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By TOM SEPPY

Associated Press Writer

WASHINGTON AP - Henry E. Petersen, head of the Justice Department's Criminal Division, said today the dismissal of a U.S. attorney in San Diego last year for allegedly obstructing justice in Southern California would not only have been unwarranted but grossly unfair.

Petersen told the Senate Judiciary Committee that Acting Atty. Gen. Richard G. Kleindienst, as deputy attorney general, properly cleared the ju.s. attorney, Harry Steward, of any wrongdoing.

In fact, said Petersen in his prepared statement, Kleindienst ordered the Justice Department investigation of Steward and it was carried out by career staff attorneys who analyzed the information and made the recommendation which he accepted and implemented.

Life Magazine charged recently that Kleindienst had cleared Steward of any wrongdoing after Steward allegedly stepped in to block prosecution of prominent Republicans for arranging what the magazine called illegal campaign contributions.

The statement did not go into a point raised by Sen. Edward M. Kennedy, D-Mass., who asked for a Justice Department explanation of why the Judiciary Committee was not informed of a federal investigation of a doctor who submitted testimony to the committee.

Kennedy said Petersen should explain why the probe of Dr. L. M. Radetsky for alleged Medicare fraud was not made known to the committee. Radetsky was one of Dita D. Beard's cardiologists in Denver when the International Telephone & Telegraph Corp. lobbyist was being treated for a heart problem.

Kleindienst's nomination to be attorney general is now before the Senate after being unanimously approved by the committee.

Kleindienst, however, asked that the hearings be opened after columnist Jack Anderson published a memo, attributed to Mrs. Beard, linking the out-of-court settlement of three antitrust suits against ITT with the conglomerate's financial commitment to the city of San Diego in an effort to help it obtain next summer's REPUBLICAN National Convention.

The committee, which began hearings March 2, voted last Friday to take up the Life Magazine charges. Petersen was the first witness on that phase of the investigation.

He said at a meeting Feb. 17, 1971 in Kleindienst's office, "it was agreed there was not evidence to indicate that Steward's improper actions in regard to the Thornton aspect were corrupt, that is, that money was involved."

Steward allegedly told his friend Frank A. Thornton, an advertising man, that Charles Pratt, president of the San Diego Yellow Cab Co. that Pratt did not have to be concerned about a tax investigation by the federal government.

The investigation concerned the company's \$2,000 contribution to the 1968 campaign of President Nixon, according to Petersen.

Steward also allegedly objected to the issuance of a subpoena which would have required Thornton to appear before a special grand jury investigating charges of bribery of local, city and county officials, Petersen said.

Petersen also said there were also unconfirmed charges that Steward had embezzled funds from a political almanac.

Petersen said that at the Feb. 17 meeting it was decided that the department would take a stand backing Steward in the eyes of the public in view of the fact that there was no evidence to show that Steward's actions were corrupt.

He said that Steward also had favorable recommendations from the

department's tax division.

"It was decided that the deputy would issue a statement which would indicate that Steward was still a member of the team and that the department had full confidence in him," said Petersen.

"It was also decided that the deputy would meet with Steward and would admonish him for failing to observe the department procedures in that he failed to remove himself from a case in which a close friend was a potential witness."

Petersen said that when the controversy surfaced again recently, he directed that an extensive review be conducted of the entire proceeding.

"I have discussed and read the results of this review and I am totally convinced that the department's original conclusion was proper," he said.

"A review of the record shows that Harry Steward, throughout the entire administrative inquiry, was open and candid with both the FBI and other departmental officials," Petersen said.

In a letter to Judiciary Committee Chairman James O. Eastland, D-Miss., Kennedy said the Justice Department showed "at least the grossest incompetence and insensitivity . . . and at most, a willful attempt to interfere with the proper functioning of this committee," when it failed to disclose its investigations of Radetsky while the committee was relying on the cardiologist for his "judgments and assessments of the utmost importance" regarding Mrs. Beard's ability to testify before the committee.

Following an investigation in 1971, the Social Security Administration referred a probe of Radetsky to the U.S. attorney in Denver, who in turn passed the information on to the Justice Department in Washington, Kennedy said.

"As of March 27, 1972," Kennedy said, "it is the intention of the U.S. attorney's office to review the case in detail during April, and, if prosecution were warranted, to present the case to the federal grand jury scheduled for the first week of May."

Kennedy asked that Peterson be ready at today's session to explain the Justice Department's failure to tell the committee of its investigations.

Radetsky said Monday night he was unaware of any criminal investigation into possible misrepresentation of Medicare claims.

But James L. Treece, U.S. attorney in Denver, confirmed the probe and denied reports the case had been set aside. Treece said Health, Education and Welfare Department officials appeared ready to settle out of court with Dr. Redesky until he (Treece) demanded to inspect the file.

"I don't want you to blow a good case," Treece said he told the HEW lawyers.

John G. Detmer, HEW regional counsel in Denver, said his office did not intend to take the Medicare case out of court. "We knew we were going down the line of criminal investigation," he said. Detmer said attorneys for the heart specialist had asked about an out of court settlement, and it had been denied.

Detmer

r said the HEW Bureau of Health Insurance suspended \$70,000 in payments already en route to Dr. Radetsky, although possible overcharges were less than that sum.

Dr. Radetsky said he was unaware of the investigation "in any way shape or form."

"I knew that the situation with Medicare was being routinely checked months before the Beard case," he said. "There is absolutely no relationship between the two in any way whatsoever. This sort of investigation between Medicare and doctors occurs routinely."

In testimony Monday, the head of ITT's Washington office said he deliberately misled Mrs. Beard when he told her the White House

asked him about the firm's commitment to the Republican National

W. R. Merriam, Mrs. Beard's boss, told the Senate Judiciary Committee Monday, however, that he never mentioned a \$600,000 figure nor did he ask her to write him a memo on ITT's commitment to the convention.

The committee's inquiry into the controversy surrounding acting Atty. Gen. Richard C. Kleindienst, ITT and the GOP convention in San Diego is in its seventh week.

The probe was sparked by a memorandum published by columnist Jack Anderson, who said it was written by Mrs. Beard and that it linked ITT's commitment of financial backing for the convention with out-of-court settlement of three antitrust suits against the firm.

In testimony from her hospital bed in Denver two weeks ago, Mrs. Beard quoted Merriam as saying an unidentified White House official had called him to find out what ITT's commitment to the convention would be.

Mrs. Beard, who has been undergoing treatment for heart trouble, said the figure \$600,000 was mentioned in the discussion with Merriam. She said the money was supposed to go to President Nixon's re-election campaign.

Before the Senate panel, Merriam said he had intentionally lied to Mrs. Beard when he said the White House had telephoned him. The reason for the lie, he said, is that she did not get along with Jack Gleason.

Merriam explained he did not want to tell Mrs. Beard he had had her accounts of GOP convention plans checked by Gleason, a former White House aide and now an ITT consultant.

Merriam said that after Mrs. Beard returned from an ITT stockholders meeting in San Diego last May, she mentioned there had been discussions about an ITT commitment to bring the GOP convention to San Diego.

He said he asked Gleason to check with someone familiar with the convention plans to determine whether San Diego was to be the site and whether commitments of dollars or services were sought.

Merriam said Gleason reported back shortly that there was nothing definite about the convention site.

About a month later, the ITT official said, Gleason called him and said White House aide William Timmons was inquiring about who in ITT was working with San Diego interests to get the convention there.

"After receiving this call from Mr. Gleason, I mentioned this inquiry to Mrs. Beard, who has a strong antipathy toward Mr. Gleason," said Merriam. "To avoid telling Mrs. Beard that I HAD CALLED ON Mr. Gleason to check what she had told me about the San Diego convention, I simply told her that I had received the inquiry from the White House and did not disclose to her the background of my conversations with Mr. Gleason."

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The Senate panel had unanimously approved the nomination of Kleindienst to become attorney general, in February. But he asked that the panel open a new hearing to give him a chance to clear up Anderson's allegations.

Mrs. Beard had testified she wrote a memorandum on the ITT commitment and gave it to Merriam, but she maintained her memo was not the one published by Anderson.

Merriam vehemently denied to the Senate panel that he ever received a memo from Mrs. Beard, although he told Rep. Bob Wilson, R-Calif., on Feb. 28 that she did send him such a document. That was a day before Anderson published the memo he attributed to Mrs. Beard.

The ITT official said he was unsure whether he had ever seen the Anderson memo until he returned to his office after seeing Wilson.

Rep. Wilson, also testifying Monday, contradicted earlier testimony by Harold S. Geneen, ITT president, over discussions on the ITT commitment.

On March 15, Geneen told the committee that ITT's commitment was for no more than \$200,000, and that as far as he was concerned no other figure was considered.

Wilson said Monday that Geneen agreed last May 12 to underwrite half of the \$800,000 guarantee that San Diego had to make to the Republican National Committee.

He said two months later the ITT commitment was lowered to \$200,000 because other businesses in the city had pledged their support and that ITT probably would not have to give more than \$50,000.

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