

Kleindienst Testimony

Nixon Halted ITT Case, Probers Told

His Aides Denounce The Leak

Washington

Former U.S. Attorney General Richard G. Kleindienst has told the Watergate prosecutors that President Nixon personally ordered him not to press a series of antitrust actions against the International Telephone and Telegraph Corp., according to sources close to the case.

The sources said yesterday that the President telephoned 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 ITT 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 ITT's agreement to help finance the 1972 Republican National Convention with a gift from one of its corporations reported variously at \$100,000 to \$400,000.

RESPONSE

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

"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 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 in-

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sofar as both the President and Mr. Kleindienst are concerned.

"The President's direction to Mr. Kleindienst was based on his belief that the Canteen case (one of three cases involving ITT) represented a policy of the Justice Department with which he strongly disagreed, namely, that bigness per se was unlawful. When the specific fact of the appeal was subsequently explained in

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greater detail the President withdrew his objection and the appeal was prosecuted in exactly the form originally proposed."

Kleindienst refused to comment. The New York Times has not disclosed the sources of its information about the President's call to Kleindienst.

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 the ITT's case has said that Mr. Nixon intervened on behalf of the corporation.

APPEAL

Court decisions on the ITT case up to that time had gone against the government. Kleindienst had to decide whether to appeal inasmuch Attorney General John N. Mitchell had disqualified himself because he had represented ITT as a private lawyer.

Sources who know firsthand about 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 ITT.

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.

NAME

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 Kleindienst's account to the prosecution.

Speaking about the unsuccessful appeal, Griswold said in a statement last August 1: "There was a delay. 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."

MEETING

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

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

Under it, the conglomerate won its major point by keeping the \$1-billion Hartford Insurance Co., plus a

portion of the Grinnel Corp., which manufactures plumbing supplies. It agreed to sell the Canteen Corp., a food vending company, plus the fire equipment division of Grinnel, and made other concessions.

In a memorandum to Griswold dated Feb. 24, 1971, McLaren had strongly urged the appeal of one of the three ITT cases — the one involving Grinnel — to the U.S. 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, McLaren, by then a federal judge, said that he thought the government had a "60-40" chance to win the ITT case, and when the settlement possibility arose he felt that he had to do what was "in the public interest."

'VICTORY'

During the same hearings 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 ITT's lawyer, Lawrence E. Walsh, that there was a "high probability" that the government would succeed in the high court, Griswold said he disagreed with the view.

Many lawyers at the Justice Department, however, disagreed with 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 Kleindienst as attorney general.

During the hearings, Kleindienst acknowledged that he had played a role in the settlement with ITT despite previous denials, but said that he did not participate in the actual negotiations for the settlement and had not been under pressure from the White House.

New York Times