Bork went down to my office, picked up the resting phone and told Haig he would carry out the President's order.

Both Elliott and I had urged Bork to comply if his conscience would permit. We were frankly worried about the stability of the government. Bork indicated to us that he believed the President had

the power to fire Cox and he was simply the instrument of the exercise of that power. He thus issued the order discharging Cox.

My resignation was sent over to the White House at the same time as Elliott's. At 8:00pm that Saturday evening, Ron Ziegler announced that Elliot Richardson had resigned and William D. Ruckelshaus and Archibald Cox had been fired. Robert Bork was named Acting Attorney General. Apparently, my resignation was not accepted by the President. Three days later, the President in a press conference announced that both Elliott and I had resigned. I thus can lay claim to having resigned or been fired and often do, depending on the audience.

I really did not believe the decision to resign was a difficult one. I do not believe you resign from a presidential appointment without considerable cause. You owe a duty of loyalty to the President that transcends most other duties, save the paramount one owed to the American people themselves. Certainly you do not resign because you do not get your way or the President makes a decision contrary to what you might have done had you been elected president. That,

of course, is precisely the point. He was elected and you were not. By the terms of your appointment, you serve at his pleasure. However, when you accept a presidential appointment you must remind yourself there are lines over which you will not step – lines impossible to define in advance but nevertheless always present. The line for me was considerably behind where I would have been standing had I fired Cox. In this case, the line was bright and the decision was simple.

The aftermath of what came to be called the “Saturday night massacre” was an immediate firestorm and for the President the formal beginning of the end. What Nixon had in mind when he fired Cox was not a new special prosecutor named Leon Jaworski, whose appointment was forced by an outraged public. The House Judiciary Committee commenced impeachment proceedings and within 10 months Richard Nixon had resigned from the office to which he had been re-elected by a landslide 19 months earlier.

As many have pointed out, our country benefited from surviving a massive breach of trust. The center and the constitution held. In

my estimation, we also suffered greatly in at least two ways. The erosion of trust of the American people in their government, which had started with the Vietnam War, was given another flood of reasons to continue by the Watergate. As a result, the delegation by the people of the power to govern, so essential to a free society, was partially taken back. In my view, our foreign and domestic policies have suffered greatly as a result of this take back and we have not yet fully recovered. Secondly, many of the important foreign and domestic policy problems were put on hold and many initiatives stopped for over two years while our attention was riveted on our President's struggle to survive. Many of these policy initiatives have been lost or permanently discredited because of their origin in the Nixon Administration. In my opinion, Richard Nixon's conduct throughout the Watergate crisis did his country incalculable harm and even 36 years later, we have not yet fully recovered from some of this damage.

On a personal note, I found the aftermath of the visible act of public resignation difficult. There is no manual that tells you what to do. Once the thousands of letters and telegrams had been read and

the insatiable but evanescent attention of the media was over, life must go on. Life was suddenly very different after that Saturday night, 36 years ago. It took me about nine months of concentrated effort to stabilize my family and personal existence, but it happened and, in general, my life has been made far richer as a result of my service in government.

My advice to anyone who has asked since has been consistent. If you get the chance to serve in the high levels of American Government, do it. The opportunities for challenge, interest, excitement and fulfillment are unparalleled in American life. No one should pass on the opportunity if it arises. Certainly, there are perils, but they can be overcome and you will never forget the experience.

In the vast majority of cases, I believe our country is fortunate in having extraordinary citizens like those of you here tonight, still willing to tackle those perils on behalf of our country. As long as that remains true, we will be alright.