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Panel Votes Not to Subpoena Nixon Aides on I.T.T.

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WASHINGTON, April 12 —

The Senate Judiciary Committee voted today not to subpoena White House aides to testify in the hearings on the qualifications of Richard G. Kleindienst, but two influential Democratic Senators vowed to block a confirmation vote until the aides testify.

The statements by the two Senators, Sam J. Ervin Jr. of North Carolina and Robert C. Byrd of West Virginia, the Democratic whip, indicated that the complex issue of the right of the President's advisers to claim executive privilege and refuse to answer Congressional questions would become a major factor in the struggle over the confirmation of Mr. Kleindienst as Attorney General.

Also, the name of President Nixon was introduced again into the committee's hearings into the Justice Department's settlement of three antitrust cases against the International Telephone and Telegraph Corporation.

Lawrence E. Walsh, a New York lawyer who represented I.T.T. in obtaining a delay of a Government appeal in one of the cases, testified that Harold S. Geneen, the corporation's president, had initially wanted to take the plea for the delay directly to President Nixon.

Mr. Walsh said he had persuaded Mr. Geneen that it would be better to approach Mr. Kleindienst, who granted the delay.

Beard Examination Ordered

In another development, the Judiciary Committee ordered another medical examination of Mrs. Dita D. Beard, I.T.T.'s Washington lobbyist, who is the purported author of a mem-

orandum that touched off the current controversy.

The Senators' questioning of her in a Denver hospital was halted last month when she complained of chest pains and her physician said she could not testify for six months.

Since then, she has left the hospital and has appeared in a television interview. The Judiciary Committee asked two Denver heart specialists, Dr. Ray Pryor and Dr. Joseph Snyder, to examine her.

A White House letter was formally filed today with the committee, serving notice that Peter M. Flanigan, an economic aide to the President, would refuse to testify under the "long established and fundamental principle" that the President's immediate staff need not submit to Senators' questioning.

An immediate confrontation over the issue was avoided when the Judiciary Committee, dividing along party lines, voted not to issue subpoenas for Mr. Flanigan and other members of the executive branch.

Three motions to subpoena various advisers to testify were defeated—each by a tie vote of six Republicans against the subpoenas and six Democrats for them. The chairman, James O. Eastland of Mississippi, a Democrat, abstained from each vote.

But the issue of executive privilege was assured a prominent role in the future maneuvering over the nomination when two of the Senate's most influential members, Sam J. Ervin Jr. of North Carolina and Robert C. Byrd of West Virginia, served notice that they would seek to block any confirmation vote on Mr. Kleindienst until the White House aides testify.

Senator Ervin said, "The Senate should not vote on the confirmation as long as those fellows aren't coming up here and the White House is withholding information."

This will apparently mean that the Senate will eventually be confronted with a motion to block the Kleindienst nomination until the aides testify.

Mr. Flanigan has become a figure in the dispute over the allegation that the Justice Department settled three antitrust suits against the International Telephone and Telegraph Corporation in exchange for the corporation's financial support of the 1972 Republican National Convention.

Mr. Flanigan recruited a financial analyst who gave the Justice Department a report that influenced its decision to settle the cases.

In the White House letter, John W. Dean 3d, counsel to the President, told the committee that Mr. Flanigan had nothing to contribute because he had only hired the analyst and had not contributed to his findings.

John F. Ryan, the deputy chief of I.T.T.'s office here, told the committee that he had encountered Mr. Kleindienst at a neighborhood party and that the conversation, which eventually led to the meetings that settled the suits, had been an unplanned "happenstance" that developed into a complaint by Mr. Ryan about the economic threat to I.T.T.

He said that Mr. Kleindienst had replied that his door was always open to just complaint and that the Justice Department official had agreed to hear out an expert's presentation of the company's "hardship argument."

Mr. Walsh testified that shortly after Mr. Ryan's encounter with Mr. Kleindienst, he, Mr. Walsh, was asked to obtain the appeal delay to give time for a formal written and oral request for a "high level" interagency review of the Government's board antitrust policy toward conglomerate mergers.

But he said that after an I.T.T. director, Felix G. Rohatyn, had a meeting with Mr. Kleindienst that "had gone rather well" and Mr. Kleindienst had arranged for the "hardship" plea to be made to his antitrust staff, "we never did anything more" about the high-level review of antitrust policy.

Inquiry Narrowed

The Judiciary Committee voted today to narrow its inquiry into Mr. Kleindienst's role in clearing Harry Steward, the United States Attorney in San Diego, of charges of wrongdoing.

Mr. Steward will be called to testify about allegations that he blocked an investigation of alleged illegal political contributions involving Frank Thornton, an advertising executive, and C. Arnholt Smith, a close friend and financial supporter of President Nixon.

The committee voted not to call Mr. Thornton and Mr. Smith, according to Senator Edward J. Gurney of Florida, a committee member.

A. David Stutz, a former Internal Revenue Service investigator, and Richard Huffman, a former state prosecutor, who had both complained that Mr. Steward had thwarted a state-Federal anticrime strike force's investigation of the allegations, were in the committee room under subpoena today. But the committee released them.