

Kleindienst Plea Of Guilt Entered Over ITT Case



RICHARD G. KLEINDIENST
... bargained on plea

Could Get One-Year Jail Term

By Timothy S. Robinson
Washington Post Staff Writer

Former Attorney General Richard G. Kleindienst pleaded guilty yesterday to a charge that he refused to testify accurately during his confirmation hearing before the Senate.

Kleindienst, who was the nation's top law enforcement officer under President Nixon for about a year before he resigned last year during the growing Watergate scandal, became the first Attorney General in the country's history to plead guilty to a criminal offense. Kleindienst was the 68th Attorney General.

The statute under which he was charged requires a minimum sentence of at least one month in jail and a fine of at least \$100, but could bring up to a year and a \$1,000 fine. Any sentence can be suspended by the judge, however.

The charge, presented before U.S. District Chief Judge George L. Hart Jr. by Watergate special prosecutor Leon Jaworski, is Kleindienst failed to tell the Senate Judiciary Committee that he had been ordered by President Nixon to drop an appeal of government anti-trust cases against the International Telephone and Telegraph Corp.

Kleindienst refused to obey that order, a move that was referred to during the court proceeding and in a statement released later by the former Attorney General.

Although the crime to which Kleindienst pleaded guilty was refusal to tell the Senate Committee about presidential pressure on him in the ITT case, Jaworski said after the nine-minute court hearing that there is "no implication intended" of presidential misconduct.

"I think the President has the right as chief executive to pass on all matters of anti-trust and this was the President's view," Jaworski told reporters.

Kleindienst did not meet with newsmen after the plea as a result of an arrangement with the judge that newsmen would be forced to remain in the courtroom until the former Attorney General had left.

See **KLEINDIENST, A29, Col. 1**

KLEINDIENST, From A1

However, he later issued a two-page statement through his attorney, Herbert J. Miller Jr., that said, in part, "I was wrong in not having been more candid with the Committee and I sincerely regret it."

He said he was entering his plea "out of respect for the criminal justice system of the United States and the indisputable fact that the system must have equal application to all."

The plea to the misdemeanor was the result of several weeks of intensive plea-bargaining between Kleindienst's attorneys and the special prosecutor's office, according to informed sources.

Those sources have said that Kleindienst faced a possible perjury indictment as a result of his Senate testimony. Instead of pleading to that charge, which is a felony, Kleindienst wanted to plead to a misdemeanor count in hopes that he would not be disbarred from law practice, those sources said.

Kleindienst, who currently practices law here, is a member of the bar in Arizona. A felony conviction would have resulted in automatic disbarment there, while a lawyer who pleads guilty to a misdemeanor is subject to disciplinary action only if the misdemeanor involves "moral turpitude," a term open to interpretation.

In a letter to Kleindienst's attorney, Jaworski said, "If Mr. Kleindienst enters this plea, this will dispose of all charges of which this office is presently aware arising out of his testimony at his confirmation hearings . . . unless substantial new evidence develops demonstrating that Mr. Kleindienst has failed to disclose material



By Charles Del Vecchio—The Washington Post

Special Watergate Prosecutor Leon Jaworski leaves court after the plea.

matters relating to the ITT matter."

Jaworski said his office's investigation into ITT "has failed to disclose any criminal conduct by Mr. Kleindienst in the manner in which he handled the ITT antitrust cases."

"It is thus specifically understood," Jaworski added in the letter, "that if evidence is developed that Mr. Kleindienst was involved in any criminal obstruction of the ITT antitrust cases or any other matter within the Department of Justice; this

disposition will not bar his prosecution for that offense."

Although it was known that Kleindienst had been actively engaged in plea bargaining, his arrival at the courthouse yesterday morning amid heavy security had

not been announced in advance.

He was ushered to an anteroom behind the courtroom off a hallway that is normally open to the public but was sealed yesterday by U.S. marshals. Special prosecutor Jaworski, deputy special prosecutor Henry S. Ruth and assistant special prosecutor Richard J. Davis had waited in another small room that is normally used for trial witnesses at the other end of the hall.

As Hart took the bench, Kleindienst and his attorneys entered the courtroom from a rear door. Hart warned the press and other spectators they could not leave the courtroom until he left the bench.

Jaworski approached the lectern and said he "desire(d) to present an information charging Richard G. Kleindienst" with a violation of the United States Code.

After receiving the information in lieu of an indictment. Hart called the former Attorney General forward.

Then Hart advised the nation's former chief law enforcement officer of his rights to trial, his rights against self-incrimination and his rights to face his accusers.

When asked if he waived those rights, Kleindienst stood pale but erect and said firmly, "Yes, sir."

WATERGATE SPECIAL PROSECUTION FORCE

United States Department of Justice
1425 K Street, N.W.
Washington, D.C. 20005

May 10, 1974

Herbert J. Miller, Jr., Esq.
Miller, Cassidy, Larroca & Lewin
1320 19th Street, N. W.
Washington, D. C. 20036

Dear Mr. Miller:

This letter will record the understandings between you, your client, Richard G. Kleindienst, and my office relating to his agreement to plead guilty to a one-count information charging him with violating Title 2, United States Code, Section 192.

The understandings are that Mr. Kleindienst will enter this plea in the District Court for the District of Columbia, that he will waive any possible objection to the bringing of this charge by virtue of the failure of the Senate to certify this matter to the Department of Justice and that he will waive defenses he might have to this charge. Based on the legal brief you have submitted, both you and your client agree that his conduct violates Section 192. If Mr. Kleindienst enters this plea, this will dispose of all charges of which this office is presently aware arising out of his testimony at his confirmation hearings, arising out of his handling of documents during his hearings and arising out of his appearance before the August, 1973 Grand Jury on December 21, 1973, unless substantial new evidence develops demonstrating that Mr. Kleindienst has failed to disclose material matters relating to the ITT matter.

One significant factor in my determination is that our investigation has failed to disclose any criminal conduct by Mr. Kleindienst in the manner in which he handled the ITT antitrust cases. In one of the cases he successfully opposed a direct Presidential order to abandon an appeal and leave the Government without any relief.

Judge Hart read the charge to Kleindienst, and asked him if he understood what he was charged with.

"Yes, I do, your honor," Kleindienst replied.

After saying that he had not been promised any specific sentence, Kleindienst formally was asked for his plea by the court clerk.

"I plead guilty," Kleindienst replied.

Judge Hart accepted the plea, and ordered that a presentence report be expedited so that he could set a sentence date. That will probably come in about a month, court sources said later.

Although Hart must sentence Kleindienst to one month in jail and a \$100 fine, the sentence could be as high as a year in jail and a \$1,000 fine. If the sentence were suspended, however, Kleindienst would not actually have to spend any time in jail.

In his desire to enter a plea to a misdemeanor, Kleindienst may have technically pleaded guilty to a crime that he did not commit, according to several highly placed court sources.

The statute under which he was charged makes it a crime for a Senate witness to refuse to testify or produce papers to the committee.

Kleindienst never refused to testify; instead, he failed to testify "accurately and fully," according to the information brought by the prosecutor's office.

Because he did not answer truthfully, he thereby refused to answer at all, according to the reasoning set forward by the special prosecutor's office that was accepted by Kleindienst's attorneys.

One court source referred to the arrangement as a "creative use of an inapplicable statute."

However, at least three federal judges privately told The Post that a judge cannot refuse to accept a plea

Another important factor in my agreeing to this plea relates to Mr. Kleindienst having come forward voluntarily and disclosed information material to the investigation conducted by this office on his understanding that he would be given some consideration for doing so. It is my belief that he is entitled to consideration in arriving at an appropriate disposition of this matter. After a full review of the facts, my conception of a fair disposition is for Mr. Kleindienst to plead to a violation of Title 2, United States Code, Section 192.

This disposition will not bar prosecution of Mr. Kleindienst for any other serious offenses about which evidence may develop. It is thus specifically understood that if evidence is developed that Mr. Kleindienst was involved in any criminal obstruction of the ITT anti-trust cases or any other matter within the Department of Justice, this disposition will not bar his prosecution for that offense.

Sincerely,



Leon Jaworski
Special Prosecutor

Letter from Jaworski details agreement about Kleindienst's plea of guilty.

to a crime that has been agreed to by the prosecutor, defense attorneys and the defendant, whether it is a proper charge or not.

According to the information filed by the prosecutor, Kleindienst refused to testify about his communications with President Nixon concerning the ITT cases, his communications with former Attorney General John N. Mitchell about those cases, and about the circumstances surrounding an application by the government to the Supreme Court for an extension of time for filing an appeal in the ITT cases.

Actually, Kleindienst directly denied repeatedly before the Committee that he had been contacted by anyone in the White House concerning the ITT cases.

At one point, he testified: "I was not interfered with by anybody at the White House I was not importuned; I was not pressured; I was not directed."

In a statement on Oct. 31, 1973, however, Kleindienst acknowledged that former White House chief domestic adviser John D. Ehrlichman called him on April 19, 1971, and directed that the ITT case not be appealed.

Kleindienst refused and minutes later he was called by the President and ordered to drop the appeal, a scenario that has been confirmed by the President himself. Kleindienst refused, threatened to resign, and the government instead asked for a 30-day delay. During that delay, the President "changed his mind," Kleindienst testified, and

the appeal was allowed to be filed in its original form.

The government's anti-trust case against ITT was initiated in 1969 when the conglomerate acquired the Grinnell Corp., the Hartford Fire Insurance Co. and Canteen Corp.

From the start, ITT lawyers negotiated with the Justice Department in an attempt to reach an out-of-court settlement so they could keep some of their new acquisitions. The cases finally were settled out-of-court in the summer of 1971, so the Supreme Court never heard the appeal.

The ITT cases became an issue during Kleindienst's confirmation hearings after allegations surfaced that the settlements were tied to an help finance the Republican National Convention.