

NYTimes OCT 30 1973
**NIXON REPORTED
TO HAVE ORDERED
I.T.T. SETTLEMENT**
NYTimes

**Kleindienst Said to Have
Told Cox He Was Directed
Not to Press Trust Action**

WHITE HOUSE ANGERED

**Calls Report 'Inexcusable'
Breach of Confidence by
Ex-Prosecutor's Staff**

By **NICHOLAS GAGE**

Special to The New York Times

WASHINGTON, Oct. 29—Former Attorney General Richard G. Kleindienst has told the Watergate prosecution that President Nixon personally ordered him not to press a series of antitrust actions against the International Telephone and Telegraph Corporation, according to sources close to the case.

The sources said that the President telephoned Mr. Kleindienst in 1971, when he was Deputy Attorney General and the top man in the Justice Department on the case, and directed him not to appeal an I.T.T. ruling to the Supreme Court.

The appeal in the case was held up and the Government agreed to an out-of-court settlement generally considered favorable to the corporation. The settlement followed I.T.T.'s agreement to help finance the 1972 Republican National Convention with a gift from one of its corporations reportedly variously at \$100,000 to \$400,000.

White House Reply

The White House issued the following statement tonight in response to The New York Times article:

"This is an inexcusable breach of confidence on the part of the staff of the former special prosecutor. This information comes from a highly confidential conversation between Archibald Cox and former Attorney General Kleindienst and from documents furnished voluntarily and also in absolute confidence by the White House to Mr. Cox.

The information furnished by the White House and Mr.

Kleindienst put the matter into fair and accurate perspective. However, the information provided to The New York Times by Mr. Cox's staff is distorted and unfair in its implication insofar as both the President and Mr. Kleindienst are concerned.

President's Belief

"The President's direction to Mr. Kleindienst was based on his belief that the Canteen case [one of three cases involving I.T.T.] represented a policy of the Justice Department with which he strongly disagreed, namely, that bigness per se was unlawful. When the specific facts of the appeal were subsequently explained in greater detail, the President withdrew his objection and the appeal was prosecuted in exactly the form originally proposed."

Mr. Kleindienst refused to comment.

The Times has not disclosed the sources of its information about the President's call to Mr. Kleindienst.

Mr. Kleindienst's reported statements to the prosecution, made before Archibald Cox was dismissed as special prosecutor, represent the first time that any Government official involved in

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the I.T.T. case has said that Mr. Nixon intervened on behalf of the corporation.

Court decisions on the I.T.T. cases up to that time had gone against the Government. Mr. Kleindienst had to decide whether to appeal because Attorney General John N. Mitchell had disqualified himself because he had represented I.T.T. as a private lawyer.

Sources who know firsthand about Mr. Kleindienst's discussions with the special prosecutor's office gave the following account of his testimony:

In 1971 he received a call from John D. Ehrlichman, then the President's domestic adviser, who asked that the Justice Department stop its appeal on I.T.T.

Mr. Kleindienst told him that he could not do it because the appeal had been recommended by Richard W. McLaren, then head of the department's Antitrust Division, and approved by Solicitor General Erwin N. Griswold.

Mr. Ehrlichman hung up and a short time later President Nixon called, and, after calling him a vulgar name, said: "Don't you understand the English language?" He then ordered that the appeal be halted, according to Mr. Kleindienst's account to the prosecution.

Speaking about the unsuccessful appeal, Mr. Griswold said in a statement last Aug. 1: "There was a delay. Mr. Kleindienst directed me to ask the

court for an extension of time [for filing an appeal] in order to consult with other Government agencies. I knew somebody wanted a delay but I never figured out who."

After ordering Mr. Griswold to delay the appeal, Mr. Kleindienst, according to the sources, began meeting on the case with Felix Rohatyn, an I.T.T. director, and Peter M. Flanigan, a special assistant to the President.

He then set in motion a series of events that persuaded Mr. McLaren to accept in July, 1971, a settlement more favorable to I.T.T., the sources reported.

Under it, the conglomerate won its major point by keeping the \$1-billion Hartford Insurance Company, plus a portion of the Grinnel Corporation, which manufactures plumbing supplies. It agreed to sell the Canteen Corporation, a food vending company, plus the fire equipment division of Grinnel, and made other concessions.

In a memorandum to Mr. Griswold dated Feb. 24, 1971, Mr. McLaren had strongly urged the appeal of one of the three I.T.T. cases—the one involving Grinnel—to the Supreme Court.

"I have taken the position that the Antitrust Division must move vigorously to halt the trend toward economic concentration which has resulted from the wave of conglomerate mergers that have taken place in the last decade," he wrote.

In testimony before the Senate Judiciary Committee on March 23, 1972, Mr. McLaren, by then a Federal judge, said that he thought the Government had a "60-40" chance to win the I.T.T. case, and when the settlement possibility arose

he felt that he had to do what was "in the public interest."

During the same hearings Mr. Griswold called the settlement "a very substantial victory for the Government" because the Supreme Court would have ruled for the company if the case had been pressed.

Confronted with a statement by I.T.T.'s lawyer, Lawrence E. Walsh, that there was a "high possibility" that the Government would succeed in the high court, Mr. Griswold said he disagreed with the view.

Many lawyers at the Justice Department, however, disagreed with Mr. Griswold's evaluation of the settlement.

"Even on the merits it was a terrible settlement because the substantial divestiture we got didn't measure up to what we stood to gain by going to the Supreme Court," said one.

The hearings in which both men testified were on the confirmation of Mr. Kleindienst as Attorney General.

During the hearings, Mr. Kleindienst acknowledged that he had played a role in the settlement with I.T.T. despite previous denials, but said that he did not participate in the actual

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negotiations for the settlement and had not been under pressure from the White House.

At the same hearings Brit Hume, an investigator for Jack Anderson, the syndicated columnist, quoted Dita D. Beard, a Washington lobbyist for I.T.T., as having told him that Mr. Mitchell had told her that President Nixon had ordered him to reach a "reasonable settlement" in the I.T.T. case.

"The Attorney General said the White House, even the President, had called and said 'Lay off I.T.T.,'" Mr. Hume quoted her as saying. Mr. Hume said that he was taken aback and asked, "The President said that?" According to Mr. Hume, Mrs. Beard replied, "No, it was more like 'Make a reasonable statement.'"

Denial by Mitchell

Mr. Mitchell said that the statements attributed to him were "totally false and without foundation."

Last Aug. 1 the Senate Watergate committee made public a 1972 memorandum written by Charles W. Colson, White House special counsel, warning of the existence of documents that could "directly involve the President" in the I.T.T. case.

Mr. Colson said in a statement afterward that his memo had been written merely to advance "a devil's advocate" position and to outline problems of appearance, as well as of fact, "in their worst context."

Both the Watergate special prosecutor's office and a Federal grand jury here have been studying whether perjury was committed during Mr. Kleindienst's confirmation hearings.

The special prosecutor's office was known to be examining carefully the hearing testimony of Mr. Kleindienst, Mr. Mitchell and Harold S. Geneen, chairman of I.T.T.

Mr. Kleindienst went voluntarily to Mr. Cox's office and offered to cooperate fully about the I.T.T. case after talking with friends and lawyers, the sources said.