

# Kleindienst Chances Rated Under

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Two months ago, when Richard G. Kleindienst was nominated by President Nixon to be the new Attorney General, his prospects looked so bright that there was talk he might be confirmed unanimously by the Senate.

A month ago, Kleindienst

seemed certain to survive the storm over whether there was a connection between the settlement of three antitrust suits against the International Telephone and Telegraph Corp. last year and ITT's pledge of at least \$200,000 to help bring the 1972 Republican National Convention to San Diego.

Today, with the hearings

on his nomination still continuing (they were reopened at his own request to "clear up" the ITT affair), Kleindienst's chances of becoming Attorney General are rated by most Senate strategists at something less than 50-50.

But if Kleindienst fails confirmation, it will almost certainly not be on the basis of an objective evaluation of his qualifications for the cabined post. That question may never even come to a vote.

## Victim of Impasse

He would instead, be the victim of an impasse between the White House and the Senate on the issue of "executive privilege"—the immunity from questioning claimed by the executive branch on behalf of presidential advisers—and of the Nixon administration's refusal to compromise on that principle.

The White House formally said "no" last week to the Senate Judiciary Committee's request for testimony from Peter M. Flanigan, the economic adviser who recruited an outside report that became a factor in the Justice Department's decision to settle with ITT.

That refusal touched off an explosion by Sen. Sam J. Ervin Jr. (D-N.C.), who is acknowledged as the Senate's leading constitutional expert. He was joined yesterday by Sen. Russell B. Long (D-La.) in insisting that Flanigan testify.

Committee aides concede that Flanigan's significance in the ITT case is probably minimal; they don't think the senators would find out all that much new if he did testify.

## Symbol for Both Sides

But he is a symbol for both sides in the dispute.

For the White House, Flanigan's testimony would represent a foot in the door for contentious Senate committees. If he goes, administration aides reason, how could the line continue to be

held, for example, against sending Henry Kissinger President Nixon's national security adviser, to testify about the war in Vietnam.

The Senate is especially touchy on the subject right now, because while the administration claims executive privilege for White House aides, it is contending that the legislative aides to senators may be questioned by federal grand juries—investigative arms of the executive and judicial branches of government.

That is exactly the position taken by the Justice Department in the case involving its attempts to probe the release last summer by Sen. Mike Gravel (D-Alaska) of the top secret Pentagon Papers on U. S. policy in Vietnam.

There was a brief flicker of compromise last week when Sen. Charles McC. Mathias (R-Md.) suggested that members of the Judiciary Committee could meet with Flanigan on neutral ground.

But the White House told Senate Republican leaders it was not interested.

In the meantime, Ervin also shot down the Mathias proposal, insisting that nothing short of a full public hearing with a transcript would do.

## Suggest Gesture

Some Senate Democratic aides suggested last week that the President might be planning to hold out for a time and then, in a dramatic gesture, rescue Kleindienst by sending Flanigan to testify in a one-time-only exception to the executive privilege rule.

Ervin took care of that prospect, too, when he increased the ante and said the committee needs to hear from at least two other White House aides mentioned in the hearings. Yet another two came up at Fri-

day's hearing.

Democratic strategy aside, Senate Republican sources intimated at the end of the week that the White House had already decided to do exactly what Ervin charged: sacrifice Kleindienst "on the altar of executive privilege."

According to the sources, the administration blames the nominee for sowing a great deal of election-year

## 50-50

trouble by calling for the new hearings in the first place. So many names and problems have been raised that Kleindienst may have become a liability to the President.

The deadlock over Flanigan has also played into the hands of Senate Democrats who would find it difficult to vote against Kleindienst but would not object to reaping some political advantage from his defeat.

"You have to have more than inference to declare a man evil and reject him" for the President's cabinet, one Northern Democrat said last week.

### One Way Out

But he acknowledged that it would be a way out of the dilemma for him to be able to reject Kleindienst on the grounds that the President had affronted the Senate by an improper invocation of executive privilege.

Should Kleindienst not be confirmed, or even voted upon, he is expected to be left in the position of Acting



Associated Press

**Richard J. Kleindienst, President Nixon's choice for attorney general, may become victim of an impasse.**

Attorney General for the rest of the year.

And the issue then could present this year's Democratic presidential candidate

with an invaluable campaign promise: To appoint an Attorney General who can be confirmed by the United States Senate.

# U.S. Antitrust Settlement Favored ITT, Report Says

ST. LOUIS, Mo., April 16 (UPI)—Confidential documents held by the Justice Department indicate that key terms of a billion-dollar antitrust settlement last year involving International Telephone and Telegraph Corp. were carefully negotiated to the company's advantage, The St. Louis Post-Dispatch has reported.

The newspaper said in its Sunday editions that the documents indicate that ITT agreed to divest itself of a company whose stock was greatly undervalued. The heretofore secret documents also said ITT had described one of its subsidiaries as a small firm even though it was a billion-dollar operation.

The story said an analysis of the documents showed that ITT agreed to divest itself of its 46 per cent interest in Jajoca Corp., knowing that, at \$85 to \$90 a share, "The company's stock was grossly undervalued in the over-the-counter market."

ITT sold its 41,200 shares of Jajoca earlier this year at \$155

a share—a potential market profit of about \$3 million on the first of its divestitures in compliance with the antitrust settlement, the newspaper said.

"ITT initially characterized its ITT Levitt Development Inc. subsidiary as a 'small subsidiary . . . engaged in disposing of land owned or acquired by Reyonier Corp. (another ITT subsidiary)," the Post-Dispatch said.

Actually, the story said, ITT Levitt Development Inc.—which the Justice Department allowed ITT to retain although all other Levitt & Sons assets are to be disposed of under the antitrust settlement—is a billion-dollar Florida real estate project known as Palm Coast.

The story said Harold S. Geneen, ITT president and board chairman, told the company's stockholders last month, "Palm Coast will be one of the largest planned communities in the United States."

"Retention of the Palm Coast development," the story continued, "ties in directly

with ITT's long-range plan to exploit the financial resources of Hartford Life Insurance Co., the sixth largest insurance company in the U.S. with assets of \$2 billion and an annual premium income of a billion."

Under terms of the antitrust settlement, ITT was permitted to retain Hartford Fire, which it acquired in 1969, provided ITT sold other assets.

The newspaper said a secret memorandum prepared after a meeting between ITT and Hartford executives in New York in November, 1968, refers to Palm Coast and the use of Hartford's cash to finance it not only in Florida but in a dozen other states.

# 2 Question Dita Beard Heart Ills

Associated Press

Two doctors who independently examined Dita Beard before she testified before a Senate committee said Saturday they found no evidence of heart disease.

Though not completely ruling out another doctor's diagnosis that the International Telephone and Telegraph Corp. lobbyist had angina pectoris, Drs. Joseph Snyder and Ray Pryor of Denver said, "There were no positive findings from a physical examination, electro-cardiogram or chest X-rays.

In a telegram to Senate Judiciary Committee Chairman James O. Eastland (D-Miss.), the two doctors said the only evidence that Mrs. Beard has a heart condition came from her own descriptions of chest pains.

Mrs. Beard is the alleged author of an ITT memo published by columnist Jack Anderson which links ITT's pledge of at least \$200,000 to the Republican national convention with the out-of-court settlement of three government antitrust suits against the conglomerate.

In early March, she was hospitalized at the Rocky Mountain Osteopathic Hospital in Denver under the care of Dr. Lewis M. Radetsky. She was recently dismissed from the hospital but has remained in Denver.

The judiciary committee had asked cardiologists Snyder and Pryor to examine Mrs. Beard and determine whether she was fit to testify.

At the time of the initial request, Snyder and Pryor recommended that Mrs. Beard not be transported to Washington, but said she was healthy enough to be interviewed in a hospital room in Denver.

Snyder and Pryor were committee members, "the clinical diagnosis of possible coronary artery disease and angina pectoris in Mrs. Dita Beard is based entirely on her personal history of chest pains which is subjective information."