

# Nixon Defends ITT, Milk Roles

## Political Influence Allegations Viewed As 'Utterly False'

In another effort to repair President Nixon's credibility with the American people, the White House yesterday released two lengthy papers defending the President's actions in the ITT and milk price controversies dealing with 1972 re-election campaign contributions.

In 17 single-spaced pages on the milk case and eight on the ITT matter made public at the White House here and the Western White House in San Clemente, the administration again labeled allegations of political influence as "utterly false."

The papers constituted the latest step in what has come to be known as "Operation Candor"—an attempt to restore public confidence.

In the ITT paper, the White House contended that Mr. Nixon in April, 1971, had ordered that a pending appeal be dropped in a massive antitrust case against ITT without knowledge of any ITT commitment to make a contribution to the Republican National Convention.

In the milk paper, the White House acknowledged that the President knew in advance of granting a milk price support increase in March, 1971, that the dairy industry intended to raise money for his 1972 campaign. But the paper contended that congressional and economic pressures were the determining factors in the price rise.

# Milk Prices

By George Lardner Jr.  
Washington Post Staff Writer

The White House yesterday acknowledged that President Nixon knew of dairy industry plans to contribute to his re-election months before his decision in 1971 to increase milk price supports.

The President's approval of higher price supports, however, was defended as "totally proper" and economically "beneficial to the entire country." The White House denied that it was influenced in any way by promises of financial support for his 1972 campaign.

The White House account of the controversial increase in price supports—under investigation by both Watergate Special Prosecutor Leon Jaworski and the Senate Watergate committee—was contained in a 17-page statement released last evening.

Besides defending the decision on economic grounds, the White House cited congressional pressures generated by dairy farm lobbyists and fears on the part of Mr. Nixon and some of his advisers of alienating the farm vote, "an essential part of his political constituency," with an adverse decision.

The higher milk price supports were ordered by then-Secretary of Agriculture Clifford Hardin on March 25, 1971, two days after Mr. Nixon held a series of meetings at the White House, first with dairy industry lobbyists and officials and then

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with top administration advisers on the issue.

The White House said that contributions to the Nixon campaign were not discussed at either of those sessions, although "the political power of the dairy industry lobby" was brought to the President's attention.

In addition, the White House statement said that Mr. Nixon had been informed in September, 1970, by a memo from White House special counsel Charles W. Colson, of a \$2 million campaign pledge from the biggest dairy co-op involved, the Associated Milk Producers, Inc.

The disclosure seemed to conflict with Mr. Nixon's previous statements about his policy toward campaign contributions.

Asked at an Oct. 28 press conference about another controversial gift, from billionaire Howard Hughes, the President said that he was unaware of it because of a standing rule that "I have refused to have any discussion of contributions." In accord with this practice, Mr. Nixon said, "I did not want to have any information from anybody with regard to campaign contributions."

The White House said yesterday, however, that Colson had "asserted in a memorandum to the President that AMPI had pledged \$2 million to the 1972 campaign.

The memo was attached to a briefing paper for Mr. Nixon in connection with a short "courtesy" call on him at the White House by two top AMPI officials, Harold Nelson and David Parr, on Sept. 9, 1970.

"It was suggested in the memorandum that the President acknowledge AMPI's support" at that session, the White House said. But the statement added, "no suggestion was made that any commitment whatsoever be made to do any substantive act. There was also no mention of the asserted pledge during the meeting" with Nelson and Parr.

AMPI's first contribution to Mr. Nixon was made in August, 1969, when an attorney for the giant dairy co-op turned over \$100,000 in cash to the President's personal lawyer, Herbert W. Kalmbach.

The White House said yesterday that Kalmbach added the money to a trustee account at the Security Pacific National Bank in Newport Beach, Calif., which already contained leftover cash from Mr. Nixon's 1968 campaign. "The President had no knowledge of this contribution," the White House said.

In a similar vein, the White House acknowledged that AMPI lawyer Patrick J. Hillings, a former Republican congressman from Mr. Nixon's district, had made a "reference to fund-raising" in a Dec. 16, 1970, letter that Hillings addressed to the President.

In the letter, Hillings mentioned AMPI's plans to donate \$3 million, and then turned to a request on AMPI's behalf for immediate imposition of import quotas on ice cream and other dairy products.

The White House said Mr. Nixon "did not see this letter." And since the President "had already been informed of the fund-raising efforts by the dairy industry," the statement said, "the only possible relevance of the Hillings letter would lie in what action was taken on the Tariff Commission recommendations (regarding import quotas) that Mr. Hillings asked the President to accept."

Mr. Nixon proclaimed import quotas on the four dairy products at issue on Dec. 31, 1970. But the White House stressed that he did

not go as far as the Tariff Commission had suggested.

"Rather than closing off imports—an action that would have been more favorable to the dairy industry—the President instead reduced the import quotas on each item, permitting all four goods to continue their competition with American dairy products."

Much of the white paper on the milk controversy was devoted to the March 23, 1971, meetings at the White House that led to the increase in milk price supports that year. The account was evidently based on White House tape recordings of the session, which have been turned over to Watergate prosecutors but which the White House said it still expects to be kept confidential.

Secretary Hardin, who ruled out higher price supports on March 12, 1971, has said that he decided to reverse himself after a fresh look at the problem. He told The Washington Post last fall that he "didn't need any prompting."

The White House, however, said the decision was Mr. Nixon's.

The first March 23 meeting at the White House was held in the Cabinet Room and included several administration officials as well as more than a dozen representatives of the three dairy co-ops that had just started contributing an eventual total of \$427,500 for the President's re-election. The White House said the get-together was scheduled more than three weeks before Hardin had rejected higher milk price supports and stemmed from an invitation Mr. Nixon had made the previous fall.

The President opened the meeting by thanking the dairy leaders for the support they had given to administration policies and praised them for their activism in pursuing goals which were important to them," the White House said.

The rest of the meeting, the statement said, was devoted to dairy industry pleas for higher price supports while several administration officials, in turn, expressed fears of higher retail prices and overproduction. There was no mention whatever of campaign contributions," the White House said.



# ITT Case

By Lou Cannon

Washington Post Staff Writer

SAN CLEMENTE, Calif.,

Jan. 8—The White House said today that President Nixon sought to block an antitrust case appeal undertaken by the Justice Department against the International Telephone and Telegraph Corp. but changed his mind when he was informed that U.S. Solicitor General Erwin N. Griswold was prepared to quit in protest.

The disclosure came in a "White Paper" which denounced charges that the President directed the settlement in return for a political contribution as "totally without foundation."

The eight-page White House document said Mr. Nixon was unaware of any commitment by the Sheraton Hotel Corp., an ITT subsidiary, to contribute toward expenses of the 1972 Republican National Convention.

The mammoth ITT, eighth-largest U.S.-based company and largest of the multinational conglomerates, had nearly 400,000 employees and operated in 67 countries when the Justice Department initiated civil action. The suit was aimed at forcing ITT to rid itself of three recently acquired companies: the Hartford Fire Insurance Corp., the Canteen Corp. and the Grinnell Corp., the nation's largest producer of fire-alarm systems.

Grinnell was the first case to be decided, and it was won by ITT. The Justice Department, which had not

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lost a merger case in the Supreme Court in more than two decades, was prepared to appeal.

According to the White House statement, the President by the spring of 1971 "had concluded that the ITT litigation was inconsistent with his own views of antitrust policy" because it was an attack on "bigness" rather than merely an effort to insure competition.

"The Department of Justice and some of the President's advisers continued to maintain, however, that the cases were not an attack on bigness and were based on clear anti-competitive effects of the acquisitions," the White House paper said.

On April 19, 1971, the President met with John Ehrlichman, then his chief domestic adviser, and with George Shultz, then director of the Office of Management and Budget and now Treasury Secretary. Ehrlichman told the President that the Justice Department had appealed the Grinnell case and described this as an "attack on a conglomerate."

"Mr. Ehrlichman further told the President that he believed that prosecution of the case was contrary to the President's antitrust policy and that, as a result, he had tried to persuade the Justice Department not to file a jurisdictional statement (due the following day) so as to terminate the appeal," the White House statement said. "He indicated, however, that he had been unsuccessful with the Justice Department."

At this news, the White House statement continued, Mr. Nixon "expressed irritation with the failure of the head of the antitrust division," Richard McLaren, to follow his policy.

"He then placed a telephone call to Deputy Attorney General (Richard) Kleindiest and ordered that the appeal not be filed," the report said. "The meeting continued with a further discussion of antitrust policy during which Mr. Schultz expressed the view that conglomerates had been unfairly criticized."

The Justice Department

appeal was due the following day, April 20, but the department asked for and was granted a delay. On April 21, Attorney General John N. Mitchell "advised the President that in his judgment it was inadvisable for the President to order no appeal to the Supreme Court in the Grinnell case.

"The Attorney General reasoned that, as a personal matter, Mr. Erwin N. Griswold, Solicitor General of the United States, had prepared his brief for appeal and would resign were the appeal not to proceed," the White House statement said. "The Attorney General further feared legislative repercussions if the matter were dropped entirely."

The White House statement said that Mr. Nixon, acting on Mitchell's recommendation, then reversed his decision of April 19 and authorized the Department of Justice to proceed with the case.

"He said that he did not care about ITT as such, but that he wanted the Attorney General to see that his antitrust policy was carried out," the statement said.

On April 29, a meeting was held between ITT representatives and officials from the Departments of Justice and Treasury at which the conglomerate discussed the financial consequences of divestiture. Acting on the proposal made at this meeting, the White House statement said, McLaren on June 17,

1971, sent a memorandum to Kleindiest that became the basis of an out-of-court settlement in which ITT agreed to divest itself of Grinnell's fire protection division, the Canteen Corp., Avis and Levitt in return for the Justice Department dropping its lawsuits.

The White House statement flatly contradicted testimony of Mitchell and Kleindiest before the Senate Judiciary Committee during 1972 confirmation hearings on Kleindiest's appointment as Attorney General.

It raised the possibility that one or both men may face perjury charges for their testimony.

On March 8, 1972, Kleindiest testified before the committee: "In the discharge of my responsibilities as the Acting Attorney General in these cases

(against ITT), I was not interfered with by anybody at the White House. I was not importuned; I was not pressured; I was not directed. I did not have conferences with respect to what I should or should not do."

Mitchell said under oath that he had never discussed the ITT case with the President and had not learned of the ITT's convention pledge until after the out-of-court

settlement had been reached.

On the latter issue, the White House statement made the same point, calling the decision-making leading to the selection of San Diego as the 1972 Republican convention site "separate and unrelated" from the ITT settlement.

The White House account left unresolved and unanswered some of the major questions in the ITT controversy.

Among these is any comment at all by the White House on Kleindienst's statement of Nov. 1, 1973, that only his own personal threat to quit forced President Nixon to withdraw orders halting the Justice Department appeal. Kleindienst said he was called by Ehrlichman on April 19, 1971, and told not to file an appeal.

"Immediately thereafter, I sent word to the President that if he persisted in that direction I would be compelled to submit my resignation," Kleindienst said.

If both this statement and the White House statement issued today are correct, it would mean that the President backed down only

when threatened with resignations by both Kleindienst and Griswold.

In recounting the procedures leading to the selection of San Diego as the convention site, the White House statement declared:

"The President was unaware of any commitment by ITT to make a contribution toward expenses of the Republican National Convention at the time he took action on the antitrust case. In fact, the President's antitrust actions took place entirely in April of 1971 — several weeks before the ITT pledge was even made."

The White House statement said that ITT-Sheraton "apparently" offered \$200,000 to the convention authorities "about June 1, 1971."

However, California Lt. Gov. Ed Reinecke said last July that he discussed the ITT offer with Mitchell in May, 1971, several weeks before McLaren's June 17 memorandum on the proposed settlement, which was agreed to on July 31, 1971. Reinecke afterward changed his story and said his records show that he talked to Mitchell on June 2 and June 7.



# White House on Milk

## Summary

### The Milk Price Decision

#### The Charge

It has been publicly alleged that President Nixon in 1971, in exchange for a promise of political contributions from the dairy industry, ordered an increase in the level of federal support prices for milk. That charge has been frequently denied and is totally false.

#### The Facts

On March 12, 1971, the Secretary of Agriculture announced that the price of milk for the 1971-72 marketing year would be supported by the federal government at approximately 80 per cent of parity. His announcement was made in the face of strong pressure from the dairy industry for a support level between 85 and 90 per cent of parity; the industry, along with its supporters in the Congress, argued that the 80 per cent level would lead to underproduction and would not represent a fair return on farm investments.

Subsequent to Secretary [Clifford] Hardin's announcement, there was a concerted effort in the Congress to pass legislation forcing the President to raise price supports to a minimum of 85 per cent of parity. In the House of Representatives, 125 members introduced or cosponsored legislation for higher support prices. In the Senate, 29 members introduced such legislation. Support for mandatory legislation came from both sides of the aisle, but was predominantly Democratic.

On March 23, 1971, following a meeting with representatives of the dairy industry who argued the merits of their case, and then a meeting with key advisors who agreed that the Congress would likely force his hand, the President decided that the milk support level should be raised to 85 per cent of parity for the coming year. His decision was announced by Secretary Hardin on March 25.

It is fallacious to suggest that the President's decision was influenced by a promise of political contributions from the dairy industry. The President had been informed of the dairy industry's intentions to raise funds for the 1972 campaign, but he at no time discussed the contributions with the dairy industry and the subject was not mentioned in his meetings of March 23, 1971. It is also worth noting that the ultimate contributions by the dairy in-

# Price Support

# Decision

dustry to the President's re-election effort (1) were far less than the industry leaders had hoped to raise; (2) were far less than the dairy industry gave to other candidates for the House and Senate, including many prominent Democrats; and (3) represented less than 1 per cent of the total contributions to President Nixon's re-election campaign.

#### HOW THE DECISION WAS MADE:

The President's action took several factors into account:

- intensive congressional pressure;
- the economic merits of the case itself, as presented by the industry leaders in the meeting with the President, and as weighed by the President's advisers;
- traditional political considerations relating to needs of the farm states.

#### THE RESULTS:

The economic consequences of the decision have been beneficial to the entire country.

- The price of milk to the consumer did not skyrocket, as some feared. Rather, the price of milk to the consumer in the year in question rose at the lowest rate of recent years. It also rose at a rate significantly below the general rate of inflation.

- The cost to the government of the milk price support program did not go up as a result of the President's decision. It went down.

- Government inventories of surplus dairy products did not expand. In fact, they went down. No massive surplus was created.

- The level of dairy production was ample to meet the needs of consumers but was not excessive, and thus did not

burden the government with special expenditures.

### The Milk Price Support Decision

During the spring of 1971, Secretary of Agriculture Clifford Hardin announced that certain dairy products would be supported by the federal government at 80 per cent of parity during the 1971-72 marketing season. Subsequently, under heavy pressure from the Congress to increase supports and after consultation with his senior advisers, the President reconsidered and requested the Secretary to raise the price support level for the coming year to 85 per cent of parity.

Because the President also met with dairy leaders during this same period and because campaign contributions were given to his re-election effort during 1971, there have been charges in the media and elsewhere that the President's actions on price supports were the result of promises from the dairy industry to contribute to the 1972 Republican presidential campaign. These allegations are unsupported by evidence and are totally false.

#### I. The Decisions of March, 1971

The decision announced each year by the Secretary of Agriculture of the price at which the government will support milk prices has a significant impact on the nation's dairy farmers. In 1970, Secretary Hardin had announced that for the marketing year running from April 1, 1970, through March 31, 1971, the government would support manufacturing milk at \$4.66 per 100 pounds, or at 85 per cent of parity. This figure represented an increase of 38 cents and an increase of 2 per cent of the parity rate over the year before (1969-1970).

As the 1971-72 marketing season approached, the question within the government was whether to continue supporting the milk price at \$4.66 per 100 pounds or to raise the price. Because a grain shortage and other factors had



increased the costs of production for dairy farmers, a continuation of the \$4.66 price meant that the parity rate would actually fall to approximately 80 per cent. To the farmers, a drop in parity rate would result in a possible loss of income which in turn could deter production. The farmers therefore advocated an increase in the price support to \$5.21 per 100 pounds, or 90 per cent of parity; at the very least, they argued, the government should raise the price to \$4.92 per 100 pounds and thereby maintain the current parity rate of 85 per cent. At the Department of Agriculture, it was feared that such price increases might encourage excess production on the farms, raise the prices of dairy products for consumers, and ultimately force the government to purchase the surplus products.

The dairy industry, which had become highly organized in the 1960s, moved to exert maximum direct pressure on the Secretary of Agriculture in early 1971. In a few weeks, over 13,000 letters from milk producers were received by the Department of Agriculture.

At the same time, the dairy industry worked to achieve its objectives indirectly through members of the Congress who agreed with industry views. The upper midwestern affiliate of the Associated Milk Producers, Inc. (AMPI) estimated that its members alone sent some 50,000 letters to congressmen on the subject of milk supports. Between February 23 and March 12, 1971, some 25 senators and 65 congressmen wrote the Secretary of Agriculture to urge that the \$4.66 support price be increased. Some 20 senators and 53 representatives indicated that they wanted to see the price raised to a full 90 per cent of parity (\$5.21 per cwt.). Four senators and eight representatives adopted a more restrained position, asking that the price be raised to at least 85 per cent of parity (\$4.92).

Some of the letters openly referred to the fact that spokesmen for the dairy cooperatives—AMPI, Dairymen, Inc., or their affiliates—had written or called upon the congressmen to ask for support. A number of letters were apparently drafted by lobbying groups.

Many of the members also took to the floor of the House and Senate to express their concern:

On March 1, Congressman Robert W. Kastenmeier (D-Wis.) rose to tell his colleagues: "We need your assistance in persuading the administration to raise dairy price supports to 90 per cent of parity . . ." (Congressional Record, p. 4310). His sentiments were echoed by Congressman Les Aspin (D-Wis.).

After March 7, when the Associated Press reported that Secretary Hardin might raise the support level to 85 per cent of parity, Senators Hubert Humphrey (D-Minn.), Vance Hartke (D-Ind.), Walter Mondale (D-Minn.), and Fred Harris (D-Okla.), as well as Congressmen Ed Jones (D-

Tenn.), Robert McClory (R-Ill.), and Vernon Thomson (R-Wis.), all made floor speeches in favor of a 90 per cent level.

On March 8, Congressman William Steiger (R-Wis.) entered into the Congressional Record a letter he had sent to Secretary Hardin calling for 90 per cent parity.

On March 9, both Senators Hartke and Humphrey called again for the 90 per cent parity.

On March 10, Congressman Jones argued that even 90 per cent would not be a "decent return," but "it would certainly help." Mr. Jones urged the Department of Agriculture not to "sit idly by and watch our dairy industry decline into oblivion. Unless dairy price supports are set at a level high enough to guarantee 90 per cent of parity, that is exactly what we are inviting." (Congressional Record, pp. 5956-57). Senator Mondale again called for the 90 per cent level.

On March 11, Congressman Thomson repeated his call for a 90 per cent decision.

While their colleagues were marshaling support in open floor speeches, senior Democratic leaders in the Congress were expressing their concerns privately to representatives of the administration. On February 10, the chairman of the House Ways and Means Committee, Wilbur Mills, (D-Ark.), arranged a meeting in the office of Speaker Carl Albert (D-Okla.) to discuss the dairy issue. Representatives of the dairy industry had apparently asked for the meeting to plead their case. In attendance were Harold Nelson and David Parr from AMPI; Congressmen Mills, Albert and John Byrnes (R-Wis.); William Galbraith, head of congressional liaison for the Department of Agriculture; and Clark MacGregor, then counsel to the President for congressional relations.

The congressional leaders continued to make their views known in several private conversations thereafter. According to Mr. MacGregor's records, Congressman Mills urged him on at least six occasions in late February and early March to urge the President to raise the support price. Congressman Mills and Speaker Albert also telephoned the director of the Office of Management and Budget, George Shultz, with the same request. Mr. Shultz sent a memorandum to John Ehrlichman at the White House indicating the substance of the Mills request for a rise in the support level.

Nevertheless, on March 12, Secretary Hardin announced that the price support for the coming year would be approximately 80 per cent of parity—not 90 per cent as the dairy industry wanted. The Secretary's announcement acknowledged that some dairymen believed that the support price should be increased. But, he said, higher support prices might lead to excessive supplies and large surpluses. Mr. Hardin believed his action was "in the long-term

best interests of the dairy producers."

Immediately following the Agriculture Department announcement of March 12, 1971, a campaign was initiated on Capitol Hill by both Democrats and Republicans for mandatory legislation to increase the parity level to 85 or 90 per cent. Thirty separate bills were introduced in the House of Representatives between March 16 and March 25 with this specific goal in

mind. One hundred and twenty-five members of the House of Representatives introduced or cosponsored legislation to support the price of manufacturing milk at a level of not more than 90 per cent nor less than 85 per cent. In other words, 85 per cent would be an absolute floor for price supports. Of these representatives, 29 were Republicans and 96 were Democrats. Two congressmen, one from each side of the aisle, also introduced legislation for a mandatory level of 90 per cent of parity.

In the Senate, 28 senators, led by Democratic Senator Gaylord Nelson of Wisconsin, introduced legislation on March 16, 1971, that would have required support levels at a minimum of 85 per cent of parity. Of the Nelson bill sponsors, one was a Republican (Senator Cook of Kentucky) and 27 were Democrats (Senators Allen, Bayh, Burdick, Bentsen, Cranston, Eastland, Eagleton, Fulbright, Gravel, Hart, Harris, Hollings, Hartke, Hughes, Inouye, Long, Mondale, McGee, McGovern, Muskie, Moss, Nelson, Proxmire, Sparkman, Stevenson, Symington, Tunney). Three days later Senator Hubert Humphrey sponsored his own bill seeking higher parity.

Philosophically, the Nixon administration had hoped to gradually move away from federal policies which provide massive subsidies to agriculture. These subsidies had initially been instituted during the Depression years when the government undertook a variety of measures to ease the plight of the farmers and to give them some degree of economic stability and continuing purchasing power. During the ensuing decades, when these support policies might have been phased out, they instead became political footballs, tossed about in the Congress, aided and abetted by well-organized farm lobbying groups.

The dairy support question proved to be no exception. On March 28, 1971, for instance, the Minneapolis Tribune quoted an aide of Senator Gaylord Nelson to the effect that representatives of AMPI, who were operating out of a three-room hotel suite in Washington, played a major role in the preparation of the senator's bill. According to this account, AMPI also provided some of the research material which the senator used for a public statement.

With 29 senators and more than 100 congressmen actively spearheading the



effort to achieve an increased parity rate for the dairy industry, it thus became increasingly clear that mandatory legislation would be enacted and, further, that a presidential veto of such legislation could well be overridden. Moreover, if the President were to try to force his will in this matter (i.e., to push parity down to 80 per cent) it could be politically disastrous in some of the Midwestern states, and, in the light of known congressional intentions, would be both foolish and futile.

A story reported by United Press International on March 24, 1971, (UPI-55) described the problem in these terms:

WASHINGTON—President Nixon probably will face the politically risky prospect of vetoing a bill to raise prices for dairy farmers unless he beats Congress to the draw by boosting milk supports voluntarily, a top Democratic farm bloc leader said today.

Nixon's latest farm bloc headache grows out of the administration's decision earlier this month to refuse any increase in milk price supports for the 1971-72 marketing year which begins April 1.

On the heels of the refusal, a growing parade of legislators in both the House and Senate have introduced bills to require an increase. The list of some 80 House sponsors, including members of both parties, is topped by Speaker Carl Albert and Chairman W. R. Poage (D-Tex.) of the House Agriculture Committee.

"If the administration doesn't act, I think we can and will pass the bill," Poage told UPI in an interview.

Nixon could veto the measure if he remains adamant against higher

milk supports, Poage said, but this would bring on a spotlighted confrontation with many farm interests, the Texan said."

Some months earlier, Godfrey Sperling, writing in the Christian Science Monitor on December 1, 1970, had observed that "farmers and rural communities of America are deeply distressed with the Noxon administration...", especially "with the paring of subsidies..." Sperling also noted the election results of November 3, 1970: "Democrats in 11 basically agricultural districts picked up new congressmen. At the same time no Democrats who were incumbents in such farm districts were defeated." Finally Sperling mentioned those Democrats who did well in farm areas: Senators Joseph Montoya of New Mexico, Quentin Burdick of North Dakota, Hubert Humphrey of Minnesota, Stuart Symington of Missouri, Alai Stevenson of Illinois, Vance Hartke of Indiana, Ggale McGee of Wyoming, Frank Moss of Utah and William Proxmire of Wisconsin. All but one of these senators in 1971 were supporting dairy industry efforts

to obtain higher price supports.

The situation was not dissimilar to one facing President Lyndon Johnson in 1967 when he was forced to curb dairy imports by a Congress which had introduced legislation as a prodding action. Mr. Johnson sharply reduced dairy imports in that year after 58 senators, led by Senator William Proxmire (D-Wis.), and 180 congressmen had introduced a dairy import control bill. In 1967, as in 1971, the activity in the Congress had taken place after the dairy lobby had, by one account, "launched an all-out drive to get Congress" to pass import controls.

With the pressures from Capitol Hill mounting rapidly, President Nixon during the afternoon of March 23 met with seven of his senior advisers to explore the situation with regard to milk price supports. This was the President's second meeting of the day concerning dairy matters. As will be discussed below, the President and other administration officials met that morning with dairy representatives in response to a long-standing appointment. Meeting with the President that afternoon were John Connally, then Secretary of the Treasury; Clifford Hardin, then Secretary of Agriculture; Under Secretary of Agriculture J. Phil Campbell; George Shultz, then director of the Office of Management and Budget; John D. Ehrlichman, then assistant to the President for domestic affairs; John Whitaker, then deputy assistant to the President for domestic affairs; and Donald Rice, then associate director of the Office of Management and Budget. The discussion was frank and wide-ranging: It included an appraisal the support which the milk price legislation had on Capitol Hill and the fact that the legislation had the support of two of the most powerful legislators in the country—Speaker of the House of Representatives Carl Albert and the Chairman of the House Ways and Means Committee Wilbur Mills.

The political power of the dairy industry lobby was also brought to the President's attention in the March 23 meeting. Secretary Connally said that their votes would be important in several Midwestern states and he noted that the industry had political funds which would be distributed among House and Senate candidates in the coming election year—although neither the Secretary nor anyone else discussed possible contributions to the President's campaign. Mr. Connally argued that the milk industry's case also had merit on strictly economic grounds, and rising costs for dairy producers were mentioned.

The President himself concluded that the final decision came down to the fact that the Congress was going to pass the higher support legislation, and he could not veto it without alienating the farmers—an essential part of his political constituency. It was also believed that by raising the support level in 1971, similar action in 1972 could be precluded—thus holding the price line for two years.

The fundamental themes running



through this March 23 meeting were two: (1) the unique and very heavy pressures being placed upon the President by the Democratic majority leadership in the Congress and (2) the political advantages and disadvantages of making a decision regarding a vital political constituency.

After the President announced his decision there was discussion of the great power of the House Democratic leadership (which was then pressing for the milk price support increase and how that power might be enlisted in support of certain of the President's key domestic legislation if the administration acknowledged the key role these leaders played in securing the reversal of Secretary Hardin's March 12 decision. The meeting concluded with a discussion of the manner in which the decision would be announced and implemented.

Two days later, on March 25, Secretary Hardin officially announced the decision to raise the support level to approximately 85 per cent of parity for the 1971-72 marketing season.

Three days after the second price decision, the Minneapolis Tribune reported that the reversal "was the result of an intensive lobbying campaign mounted by the Nation's biggest milk-producer cooperatives with the eager—and perhaps crucial—assistance of dozens of members of Congress, including many whose recent election campaigns were financed partially by the dairy industry's political war chest." Among the lawmakers cited with Senators Edmund Muskie (D-Maine) and Hubert Humphrey, were Congressman Carl Albert, and the Chairman of the House Agriculture Committee, W. R. Poage (D-Tex.).

The response on Capitol Hill demonstrates the political realities that the President faced.

On March 30, Republican Senator James Pearson of Kansas told his Senate colleagues that he had intended to introduce legislation for the very purpose of raising supports, but "apparently the administration has had the benefit of deep concern expressed by both farm state congressmen and dairy farmers . . ." Democratic Senator James Allen of Alabama joined him in a similar expression of views.

On April 1, Democratic Senator George McGovern of South Dakota, who had actively sought a rise in price supports, noted that he had joined other senators in hoping supports would be set at 85 per cent. "This reversal," said Senator McGovern, "can be considered a victory for those in Congress who spoke out vigorously on behalf of the dairy farmers."

On April 5, Senator Nelson, who had worked closely with dairy interests on this matter and had introduced the mandatory 85 per cent support legislation, S. 1277, said that the support increase "accomplished by administrative order what the legislation would have accomplished." He went on to say that "the decision was the result of S. 1277, which was cosponsored by 27 sen-

ators, and a companion measure in the House which likewise had substantial support . . . The Secretary of Agriculture responded to the outpouring of congressional and farmer concern over the initial decision on price supports by adjusting the support level upward . . ."

This congressional pressure was the "gun to our head" that President Nixon referred to in his November 17, 1973, press conference.

It is also worth noting that in 1972, a year after the struggle over a legislatively mandated support level for milk, the Congress enacted legislation which requires that milk be supported at a level no longer than 85 per cent in future years.

## II. The Dairy Industry Contributions and Lobbying Activities

The discussion in the foregoing section shows that overwhelming congressional pressure—and the political consequences of ignoring it—was the reason for the milk price support decision reached on March 23.

The lobbying and contribution activities of the dairy industry followed a separate track. Not unexpectedly the industry undertook to cover every available base. But there was no arrangement or understanding between the industry and the President as has been so widely and falsely alleged.

The very nature of the governmental process—with decisions frequently being made within the executive branch on the administration of critical dairy programs and with dairy legislation constantly under review in the Congress—encouraged the dairy farmers to organize and become a potent political force in recent years. There are now three major dairy cooperatives in the United States: AMPI, Mid-America Dairies (Mid Am) and Dairymen, Inc. (DI). Together these cooperatives have over 66,000 members and account for about 25 per cent of all the milk produced in the United States.

These dairy organizations not only represent in Washington the interests of their members, they also exert influence through the ballot box and through political contributions. Their activity is not unlike the fund-raising and contributing activities of a number of special interest groups such as the Committee on Political Education (COPE) of the AFL-CIO.

The record shows the following lobbying and contribution activities by the dairy industry representatives between 1969 and 1971:

### 1969-1970

President Nixon had no direct contact with any of the members of these dairy organizations until 1970 when AMPI officials invited him to address their annual convention in Chicago in September. The President was unable to accept the invitation, and Secretary Hardin spoke in his place.

Although he could not attend the convention, the President—as he frequently does—placed a courtesy phone call on September 4, 1970, to the general manager of AMPI, Mr. Harold



Nelson. He also spoke with Secretary Hardin, who was with Mr. Nelson. During that conversation, the President invited the dairy leaders to meet with him in Washington and to arrange a meeting with a larger delegation of dairy leaders at a later date.

Accepting the President's invitation, Mr. Nelson and his special assistant,

David Parr, paid a brief courtesy call on the President on September 9, 1970.

The meeting, which was publicly announced to the press, occurred in the Oval Office, and, according to the President's diary, lasted approximately nine minutes. Most of that time was consumed with introductions, photographs and the distribution of presidential souvenirs.

The context of the meeting was a greeting during a presidential "Open Hour"—a session frequently arranged for short courtesy calls from diverse groups and individuals. During the "Open Hour" of September 9, the visit from the AMPI representatives was fitted in between the visits of 25 other people, including a group to encourage military servicemen to exercise their votes; a group of concerned citizens from the state of South Dakota and a contingent of Gold Star Mothers.

Mr. Parr has stated in a sworn deposition that it was essentially a social visit. He and Mr. Nelson invited the President to address the next AMPI convention in 1971 and also expressed a hope that he would meet with other dairy industry leaders. Mr. Parr also remembers that the men spoke about the economic plight of the dairy farmer.

Although money was not discussed in the meeting between AMPI representatives and the President in September of 1970, it is evident that raising and making political contributions to both Democrats and Republicans were important, continuous and conspicuous activities of the dairymen during 1970, 1971 and 1972.

During the late 1960s each of the three major dairy cooperatives established a trust fund in order to raise and distribute money to political candidates. AMPI established the Trust for Agricultural Political Education (TAPE), Mid-America Dairies established the Agriculture and Dairy Educational and Political Trust (ADEPT), and Dairymen, Inc. created the Trust for Special Agricultural Community Education (SPACE).

In August of 1969, an attorney for AMI delivered to Mr. Herbert Kalmbach the sum of \$100,000. Mr. Kalmbach deposited the funds in a trustee account he maintained at the Security Pacific National Bank in Newport Beach, California. The account contained political contributions remaining from the 1968 election campaign. The President had no knowledge of this contribution.

Reports on file with the clerk of the

House of Representatives showed that contributions to congressional candidates in 1969 and 1970 by TAPE, SPACE, and ADEPT totaled over \$500,000. The bulk of the money was earmarked for Democratic candidates. Representatives of the dairy co-ops have indicated in an Associated Press account of December 17, 1973, that Republican candidates received approximately \$135,000, or less than 30 per cent of the funds.

Some members of the White House staff knew that the dairymen were giving financial support to Republican and Democratic candidates in Senate elections in 1970. One member of the staff, Charles W. Colson, asserted in a memorandum to the President that AMPI had pledged \$2 million to the 1972 campaign. (Whether any such pledge was actually made is unknown, but the total amount given to the President's 1972 campaign was \$437,000. As noted below, AMPI's campaign contributions to other candidates during this period were even more generous.) That memorandum was attached to a presidential briefing paper for the courtesy meeting between the President and the AMPI representatives in September of 1970. It was suggested in the memorandum that the President acknowledge AMPI's support. No suggestion was made that any commitment whatsoever be made to do any substantive act. There was also no mention of the asserted pledge during the meeting.

Another reference to fund-raising was in a letter addressed to the President on December 16, 1970 from Patrick J. Hillings, a former congressman who had succeeded Mr. Nixon in his congressional seat after the latter had been elected to the Senate. At that time, Mr. Hillings was a member of a Washington, D.C., law firm that represented the dairymen in the nation's capital. In his letter, Mr. Hillings asked for the immediate imposition of revised dairy import quotas in accordance with recommendations recently presented to the President by the Tariff Commission. President Nixon did not see the letter.

Since the President had already been informed of the fund-raising efforts by the dairy industry, the only possible relevance of the Hillings letter would lie in what action was taken on the Tariff Commission recommendations that Mr. Hillings asked the President to accept.

The fact is that the action taken by the President on import quotas was less favorable to the dairy industry than the steps recommended by the Tariff Commission. The commission, a body of impartial experts, had recommended on economic grounds and pursuant to statutory requirements that imports be closed off entirely for three dairy products (ice cream, certain chocolate products, and animal feeds containing milk derivatives) and that much lower import quotas be set for a



fourth item, low-fat cheese. Rather than closing off imports — an action that would have been more favorable to the dairy industry — the President instead reduced the import quotas on each time, permitting all four goods to continue their competition with American dairy products.

1971

The President next met with dairy representatives at 10:30 a.m. on March 23, 1971, in the Cabinet Room of the White House. Included in the meeting were a delegation from the dairy cooperatives as well as several administration officials, including OMB Director, George Shultz; assistant to the President, John Ehrlichman; deputy assistants to the President, Henry Cashen and John Whitaker; and Donald Rick, associate director of OMB. From the Department of Agriculture were Secretary

See SUPPORT, AII, Col. 1.

## SUPPORT, From A10

tary Hardin; Under Secretary Phil Campbell; Assistant Secretaries Clarence Palmby and Richard Lyng; and Deputy Assistant Secretary William Galbraith.

Contrary to allegations which have since been made, the meeting had been scheduled more than three weeks before the March 12 announcement on price supports by Secretary Hardin. As noted above, the meeting stemmed from an invitation first extended on September 4, 1970, when the President spoke by telephone to Harold Nelson of AMPI. In January of 1971, Secretary Hardin recommended to the White House that the meeting be placed on the President's schedule. Thereafter, in February, the White House arranged the March meeting.

The President opened the meeting by thanking the dairy leaders for the support they had given to administration policies and praised them for their activism in pursuing goals which were important to them. The remainder of the meeting was taken up with the dairy leaders pleading their case for higher supports and with other administration officials expressing concerns about overproduction and higher retail prices. There was no mention whatsoever of campaign contributions. Nor were any conclusions regarding dairy supports reached at the meeting, as the President pressed the attendees as to whether or not they could control overproduction. Much was said by the dairy representatives of the higher costs of their doing business.

Prior to this meeting, a staff memorandum was prepared as a briefing paper for the President. That paper briefly noted that the dairy lobby—like organized labor—had decided to spend political money and that Pat Hillings and Murray Chotiner were involved. There was no suggestion that the President should give special treatment to the dairymen. In fact, that same paper discussed in much more detail the pressure which was coming from the Congress for higher supports; that the Congress was acting at Speaker Albert's instigation; that the Democratic leadership wanted to embarrass the President; and that a bill for higher supports would probably be passed, thus presenting the President with a very tough veto situation.

There were no other discussions between the President and the dairy industry representatives prior to the President's decision on the afternoon of March 23, 1971.

There are a number of mistaken notions with regard to these lobbying efforts of the dairy industry. One is that they had a substantial influence upon the President's decisions. That is untrue. Another is that the dairy contributions represented a substantial portion of the total funding of the President's re-election effort. The truth is



that the contributions from the dairymen amounting to some \$427,000, constituted less than 1 per cent of the total.

It should be further noted that from the perspective of the dairymen, their contributions to President Nixon's campaign organizations were not the major focus of their efforts, according to the Congressional Quarterly of March 17, 1973, reports publicly filed by the political arms of the cooperatives who the following total contributions by the political arms of the dairy cooperatives to all political candidates from April 7, 1972 through December 31, 1972:

ADEPT	\$324,292.58
CTAPE*	906,245.00
PACE	17,650.00
SPACE	254,700.00
TOTAL	\$1,502,887.58

(Note: CTAPE became the major distribution arm of the Associated Milk Producers during the 1972 campaign. Its parent, TAPE, transferred funds to CTAPE, which in turn gave them to the candidates' organizations.)

The Congressional Quarterly account reports that of the \$1.5 million contributed by the dairy cooperatives to political campaigns after April 7, 1972, \$95,000 went to support the candidacy of President Nixon. Thus, after April 7, 1972, President Nixon's campaign received less than one-fifteenth of the available funds distributed by the dairy trusts. The rest—more than \$1.4 million—flowed into the campaigns of Senate and congressional candidates and to primary contestants in the Democratic presidential race.

A great number of the congressional and senatorial candidates to whom dairy funds were given were also leaders in the effort to legislate a mandatory increase in milk supports in March of 1971. (Note: No records are available to compare the contributions to President Nixon prior to April 7 which amounted to approximately \$332,000, with the contributions given to other candidates prior to April 7.)

### III. Consequences of President's Decision

Although the President's decision of March 23 was based largely on political realities, unrelated to campaign contributions, it also proved to be sound economics. Here, in brief, were the economic results:

**Milk Production:** One of the continuing concerns of the Department of Agriculture is to assure that milk supplies are adequate but not excessive. In the mid 1960s, there was a downward trend in the production of milk from 126.9 billion pounds in 1964-65 to 116.5 billions pounds in 1969-70. Supplies had become sufficiently low by the late 1960s that Secretary Hardin's decision to raise the milk support level in 1970 was based in large part upon his desire to increase production. The support increase of 38 cents per hun-

dredweight for that year helped to end the decline in production as some 117.4 billion pounds of milk were produced in the 1970-71 marketing year. The additional increase in the support price to \$4.93 as a result of the March 25 announcement provided still further assurances against the resumption of a downward trend in production. For the marketing year 1971-1972, the total milk production was 119.4 billion pounds.

**Cost of Milk to the Consumer:** The average retail price per half gallon of milk has been rising steadily since 1965, as shown by this chart:

1965	47.3c
1966	49.8
1967	51.7
1968	53.7
1969	55.1
1970	57.4
1971	58.9
1972	59.8

(Yearly average retail price per half gallon of milk in leading cities of the United States; U.S. Department of Agriculture.)

From the view of the consumer, it can be seen that prices continued to rise, but that the 1971-72 increase was the smallest of all the years shown on the chart—and was considerably less than the rate of general inflation. These reductions in the rate of milk inflation in 1971 and 1972 are directly related to the President's decision of March 23 because the announcement of March 25 encouraged the production of milk to a level higher than it otherwise would have been. Thus, because supplies increased, market price increases have been less than they otherwise would have been.

**Cost of the Milk Support Program to the Government:** Net expenditures for the dairy price support program and related costs (butter, cheese, dried milk and similar products) were as follows for the recent fiscal years (Commodity Credit Corporation Net Expenditures):

Fiscal Year 1970	\$ 87.2 million
Fiscal Year 1971	214.3 million
Fiscal Year 1972	174.2 million
Fiscal Year 1973	118.6 million

As can be seen, the cost during the fiscal year in question — 1972 — was considerably lower than the year before. It dropped again the following year.

**Government Inventories of Dairy Products:** One of the concerns of the Secretary of Agriculture is to ensure that his department has reasonable supplies of dairy products to meet the goals of its family feeding and child nutrition programs. At the same time, the Secretary wants to avoid excessive production which would tend to overload the department's stocks. The aim is thus to achieve a balance in the Commodity Credit Corporation (CCC) stockpiles. As of January, 1971, there was some concern that the stocks

might fall too low if production of milk were reduced. As it turned out, the butter, processed cheese and non-fat dry milk stocks in the CCC dipped between a high of 257.9 million pounds to a low of 62.7 million pounds during 1971, even with increased production of milk, but it is a virtual certainty they would have been even lower if the decision had not been made to raise the parity level to 85 per cent. Here are the figures for the CCC's uncommitted inventory as of January 31 of each year: (in millions of pounds)

Marketing Year	Butter	Cheese	Nonfat Dry Milk
1968	124.7	67.9	208.4
1969	73.0	23.1	221.1
1970	35.2	—	116.5
1971	61.8	6.6	18.7
1972	37.1	1.9	1.4

On the basis of all four of the indices above — milk production, cost of milk to the consumer, the cost of running the USDA's milk support program, and the quantity of inventories held by the Commodity Credit Corporation — it would appear that the March 25 reversal of the milk support decision in fact proved to have substantial benefits for all segments of the nation's economy.

### IV. Conclusions

The information contained in this discussion can be summarized as follows:

- Immediately after the Agriculture Department first announced on March 12 that milk would be supported at approximately 80 per cent of parity, pressures developed on Capitol Hill for mandatory legislation to increase the parity level to 85-90 per cent. Several of the President's advisers believed that the legislation would be enacted and that a presidential veto of such legislation would be politically disastrous for Mr. Nixon in several states.

- Except for the fear that a rise in supports would create problems of overproduction, several advisers believed the dairymen's case to be meritorious due to the rising costs of fuel, feed, and labor for those producing dairy products. In fact, the corn blight of 1970 considerably reduced many supplies of feed grain for the 1971 marketing year.

- With the Congress putting "a gun to our head" and with his senior advisers supporting him, the President decided that the parity level should be increased to 85 per cent.

- Economically, the President's decision to raise the support level proved to be sound and beneficial for the nation.

- While the President had been advised that the dairymen had decided to make contributions towards the reelection effort of 1972, this did not influence the President's decision to raise the level of supports.

(Appended to this report was a list of 30 bills on dairy price supports filed in the House in 1971 and names of the 125 sponsors.)



# 'Allegations—False'

Following is the statement issued yesterday by the White House on its release of papers relating to the "milk case" and the "ITT case":

For several months, there have been repeated allegations that two presidential actions in 1971—one relating to federal support prices for milk and the other to antitrust action against the International Telephone and Telegraph Corporation—were taken either in return for political contributions or the promise of such contributions. Both allegations, given broad circulation, have been repeatedly denied and are utterly false.

Today the White House is issuing separate papers on the milk case and the ITT case. They support the President's previous statements that his actions were totally proper.

With regard to milk supports, as the paper indicates, the President's action was based upon several factors—first and foremost, intensive congressional pressure, generated in part by the dairy interests; secondly, the economic merits of the case itself; and finally, traditional political considerations relating to the needs of the farm states. The economic consequences of that milk decision show it to have been in the national interest.

With regard to the settlement of the ITT antitrust cases, the President's only actions in the matter came in April of 1971. The President was not aware at that time of any pledge by ITT to make a contribution toward expenses of the Republican National Convention, nor, in fact, had such a pledge even been made. The President's telephoned instructions to the Department of Justice regarding the antitrust cases against ITT were issued because, in

the President's judgment, the department's plan to appeal the matter to the Supreme Court was in direct contravention of the administration's antitrust policy, as enunciated by the President himself in various meetings with members of his administration. The President had a strong interest in preserving and strengthening the ability of American corporations to compete in the international market. He feared that an adverse ruling by the Supreme Court on the ITT matter, based on a Justice Department argument that bigness per se violates the antitrust statutes, would seriously weaken major American companies. Those concerns endure; that policy remains today. And the ultimate resolution of the ITT matter—requiring ITT to undergo the (largest) divestiture in antitrust history—was itself judged to be reasonable and fair by two former solicitors general, Erwin Griswold and Archibald Cox.

Tapes, papers, and other documents relating to the milk and ITT matters have previously been delivered voluntarily by the White House to the special prosecutor and are available to the grand jury. The decision to turn over these materials reflects the President's desire to cooperate with the ongoing investigations and his confidence that the special prosecutor and the grand jury will respect their confidentiality. Consistent with his stated determination to maintain that confidentiality, these materials are not being publicly released today. In view of the fact that the documents are on file with the special prosecutor, it should be clear that the accounts published today are consistent with the basic facts contained in those documents and tapes.



# White House on ITT

over

## The ITT Anti-Trust Decision

In the thousands of pages of testimony and analysis regarding the ITT case since 1971, the only major charge that has been publicly made against President Nixon is that in return for a promise of a political contribution from a subsidiary of ITT, the President directed the Justice Department to settle antitrust suits against the corporation.

That charge is totally without foundation:

- The President originally acted in the case because he wanted to avoid a Supreme Court ruling that would permit antitrust suits to be brought against large American companies simply on the basis of their size. He did not direct the settlement or participate in the settlement negotiations directly or indirectly. The only action taken by the President was a telephoned instruction on April 19, 1971 to drop a pending appeal in one of the ITT cases. He rescinded that instruction two days later.

- The actual settlement of the ITT case, while avoiding a Supreme Court ruling, caused the corporation to undertake the largest single divestiture in corporate history. The company was forced to divest itself of subsidiaries with some \$1 billion in annual sales, and its acquisitions were restricted for a period of 10 years.

- The President was unaware of any commitment by ITT to make a contribution toward expenses of the Republican National Convention at the time he took action on the antitrust case. In fact, the President's antitrust actions took place entirely in April of 1971—several weeks before the ITT pledge was even made.

### President's Interest in Anti-Trust Policy

Mr. Nixon made it clear during his 1968 campaign for the Presidency that he stood for an antitrust policy which would balance the goals of free competition in the marketplace against the avoidance of unnecessary government interference with free enterprise. One of Mr. Nixon's major antitrust concerns in that campaign was the Government's treatment of conglomerate mergers. Conglomerates had become an important factor in the American economy during the 1960's, and despite public fears that they were threatening free competition in the marketplace, the administrations of those years—in Mr. Nixon's opinion—had not been clear in their attitude toward

# Antitrust

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# Decision

them. In one of his 1968 campaign books, Nixon on the Issues, in which he put forward in summary form his conclusions about national and international issues, Mr. Nixon expressed his dissatisfaction with existing conglomerate policies:

"The Department of Justice has recently proposed guidelines for 'conglomerates' but the guidelines have not provided any substantial criteria on which businessmen can safely depend. Moreover, there is the problem of unsettled case law on



the question. My administration will make a real effort, and a successful one, I believe, to clarify this entire 'conglomerate' situation. . . .

To help resolve the issues involved, Mr. Nixon during his campaign appointed a Task Force on Productivity and Competition, headed by Professor George Stigler of the University of Chicago and including several eminent academicians. The task force presented its report to the newly inaugurated President on February 18, 1969. The group recognized public fears that conglomerates posed a "threat of sheer bigness" but said these fears were "nebulous" and should not be converted into an aggressive antitrust policy on the basis of knowledge then available. "We strongly recommend," stated the report, "that the Department (of Justice) decline to undertake a program of action against conglomerate enterprises . . ."

A similar view was set forth by many outside the government. In an article in *Fortune* in September of 1969, Robert Bork, then a professor of antitrust law at the Yale Law School, attacked the policy of antitrust enforcement against conglomerates that he thought was emerging at the Justice Department. He noted that unless conglomerates mergers were involved in horizontal price-fixing within an industry, there was no economic foundation for believing that they were anti-competitive. He also noted that "The campaign against conglomerate mergers is launched in the teeth of the conclusion reached by the task force that President Nixon himself appointed to study and report on antitrust policy."

A second major concern of the President and his advisers was their fear that the ability of U.S. companies to compete in the world market might be threatened by antitrust actions against conglomerates. The United States faced a shrinking balance of trade surplus and the President and many of his advisers felt that U.S. multinational companies could play an important role in improving the balance.

The President feared that antitrust a clear restraint of trade would render them less able to compete with the government-sheltered and sponsored industrial giants of Europe and Asia. The President and his advisers were keenly aware that the large industrial entities of foreign countries did not operate under the kind of antitrust pressure faced by American companies, and they believed that the absence of such pressure enabled those countries to compete more successfully in world markets.

This view took published form in a report, "The United States in the Changing World Economy" written by the President's Council on International Economic Policy. In that document, Peter Peterson, Director of the C.I.E.P. wrote:

" . . . the Japanese government sees itself as a partner with business in facilitating economic growth . . . The situation is far different from that in the United States — where . . . major efforts of the government are devoted not to growth and stimulation,

but to restraint and regulation of business and labor . . .

This view, along with a great deal of other data on foreign trade, was communicated to the President by Mr. Peterson on April 8, 1971 — only a few days before the President intervened in the ITT matter.

The President and his advisers, (but not Attorney General Mitchell, who had disqualified himself on matters related to ITT) were thus seriously concerned about two aspects of antitrust policy which would eventually bear on the ITT matter: (1) the policy of attacking gibbness per se and whether such policy had any economic justification, and (2) the need to prevent misguided antitrust attacks upon U.S. companies in competition with large foreign industrial entities.

## II. Background on the ITT Litigation

The Justice Department in 1969 initiated civil litigation against the International Telephone and Telegraph Co., a major "conglomerate," for alleged violations of the antitrust laws. The allegations involved acquisitions by ITT of the Grinnell Corporation, the Hartford Fire Insurance Company, and the Canteen Corporation. These were only the latest and among the largest of a series of acquisitions made by ITT in the years since 1963, a period in which favorable tax laws, among other things, made acquisitions popular.

Under Assistant Attorney General McLaren, the Antitrust Division of the Justice Department was concerned with the implementation of an antitrust policy which attacked the general merger trend not only because the effect of the corporate growth "may be substantially to lessen competition," conduct clearly proscribed by the antitrust laws, but also because of the economic concentration itself.

Other experts, including many of the President's advisers, did not see the role of antitrust law in such all-encompassing achieve political and economic aims beyond prevention of restraint of trade was unsound. If there were dangers such as Mr. McLaren and his colleagues feared from conglomerates, President Nixon and his advisers, along with other experts, preferred solving them through legislation.

Executives of ITT were also concerned about the Justice Department action, and talked with various administration officials to learn their views. The chief executive officer of ITT, Harold Geneen, was sufficiently concerned that he attempted to talk to the President personally about these issues in the summer of 1969. The President's advisers thought that such a meeting was not appropriate, and the meeting was not held.

Other White House officials, however, did talk to various representatives of ITT about antitrust policy. Those discussions invariably focused on the legal and economic issues of whether antitrust suits should be pursued simply because companies are large or rather because they are actually restraining trade in a tangible way. Papers relating to those conversations have been voluntarily turned over to the Special Prosecutor.

## III. Making the ITT Cases Consistent

## With Administration Policy On Antitrust

During the latter part of 1970, there was a question among White House advisers about whether the antitrust actions against the ITT were consistent with the notion of keeping hands off companies unless they had committed some clear restraint of trade rather than simply becoming large in size, and generally whether the ITT suits were consistent with administration policy on antitrust.

While these discussions were taking place, the Justice Department lawsuits against ITT were continuing. The Justice Department's actions against ITT to enjoin the acquisitions of the Grinnell Corporation and Hartford Fire Insurance Company were presented to the United States District Court for the District of Connecticut on September 17, 1969. The court (Chief Judge Timbers, presiding) issued a Memorandum of Decision on October 21, 1969, denying the government's motion for a preliminary injunction to enjoin the proposed acquisitions by ITT, but directing that "hold separate" orders be entered to preserve the status quo, pending a trial and a decision on the merits.

Subsequently, a trial of the Grinnell case on the merits was held on September 15, 1970 and concluded on October 30, 1970. The court again refused to find that ITT had violated the antitrust laws. In his decision, Chief Judge Timbers said:

"The Court declines the government's invitation to indulge in an expanded reading of the statutory language and holds that the statute means just what it says. It proscribes only those mergers the effect of which 'may be substantially to lessen competition'; it commands that the alleged anticompetitive effects be examined in the context of specific product and geographic markets; and it does not proscribe those mergers the effect of which may be substantially to increase economic concentration.

Whatever may be the merits of the arguments as a matter of social and economic policy in favor of, or opposed to, a standard for measuring the legality of a merger under the antitrust laws by the degree to which it may increase economic concentration rather than by the degree to which it may lessen competition, that is beyond the competence of the Court to adjudicate. As the Court attempted to make clear in its preliminary injunction opinion, if that standard is to be changed, it is fundamental under our system of government that any decision to change the standard be made by the Congress and not by the courts."

As a result of this litigation and pending a determination to appeal the adverse judgement to the Supreme Court of the United States, Assistant Attorney General McLaren discussed a compromise settlement with ITT during 1970. He indicated he would recommend that ITT be allowed to keep the Grinnell Corporation, but divest itself of the Canteen Corporation and not proceed with its pending acquisition of



the Hartford Fire Insurance Company.

By the spring of 1971, the President, based on the information and advice he had received, had concluded that the ITT litigation was inconsistent with his own views on anti-trust policy. The Department of Justice and some of the President's advisers continued to maintain, however, that the cases were not an attack on bigness and were based on clear anti-competitive effects of the acquisitions.

On April 19, 1971, in a meeting with John Ehrlichman and George Shultz, then Director of the Office of Management and Budget, the President was told by Mr. Ehrlichman that the Justice Department had filed an appeal with the Supreme Court in the Grinnell case which Mr. Ehrlichman described as an "attack on a conglomerate." Mr. Ehrlichman further told the President that he believed that prosecution of the case was contrary to the President's antitrust policy and that, as a result, he had tried to persuade the Justice Department not to file a jurisdictional statement (due the following day) so as to terminate the appeal. He indicated, however, that he had been unsuccessful with the Justice Department.

The President expressed irritation with the failure of the head of the Antitrust Division, Mr. McLaren, to follow his policy. He then placed a telephone call to Deputy Attorney General Kleindienst and ordered that the appeal not be filed. The meeting continued with a further discussion of anti-trust policy during which Mr. Shultz expressed the view that conglomerates had been unfairly criticized.

The Justice Department, on April 20, 1971, requested and was granted a delay in filing the appeal which was due that day. On the following day, April 21, 1971, Mr. John N. Mitchell, the attorney general, advised the President that in his judgment it was inadvisable for the President to order no appeal to the Supreme Court in the Grinnell case. The attorney general reasoned that, as a personal matter, Mr. Erwin N. Griswold, solicitor general of the United States, had prepared his brief for appeal and would resign were the appeal not to proceed. The attorney general further feared legislative repercussions if the matter were dropped entirely. Based upon the attorney general's recommendations, the President reversed his decision of April 19, 1971, and authorized the Department of Justice to proceed with the case in accordance with its own determinations. He said that he did not care about ITT as such, but that he wanted the Attorney General to see that his antitrust policy was carried out.

At the end of the same month, April 1971, the President approved a proposal for creating a central clearing house for information about government antitrust policy within the White

House, to ensure that the President's views on the subject could be made known to all the operating agencies.

On April 29, 1971, a meeting of ITT representatives, Department of Justice and Department of Treasury officials was held at the Department of Justice wherein ITT made a presentation concerning the financial ramifications of the proposed divestiture actions. Following the meeting, the Department of Justice requested that the Treasury Department and an outside consultant specializing in financial analysis evaluate the ITT claims. These evaluations were made in addition to the Justice Department's own analysis of competitive effect.

Based on the completed assessment, Assistant Attorney General McLaren, on June 17, 1971, sent a memorandum to the Deputy Attorney General outlining a proposed settlement. This proposal was subsequently communicated to ITT representatives and after further negotiations a final settlement, extremely similar to Mr. McLaren's June 17 proposal, was agreed upon in principle on July 31, 1971, and final consent judgments were entered by the United States District Courts on September 24, 1971. On the first trading day after the settlement was announced the common stock of ITT fell 11 per cent, from 62 to 55 on investor reaction to the terms of the settlement. (A summary of the details of the settlement appears as an appendix.)

After the consent judgments were made public, several authorities offered their opinions as to the reasonableness of the settlements as opposed to pursuing the appeal to the United States Supreme Court. Former Solicitor General Erwin N. Griswold states as follows:

"We felt that it would be very difficult to win it, not only because the law with respect to conglomerate mergers is far from clear, but also because in this particular case there had been sharp conflict in the evidence before the District Judge, and the District Judge had found all the facts against us. And all experience shows that it is extremely difficult to win an antitrust case or another type of case in the Supreme Court when you have to attack the findings of fact."

He thus found the settlement "extremely favorable" to the Justice Department. (Hearings before the Committee on the Judiciary, United States Senate, 92d Congress, 2d Session, March 8, 1972 at PP. 372-374).

The opinion of Archibald Cox was set forth in a New York Times account of October 31, 1973 as follows:

"It was proper for the President to have an interest in such a major case, he said. 'There was nothing improper in voicing his own opinion.' He added that he thought the Government received a fair settlement



in the case."

Mr. McLaren described it as a "tough" settlement which would have immediate deterrent effect in the anti-trust area and was therefore preferable to waiting three or four years for a Supreme Court ruling.

#### IV. Selection of San Diego For Republican National Convention

The separate and unrelated process of decision-making regarding the Republican National Convention began in 1971, when the Site Selection Committee started to examine prospective sites.

In the 1971 selection process, six cit-

ies were seriously considered for the 1972 convention, and were being considered seriously by the site selection committee. Working with the Republican National Committee were White House staffers who were concerned for the security, logistics and effective functioning of the presidency in any given location.

On June 29, 1971, the San Diego City Council adopted a resolution authorizing the mayor of the City of San Diego to submit a bid on the Republican National Convention to be held in San Diego, and to offer financial support of \$1,500,000. Of this amount, \$600,000 was to be used for city services, such as police and fire protection, extra public works responsibilities and other service requirements connected with a convention.

The remaining \$900,000 to be used for facilities, rents and other convention requirements was conditioned upon contributions in cash and services by other State and local governmental agencies, individuals, corporations and organizations.

A large part of the cash portion of the bid was committed by the Sheraton Hotel Corporation, a subsidiary of ITT about June 1, 1971, and subsequently confirmed on July 21, 1971. A new Sheraton hotel was under construction in San Diego, and Sheraton apparently felt that television publicity for the hotel and the chain would be a worthwhile business investment. The exact provisions of the donation were and are unclear. Apparently ITT-Sheraton offered \$200,000 with some requirement of matching by other San Diego businessmen as to one-half of the commitment. In any event, a payment of \$100,000 to the San Diego Convention and Visitors' Bureau was returned when the convention site was changed.

The White House Staff report to Chief of Staff H.R. Haldeman on possible convention sites made no mention of ITT. Rather, it recommended San Diego because of California's Republican Governor, San Diego's Republican Congressman, its proximity to the Western White House, its outstanding

climate, its relatively large bid in money and services, the importance of California in the electoral tally, the attractive outdoors atmosphere of the town, and the excellent security which could be offered.

The President, himself, informed Sen. Robert Dole, chairman of the Republican National Committee, that whatever Sen. Dole and Site Selection Committee decided was agreeable to him. Subsequently, the President approved the selection of San Diego by the Site Selection Committee.

#### Summary: Final ITT Judgment

1. Ten-year injunction against acquisitions of companies having total assets of more than 100 million or against acquisitions of companies having sales of \$25 million and 15% of a concentrated product market. Injunction against acquisitions of insurance companies and sprinkler companies.

2. Divestiture of both foreign and domestic operations of Avis:

1971 Sales (million)	\$251
1971 Assets (million)	\$266

3. Divestiture of Grinnell's entire Fire Protection Division. In addition divestiture of Grinnell's entire 46% interest in Hajoca Corporation:

Fire Protection Division	
1971 Sales (million)	\$ 87
1971 Assets (million)	\$ 40

Hajoca Corporation	
1971 Sales (million)	\$ 62
1971 Assets (million)	\$ 23

4. Divestiture of both domestic and foreign operations of Levitt:

1971 Sales (million)	\$268
1971 Assets (million)	\$322

5. Divestiture of Canteen:	
1971 Sales (million)	\$322
1971 Assets (million)	\$145

6. Divestiture of annual life insurance premium income of about \$28 million.

Reference: Hearings before the Committee on the Judiciary, U.S. Senate, 92nd Congress, Part 3, pp. 1330-1.