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Kleindienst-ITT Bjt 390, two takes 740

By TOM SEPPY

Associated Press Writer

WASHINGTON AP - Some Senate Democrats say the nomination of Richard G. Kleindienst to be attorney general may be in trouble because the White House won't permit staffer Peter Flanigan to testify in the controversy surrounding International Telephone & Telegraph Corp.

The latest to join the growing opposition to the nomination is Sen. Robert C. Byrd of West Virginia, the assistant Democratic leader and a member of the committee.

Sources close to Byrd said Wednesday he would vote against Kleindienst unless Flanigan testifies in the Judiciary Committee on his role in the out-of-court settlement of three antitrust suits against ITT, one of the biggest corporations in the United States.

Byrd told newsmen he would be influenced by either Flanigan's refusal to appear before the committee or the refusal of his superiors to let him testify.

John W. Dean III, counsel to President Nixon, in a letter to the committee released Wednesday, said the White House was refusing an informal telephone request for Flanigan to appear.

Subsequently, the committee rejected four Democratic efforts to have Flanigan, Nixon's liaison with the business community, called to testify.

Flanigan has become a key figure in the ITT controversy because he recruited a New York financial analyst to prepare a report which Justice Department officials say was a major factor in convincing them to abandon prosecution of the ITT antitrust case.

Byrd joined another influential Democrat in his opposition to Kleindienst's nomination—Sen. Sam J. Ervin Jr., D-N.C., SPONSOR OF THE FIRST TWO MOTIONS TO SUBPOENA Flanigan.

"I have reached the point where I expect to oppose any consideration of the Kleindienst nomination," said Ervin after the committee rejected in closed session his motions to summon Flanigan.

"I will not even vote to consider the nomination unless Flanigan comes down to testify," he said.

The first rejected proposal by Ervin called for subpoenas to Flanigan, other White House aides and Justice Department officials mentioned during the hearings. His second called only for Flanigan and Nixon aide William Timmons.

The third unsuccessful motion, submitted by Sen. Quentin N. Burdick, D-N.D., called for subpoenaing Flanigan only.

Each was defeated 6 to 6 along partisan lines with Eastland abstaining. A majority vote is required for approval.

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Finally, Byrd offered a compromise that would have required Flanigan's testimony at a closed hearing. It was defeated 9 to 4 with Eastland joining Byrd and Sens. John Tunney, D-Calif., and Marlow Cook, R-Ky., in the minority.

Voting against were Ervin, Philip A. Hart, D-Mich., Edward M. Kennedy, D-Mass., and Republicans Roman L. Hruska of Nebraska, Hugh Scott of Pa., Hiram L. Fong of Hawaii, Edward J. Gurney of Florida, and Charles McC. Mathias of Maryland.

Kennedy said he believes a move to call Flanigan will be made again before the committee has to end the current phase of the hearings next Thursday.

Ervin said he will act at next Thursday's meeting to have the committee recommend no Senate action on the Kleindienst nomination.

The nomination was approved unanimously by the committee in late February but has been held up because of the hearings. Kleindienst asked the committee to reopen the hearings after columnist Jack Anderson published a memo linking the antitrust settlement with ITT's commitment to underwrite part of San Diego's financial obligation to get next summer's Republican National Convention.

In other actions Wednesday, the committee: -Voted to have two Denver in the ailing ITT lobbyist who allegedly wrote the Anderson memo, to determine whether she is well enough to testify for a second time.

-Heard John Ryan, No. 2 man in ITT's Washington office, describe his meetings with Kleindienst.

In other actions Wednesday, the committee:

-Voted to have two Denver heart specialists examine Dita Beard, the ailing ITT lobbyist who allegedly wrote the Anderson memo, to determine whether she is well enough to testify for a second time.

-Heard John Ryan, No. 2 man in ITT's Washington office, describe his meetings with Kleindienst which resulted in the conglomerate's making a financial presentation to Justice Department officials that played an important part in the settlement.

Ryan said no one told him to approach Kleindienst, a neighbor in McLean, Va., at a social affair, but said he felt he was well-armed with information to make a strong bid. He said Kleindienst told him "his door at the Justice Department is always open."

-Took testimony from Lawrence Walsh, an outside counsel for ITT, who had written a letter and memorandum to Kleindienst outlining the economic consequences that could result if ITT had to divest the companies involved in the Department's antitrust action.

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