

005-070

Date: 1971-06-14

Participant: Richard M. Nixon

Participant: John N. Mitchell

Participant: Henry A. Kissinger

Start Time: 19:19

End Time: 19:22

Place: White House Telephone

SCROLLER TITLE: "Hell, They're Our Enemies"

SCENE SETTER: In this conversation, which took place the day after the *New York Times* began publishing a trove of secret government documents that would come to be known as the Pentagon Papers, President Nixon considered enjoining the *Times* to cease and desist. In advising the President to pursue an injunction, Attorney General John N. Mitchell erroneously claimed that the U.S. government had previously blocked the publication of materials on the basis of national security.

President Nixon: Hello?

John N. Mitchell: Mr. President?

White House Operator: The Attor[ney General]—

President Nixon: What is your advice on that [*New York Times*] thing, John? You would like to do it?

Mitchell: I would believe so, Mr. President. Otherwise, we will look a little foolish in not [*President Nixon acknowledges*] following through on our legal obligations, and—

President Nixon: Has this ever been done before?

Mitchell: Uh . . . publication like this, or—

President Nixon: No, no, no. Have you—has the government ever done this to a paper before?

Mitchell: Oh, yes. Advising them of their . . .

President Nixon: Oh.

Mitchell: Yes, we've done this before.

President Nixon: Have we? All right.

Mitchell: Yes, sir. I would think that—

President Nixon: How do you go about it? You do it sort of low-key?

Mitchell: Low-key. You call them and then send a telegram to confirm it.

President Nixon: Mm-hmm. And say that we're just—"We're examining the situation, and we just simply are putting you on notice."

Mitchell: Well, we're putting them on notice that they're violating a statute, because [*President Nixon acknowledges throughout*] they have a communication from [Melvin R.] Mel Laird as to the nature of the documents, and they fall within the statute. Now, I don't know whether you even noticed it, but this thing was . . . Mel was working—

President Nixon: Henry [A. Kissinger]—Henry's on the other—I just—he just walked in. I'll put him on the other line. [*Mitchell acknowledges.*] Go ahead.

Mitchell: Mel had a pretty good go up there before the committee today on it, and it's all over town and all over everything, and I think we'd look a little silly if we just didn't take this low-key action of [*President Nixon attempts to interject*] advising them about the publication.

President Nixon: Did Mel take a fairly hard line on it?

Mitchell: Yes, he [*chuckles*] gave a legal opinion that it was a violation of the law, which—

President Nixon: Well.

Mitchell: —of course, puts us [*President Nixon acknowledges*] where we have to get [*unclear*]—

President Nixon: Well, look, look, as far as the *Times* is concerned, hell, they're our enemies. I think we just ought to do it. And anyway, Henry, tell him what you just heard from [Walt W.] Rostow.

Henry A. Kissinger: Well, Rostow called on behalf of [Lyndon B.] Johnson. [*President Nixon seems to scoff.*] And he said that it is Johnson's strong view that this is an attack on the whole integrity of government, that if you—that if whole file cabinets can be stolen and then made available to the press, you can't have orderly government anymore.

Mitchell: Well, I—

Kissinger: And he said if the President defends the integrity, any action we take, he will back publicly.

Mitchell: Well, [*clears throat*] I think that we should take this, [*clears throat*] do some undercover investigation, and then open it up after your [George S.] McGovern-[Mark O.] Hatfield [amendment].

President Nixon: Yeah.

Mitchell: We've got some information we've developed as to where these copies are and who they're likely to have leaked them, and the prime suspect according to your friend Rostow you're quoting is a gentleman by the name of [Daniel J.] Ellsberg, [*Kissinger acknowledges*] who is a left-winger that's now at the RAND Corporation who also has a set of these documents.

Kissinger: Yeah.

Mitchell: So . . .

President Nixon: Subpoena them. Christ, get them.

Mitchell: So I would think that we should advise the *Times*. We will start our covert check and after McGovern-Hatfield just open it up.

President Nixon: Right. Go ahead.

Mitchell: Does that agree with you?

President Nixon: Yep.

Mitchell: All right, sir. Will do.

President Nixon: Yeah.

End of excerpt.

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