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Nixon's I.T.T. Intervention

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WASHINGTON, Oct. 31—The White House admission that President Nixon personally intervened in the Justice Department's antitrust suit against the International Telephone and Telegraph Corporation contradicts what Richard G. Kleindienst told the Senate Judiciary Committee last year during the hearings on his nomination for Attorney General.

On March 8, 1972, Mr. Kleindienst told the committee:

"In the discharge of my responsibilities as the Acting Attorney General in these [three] cases [against I.T.T.], I was not interfered with by anybody at the White House. I was not importuned; I was not pressured; I was not directed. I did not have conferences with respect to what I should or should not do."

This contradiction calls to mind a question that the Judiciary Committee, on June 30, 1972, asked the Justice Department to determine: Did any of the company or Government witnesses perjure themselves during the two-month Kleindienst hearings?

Mitchell Testimony

For example, one of the things the committee wanted to know was whether former Attorney General John N. Mitchell and the president of I.T.T., Harold S. Geneen, had told the truth when they testified that, at a meeting in Washington on Aug. 4, 1970, they had discussed only the Administration's antitrust policy in general and whether "bigness is bad" in itself, and had not in any way discussed the suits against the I.T.T. acquisitions of the Canteen Corporation, the Grinnell Corporation and the Hartford Fire Isnurance Company.

The committee also wanted to know whether Mr. Kleindienst—in over-all charge of the suits because Mr. Mitchell had disqualified himself—told that "the settlement [in July, 1971] between the Department of Justice and I.T.T was handled and negotiated exclusively by Assistant Attorney General Richard W. McLaren [in charge of the department's Antitrust Division.]

Only 'Casual' Talk

Furthermore, the committee wanted to know whether it was entirely true—as Mr. Kleindiens repreatedly asserted—that he had not talked to the President, John D. Ehrlichman or any other person in the White House about the conduct or settlement of the suit, except in the most "casual" way.

"I could have had several conversations," he told the committee, "but I would have had a vivid recollection if someone at the White House had called me up and said, 'Look, Kleindienst, this is the way we are going to handle that case.' People who know me, I don't think would talk to me that way, but if anybody did, it would be a very sharp impact on my mind because I believe I know how I would have responded."

But, according to information gathered by The New York Times, and not denied by the White House, Mr. Kleindinest told Archibald Cox, the former Watergate special prosecutor, that both Mr. Ehrlichman and President Nixon did talk to him that way. And, as a result of their talking to him that way, Mr. Kleindienst ordered Solicitor General Erwin N. Griswold to delay appeal of the Grinnell case to the Supreme Court.

Expedite the Inquiry

As a consequence of these disclosures, Senator Birch Bayh Democrat of Indiana, who is a member of the Judiciary Committee, asked Acting Attorney General Robert H. Bork today to expedite the inquiry into possible perjury by Mr. Klein dienst.

The President's call to Mr. Kleindienst, directing him not to press the I.T.T. suits, supplied a crucial missing element in a chapter which, in the annals of I.T.T., might be titled, "Five Days in April." The events were hectic, but—at least on the company's part—well orchestrated. This was the background to the maneuvers in I.T.T.'s New York offices and in the Justice Department and the White House as the critical five days began on April 16, 1971:

The three suits had been filed in 1969. The Hartford merger suit had not even been argued. The Canteen suit was nearing a decision that the Justice Department expected to lose. The Grinnell suit had been lost by Mr. McLaren. He had asked Mr. Griswold to appeal to the Supreme Court, and the Solicitor General agreed.

Mr. Griswold later told the Judiciary Committee that he thought the Supreme Court would uphold the District Court refusal to order divestiture. But, he said, he agreed with Mr.

Contradicts Kleindienst Testimony

McLaren that an effort should be made to get the Supreme Court to apply the Clayton Antitrust Act to conglomerate mergers.

Deadline for Appeal

The deadline for filing the appeal was April 20, 1971. Thirty-day extensions for filing appeals are permitted, but requests for such a delay must be sent to the Court 10 days ahead of the appeal deadline.

I.T.T. was searching for a way to halt appeal of the Grinnell case. Lawrence E. Walsh, of the New York law firm of Davis Polk and Wardwell, counsel for I.T.T., felt there was "a high probability" that the Government would prevail in the Supreme Court.

If an appeal could be prevented, the corporation's officials and lawyers believed, there was a chance to work out a settlement. The aim was to persuade the Nixon Administration to allow I.T.T. to retain Hartford, at least. But time was needed.

On April 8, 1971, Mr. Walsh had met with I.T.T. officers including the corporation's general counsel, Howard J. Aibel. It was decided to ask the Justice Department to seek court approval for a postponement of the appeal.

Rationale Cited

The rationale for this request was that, on an issue of such far-reaching importance, the Justice Department should not seek a broad new interpretation of the Clayton Act by the Court rather than by legislative action—at least not without consulting with other agencies, such as the Departments of Treasury and Commerce and the Council of Economic Advisers. John B. Connally, then Secretary of the Treasury; Maurice H. Stans, then Secretary of Commerce, and Paul W. McCracken, then chairman of the Council of Economic Advisers, were known to have disapproved of Mr. McLaren's lawsuits.

On April 16, Mr. Walsh called Mr. Kleindienst, requesting the delay and interagency review and said that a letter formally making the request and a memorandum arguing the merits of it would soon be hand-delivered to him. They were delivered the same day.

Felxi G. Rohatyn, an I.T.T. director and a member of the investment banking firm of Lazard Freres, which had put together the financing of the Hartford merger for I.T.T. called Mr. Kleindienst the same sday and asked for an appointment.

Also on April 16, Mr. Geneen and William R. Merriam, vice president of I.T.T., called on Secretary Connally and Peter G. Peterson, then White House adviser on international economic affairs.

Conversation With Walsh

During the morning of April 19, Mr. Kleindienst called Mr. Walsh and told the attorney that the chances of delaying the appeal in the Grinnell case were very slim; that Mr. McLaren took a negative view of the Walsh letter, and that Mr. Griswold said there must be a good reason for any delay.

But that afternoon, Mr. Kleindienst summoned Mr. Griswold and directed him to ask for an extension of time to file the appeal. In his Senate testimony, Mr. Griswold said that he had requested the delay because "the Deputy Attorney General wanted it." Last Aug. 1, in a statement to The New York Times, Mr. Griswold said, "I knew somebody wanted a delay but I never figured out who."

What happened then was described by Mr. Kleindienst in his statement today.

"On Monday afternoon, April 19th, 1971, Mr. Ehrlichman abruptly called and stated that the President directed me not to file the appel in the Grinnell case . . . I informed him that we had determined to take that appeal, and that he should so inform the President. Minu later, the President called me and, without any discussion, ordered me to drop the appeal.

Threatened to Resign

"Immediately thereafter, I sent word to the President that, if he persisted in that direction, I would be compelled to submit my resignation. Because that was the last day in which the appeal could be perfected, I obtained an xtension of time from the Supreme court to enable the President to consider my position.

"The President changed his mind and the appeal was filed 30 days later in the exact form it would have been filed one month earlier. Thus, but for my threat to resign, the Grinnell case would never have been appealed and we would never have been able to obtain what even Professor Cox has characterized as a settlement highly advantageous to the United States."