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STATEMENT OF INFORMATION SUBMITTED
ON BEHALF OF PRESIDENT NIXON

HEARINGS

BEFORE THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

SECOND SESSION

PURSUANT TO

H. Res. 803
A RESOLUTION AUTHORIZING AND DIRECTING THE COMMITTEE
ON THE JUDICIARY TO INVESTIGATE WHETHER SUFFICIENT
GROUNDS EXIST FOR THE HOUSE OF REPRESENTATIVES TO
EXERCISE ITS CONSTITUTIONAL POWER TO IMPEACH
RICHARD M. NIXON
PRESIDENT OF THE UNITED STATES OF AMERICA

BOOK II
DEPARTMENT OF JUSTICE-ITT LITIGATION

MAY-JUNE 1974

36-303 o
U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON 1974
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By Hon. Peter W. Rodino, J r., Chairman
Committee on the Judiciary

On February 6, 1974, the House of Representatives adopted by a vote of 410-4 the following House Resolution 803:

RESOLVED, That the Committee on the Judiciary acting as a whole or by any subcommittee thereof appointed by the Chairman for the purposes hereof and in accordance with the Rules of the Committee, is authorized and directed to investigate fully and completely whether sufficient grounds exist for the House of Representatives to exercise its constitutional power to impeach Richard M. Nixon, President of the United States of America. The committee shall report to the House of Representatives such resolutions, articles of impeachment, or other recommendations as it deems proper. On May 9, 1974, as Chairman of the Committee on the Judiciary, I convened the Committee for hearings to review the results of the Impeachment Inquiry staff’s investigation. The hearings were convened pursuant to the Committee’s Impeachment Inquiry Procedures adopted on May 2, 1974.

(III)
These Procedures provided that President Nixon should be afforded the opportunity to have his counsel present throughout the hearings and to receive a copy of the statement of information and related documents and other evidentiary material at the time that those materials are furnished to the members.

Mr. James D. St. Clair, Special Counsel to the President, was present throughout the initial presentation by the Impeachment Inquiry staff. Following the completion of the initial presentation, the Committee resolved, in accordance with its Procedures, to invite the President's counsel to respond in writing to the Committee's initial evidentiary presentation. The Committee decided that the President's response should be in the manner of the Inquiry staff's initial presentation before the Committee, in accordance with Rule A of the Committee's Impeachment Inquiry Procedures, and should consist of information and evidentiary material, other than the testimony of witnesses, believed by the President's counsel to be pertinent to the inquiry. Counsel for the President was likewise afforded the opportunity to supplement its written response with an oral presentation to the Committee.
President Nixon's response was presented to the Committee on June 27 and June 28.

One notebook was furnished to the members of the Committee relating to the Department of Justice - ITT litigation. In this notebook a statement of information relating to a particular phase of the investigation was immediately followed by supporting evidentiary material which included copies of documents and testimony (much already on the public record) and transcripts of Presidential conversations.

The Committee on the Judiciary is working to follow faithfully its mandate to investigate fully and completely "whether or not sufficient grounds exist" to recommend that the House exercise its constitutional power of impeachment.

Consistent with this mandate, the Committee voted to make public the President's response in the same form and manner as the Inquiry staff's initial presentation.

July, 1974
The material contained in this volume is presented in two sections. Section 1 contains a statement of information footnoted with citations to evidentiary material. Section 2 contains the same statement of information followed by the supporting material.

Each page of supporting evidence is labeled with the footnote number and a description of the document or the name of the witness testifying. Copies of entire pages of documents and testimony are included, with brackets around the portions pertaining to the statement of information.

In the citation of sources, "SSC" has been used as an abbreviation for the Senate Select Committee on Presidential Campaign Activities.
1. In December, 1968, Richard W. McLaren was interviewed for the position of Assistant Attorney General, Antitrust Division, Department of Justice, by John N. Mitchell and Richard G. Kleindienst. As a condition to his acceptance of that position, Mr. McLaren insisted that antitrust enforcement decisions would be based solely on the merits of any given situation.
2. In 1968, Mr. Nixon appointed a Task Force on Productivity and Competition to review antitrust policy and make recommendations. The task force, headed by Professor George Stigler of the University of Chicago, presented its report to President Nixon on February 18, 1969 and recommended against immediate legal action re: conglomerate mergers.

2b White House "White Paper, " The ITT Anti-Trust Decision, January 8, 1974, 2.5
2c Remarks of Harold S. Geneen, ITT Chairman and President June 26, 1969, Annual Meeting of ITT Shareholders, 8-33
3. Apparently, in June of 1969, Mr. Geneen sought to meet with President Nixon about certain financial and economic concerns of ITT, including, but not limited to, the antitrust ... John BUT. Mitchell, for one, thought the meeting would be inappropriate because of ITT's legal involvement with the Department of Justice.

The meeting was not scheduled.

3a Letter of June 9, 1969, from Louis A. Berry to the President enclosing one copy of a June 3, 1969, letter from Geneen to Maurice Stans.

3b Memorandum of July 14, 1969, from John Mitchell to John Ehrlichman.

3c Memorandum of July 16, 1969, from Dwight L. Chapin to Peter Flanigan.
4. In March, 1971, the Solicitor General authorized an appeal
to the Supreme Court from an adverse decision in the United States v. 

**ITT** (~rinnell~) case because of practical difficulties in the future if the decision were
left standing. The Solicitor General and his associates thought the case to be very hard; his chief deputy thought the government's chances of winning were minimal.

Page

4a Memorandum from A. Raymond Randolph, Jr. to the Solicitor General dated March 2, 1971 46

4b Memorandum from Daniel M. Friedman to the Solicitor General, dated March 15, 1971; 1, 4-5-

4c Supplemental memorandum from A Raymond Randolph Jr. to Daniel M. Friedman, dated March 25, 1971; 1, 2, . 60

4d Memorandum to the Solicitor General from Daniel M. Friedman dated March 26, 1971 62

4c March 26, 1971, appeal authorization of the Solicitor General ..........................63

(6)
5. - After the President’s telephone call of April 19, 1971, to Kleindienst ordering him to drop the Grinnell appeal, Kleindienst met, in his office, with McLaren and the Solicitor General and requested the Solicitor General to apply for an extension. McLaren had no objection to the application for an additional extension of time.

Page

5a  Ervin N. Griswold testimony, 2 KCH 380, 388, .................................................. 66
5b  Richard W. McLaren testimony, 2 KCH 327, 3288- ............................................ 68
5c  Richard G. Kleindienst testimony, 2 KCH 289, 292, 3 KCH 1680. 70
6. On June 17, 1971, McLaren recommended to Kleindienst that the ITT suits be settled. Kleindienst approved the proposed settlement by writing: "Approved, G/17/71. RGK." In affixing his approval, Kleindienst relied on the expertise of McLaren.

In early 1971, ITT began to formulate a plan, based on economic theory, of why it was important for ITT to retain Hartford. Eventually, on April 29, 1971, ITT made an economic presentation to the Department of Justice on national economic consequences if ITT were forced to divest itself of Hartford. As a result of that presentation, in combination with the Ransdem Report from his own independent financial expert, McLaren proposed a settlement offer enabling ITT to retain Hartford.

7a Memorandum of John W. Poole, *Department of Justice* to Files dated August 7, 1970...........................

7b Memorandum of August 18, 1971, authored by Richard W. McLaren*

7c Affidavit of Harold S. Geneen, dated June 12, 1972, *given in* connection with a Securities and Exchange matter

7d Testimony of Richard G. Kleindienst 2 KCH 129 - • • • • • • •-

7e Letter of May 3, 1971, from Felix G. Rohatyn to Richard W. McLaren

7f Testimony of Richard W. McLaren, 2 KCH 165

7g Testimony of Richard G. Kleindienst, 3 KCH 1736.-- •---

(9)

"age

82

84
8. On July 31, 1971, the ITT cases were finally settled. Whether ITT would have to divest itself completely of Grinnell was a principal matter of consideration between June 17, the date of McLaren's proposal, and July 31, and in ITT's eyes, a matter upon which any settlement hinged.

According to McLaren and Kleindienst, McLaren and his staff were responsible for the settlement. Kleindienst did not talk with McLaren about this matter at any time from June 17 until July 30.

Mitchell and McLaren never talked with each other about the cases. There exists no testimonial or documentary evidence to indicate that the President had any part, directly or indirectly, in the settlement of the ITT antitrust cases.

McLaren was unaware of any financial commitment by ITT in regard to San Diego's hosting of the Republican National Convention until long after the negotiations had terminated. McLaren has stated ITT's contribution had nothing to do with the settlement.

Page
8a Affidavit of Harold Geneen, dated June 12, 1972; 4-7........ 105

8b Testimony of Richard W. McLaren, 2 KCH 113, 361, 125, 116-117, 144, 174-------------------

................

8c Testimony of Richard G. Kleindienst, 2 KCH 142, 99, 3 KCH 1732-33, 1736r-------

8d Testimony of Felix Rohatyn 2 SUCH 119.-

8e Testimony of John N. Mitchell..... 2 KCH 541- ----------------
8f Testimony of Richard W. McLaren 2 KCH 139

8g Remarks of Richard W. McLaren on Face the Nation
(3-19-72-)
On July 23, 1971, the Republican National Committee selected San Diego as its selection site for the 1972 Republican National Convention. San Diego was the preferred site by William Timmons, who had investigated that city as a potential site and the Attorney General's convention task force, and was the highest regarded city for security purposes.

9a Memorandum of May 6, 1971, from William E. Timmons to H. R. Haldeman

9b Memorandum of June 23, 1971, from Gordon Strachan to H. R. Haldeman

9c Memorandum of June 26, 1971, from Jeb Magruder and William Timmons to The Attorney General and H. R.

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9d Memorandum of June 30, 1971, from Department of Justice, Law Enforcement Assistance Administration to William Simmons.

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10. In response to a question at the Senate Select Committee, concerning Dita Beard's disappearance on the eve of the Kleindienst hearings, E. Howard Hunt stated that he was not aware of any role Gordon Liddy played in Mrs. Dita Beard's departure from Washington.

- The New York Times article, dated June 20, and carried in its June 22, newspaper*..........................
12. On April 4, 1972, the President met with H. R Haldeman and Attorney General Mitchell in the Oval Office from 4:13 p.m. to 4:50 p.m. during which time the ITT matter was mentioned.

12a Transcription of recorded conversation of above described meeting; 1, 4-6, 8, 10, 15. (A transcription was previously furnished to the House Judiciary Committee). 158
13. During the days following the publication of the "Dita Beard" memorandum on February 29, 1973, several of the top White House aides were involved in investigating the allegations contained in that memo random.

The actual settlement of the ITT cases as a qu~quo for an ITT commitment to the Republican National Convention was the focal point of the Kleindienst Confirmation Hearings which began on March 2, 1972. Peter Flanigan, a White House aide, was the object of considerable attention from the Senate Judiciary Committee and press during the coverage of these hearings.

13a Testimony of Charles Colson on June 14, 1973, before the Special Subcommittee on Investigations of the House Committee on Interstate and Foreign Commerce, page 202

13b Statement of Richard G. Kleindienst, dated 10-31-73

13c Testimony of Richard G. Kleindienst, 2 KGH 95-96

13d Memorandum of March 13, 1972, to John Dean from Charles Colson.

13e The Washington Post, April 27, 28, 1972

13f The Boston Globe, April 13, 1972; and The Washington Post, March 16,.....1972~

16
14. The President left for an official visit to the People's Republic of China on February 17, 1972; he returned on February 28, 1972. He spent the weekend following his return at Key Biscayne, Florida. On May 20, 1972, the President went to Moscow, returning on June 1, 1972.

14a Weekly Compilation of Presidential Documents.

Page

Volume 8, Number 8, 443-44; Volume 6, Number 9,

14b Weekly Compilation of Presidential Documents.

Volume 8, Number 23, 912, 975, 207

(17)
1. In December, 1968, Richard W. McLaren was interviewed for the position of Assistant Attorney General Antitrust Division, Department of Justice, by John N. Mitchell and Richard G. Kleindienst.

As a condition to his acceptance of that position, Mr. McLaren insisted that antitrust enforcement decisions would be based solely on the merits of any given situation.

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la Richard W. McLaren testimony, 2 KCH 116-117.
lb Richard G. Kleindienst testimony, 3 KCH 1725

Page 22
Page 24

(21)
memorandum allegedly written by Mrs. Dita Beard. Mr. Hume asked whether the subject of that memorandum (that anything having to do with the Sewagetown commitment had ever been discussed by me with Mr. Kl eindienst or any other representative of Justice.

Let me say – now that I (70 not know Mrs. Beard and, in fact, had never heard her name before talking with Mr. Hume. Moreover, I never knew of an ITT commitment of the San Diego Convention Bureau until December 1971. When I read about it in the newspaper. This was 6 months after the antitrust settlement had been reached. Therefore, it was literally impossible for me to have participated in any conversations regarding the commitment.

The settlement requires, so far as I know, the largest divestment in the history of world enterprise companies with sales ap approximately .51 billion in assets. Even after a forced sale, I can think of no case in which a single owner would have parted with values of this magnitude. As a director of the company, I considered this an extremely harsh settlement, arrived at after difficult negotiations between representatives of Justice and ITT.

If I may, sir, for the record I would like to place the dates of my meetings with Mr. Kleindienst.

The first one took place on April 20, 1971, when I presented orally some of the policy considerations +− e thought relevant. Mr. Kleindienst stated that since the Attorney General had disqualified himself, the ultimate decision with respect to any litigation would necessarily be his. He said too he would make that decision based on Mr. McLaren’s

The next meeting took place on April 99.

The next meeting was as June 99.

The last meeting was July 10.

Thank you, Mr. Chairman.

The CHAIRMAN. Judge McLaren, TO YOU say you were solely responsible for this settlement, with your staff?

Mr. McLaren: I’m sorry. I couldn’t hear the last sentence.

The CHAIRMAN. Did you understand you to say that you and your staff were solely responsible for this settlement?

Mr. McLaren– That is my testimony, sir–

The CHAIRMAN. Now, did you know anything about a 5400,000 contribution from ITT to the city of San Diego?

Mr. McLaren– Absolutely not. I knew nothing about any of this whole business, or even that the convention was going there until I read about it in the newspapers where someone tried to make a connection between an alerted payment and the settlement of the case.

The CHAIRMAN. 1R–IAs. No w, did Mr. Kleindienst, Mr. Al itchell, or anyone else attempt to influence your decision in this settlement?

Mr. McLaren– The direct answer to your question is they did not. I would like to add when I was first interviewed by AJ;
when they offered me the job. I made three conditions: that we would have a vigorous antitrust policy; that we would follow my beliefs with regard to what the Supreme Court cases said on conglomerate mergers, and the restructuring of the industry that I thought was coming out in an almost idiotic way; and third, that we would decide all matters on the merits, there would be no political decision.

Mr. McLernon. That is correct in this case, absolutely. I might add that the Attorney General and Al K. Kleindienst lived up to their word.

The Chairman. Senator Ervin.

Senator ERVIN. I construe your testimony, Judge McLaren, Attorney General Kleindienst did not actively participate in the negotiation of the settlement at all?

Att. McLaren. All Al. Kleindienst did was arrange that one meeting, as far as I am concerned. And during the course of that meeting, when ITT made its presentation, I was the chairman of the meeting. Mr. Kleindienst sat off on my left, and listened, so far as I recall, and, well, none of us had much to say, but he did not do anything in any stage of the negotiations except arrange for that one meeting and approve my proposal for settling the intruder after I became convinced that the 250-odd-thousand shareholders of ITT would suffer more than a $1 billion loss if we proceeded and were successful in forcing divestiture of Hartford.

Senator ERVIN. Did he make any suggestion to you as to what the details of the negotiations should be, or what the details of the should be?

Mr. McLaren. He did not, and I did not even keep him informed as to what we were doing in the negotiations until—I think; he is probably right—I telephoned him the night before we actually put the thing out and I said I think that they were going to cave in on the last couple of points and we will probably announce it tomorrow-

CHAIRMAN. And that was the course you usually followed to keep him advised of matters in your department?

Att. McLaren, AREN. Matters of major importance, yes, sir.

Senator ERVIN. I understand from the testimony that has been given that Attorney General Mitchell absolutely disqualified himself from any connection with these suits and proposed suits, and that the decision of the Government was based solely on the opinions which you and the members of your staff in the Antitrust Division had after considering all of the matters involved, and all of the implications of those matters?

Mr. McLaren. Yes, sir, that is correct.

Senator ERVIN. In other words, your testimony is that you and the members of the Antitrust Division staff conducted the investigations, and that the decision of the Government was based solely on the opinions which you and the members of your staff in the Antitrust Division had after considering all of the matters involved, and all of the implications of those matters?

Mr. McLaren. That is right, sir.
approximately the same *reason* that Hamlet stated in his soliloquy: they
are uncertain as to what the courts are obliged to
and I tools xny bruldanee at antitrust ---ses from Judd-e AtLalen. I am a lazyver iror.l Ptoenix, Ariz. I **never had** an antitrust case in m) life. He svmooolizes ttle hivhest kind of lave-syer jhe plivtLte sector m-ho is ivilli Ig to leave a -erv lucrative practico and come into ttle Governmellt and give the peo-~~~)ic the bel cfit of his arL and 1lis experience. 'rhe @11\ thin.~~~ that got **through to** me W3S Judge WicLnren.

Rohatyn, +zr11om I havo come to rewnrd rvith a cvrv high degree of ref.arzl, made a rery persllasive presentation to me but all

(24)
2. In 1968, Mr. Nixon appointed a Task Force on Productivity and Competition to review antitrust policy and make recommendations. The task force, headed by Professor George Stigler of the University of Chicago, presented its report to President Nixon on February 18, 1969 and recommended against mediate legal action re: conglomerate mergers.

Wage
2a The filer Report, 115 Cong. Rec. 15653, 15656 (1969) 26

Zb White House "White Paper, " The ITT Anti-Trust January 8, 1974, Z...A........w................w................w. ......... 31

2c Remarks of Harold S. Geneen, ITI Chairman and President June 26, 1969, Annual Meeting of ITT Shareholders 8 •--- 33
We present here a summary of the recommendations made in the Report. Among the recommendations are:

1. The Department should be given the authority to regulate certain antitrust practices, such as price fixing conspiracies.

2. The competition authorities should be given the power to challenge mergers on economic grounds.

3. The role of the Department should be expanded to include the regulation of certain industries, such as telecommunications.

4. The Sherman Act should be reinterpreted to allow for more economic regulation.

5. The Department should be given the power to challenge certain types of market structures, such as horizontal mergers.

6. The Department should be given the authority to challenge certain types of market conduct, such as market allocation agreements.

7. The Department should be given the power to challenge certain types of market conduct, such as market allocation agreements.

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50. The Department should be given the power to challenge certain types of market conduct, such as market allocation agreements.
A The dilfiltration Or Economic Knowledge

We would like little opposition to the provision that the Antitrust Division make full use of economists and their special skills. These skills are often necessary to understand the effects of economic practices intended to enhance market share or to incidentally help the Antitrust Division make full use of economists and their special skills. These skills are often necessary to understand the effects of economic practices that will not be subject to economic realities. We endorse the policy of having a highly professional economist serve as a divider to the head of the Division and a strong permanent staff of economists.

The problem is not the goal of an economically sophisticated antitrust policy but its implementation. A division charged with the enforcement of a statute must of course be directed and largely staffed by lawyers. The division has substantial incentives to utilize economics—whether by central direction or by demonstrating assistance in winning cases—the lawyer will often be viewed by the lawyers as a mysteriously necessary obstacle to smooth operations. The Assistant Attorney General will have succeeded in making a truly major contribution to antitrust policy if he establishes the relevance or economic knowledge.

B The Development Or Criteria for Classes of Cases (Guidelines)

When the Antitrust Division is confronted by a large number of similar cases, it must now be scanning many hundreds of mergers each year. It will inevitably have

- to guide the numerous men who pass

individual Cases. The question is not

whether to have criteria or guidelines but how to arrive at them.

We believe for reasons we discuss below that the present merger guidelines are inadequate. In important respects, they are the procedures for formulating guidelines. If the rules for a clan or cases were desirable only if two conditions are fulfilled:

1. There are a large number of uncontroversial easily identified cases. If there are not the rules give little help to either business or the Division.

2. Controversial or objectionable cases cannot be repackaged to avoid scrutiny.

The way to determine whether mergers are example meet these conditions is to examine a large number of them in the light of legal and economic knowledge. The Antitrust Division will perform this task vastly better if it uses the large amount of professional expertise available outside the Division. We therefore recommend that the Division have semi-public conferences to explore difficult areas of policy, inviting legal and economic experts to propose or discuss guidelines. Some members of the task force would prefer to have normal notice and public hearings in establishing rules if rules are adopted, a periodic review of them by the same procedure will be a useful method of conferring flexibility upon them. A specific application of this method is proposed below for mergers.

C The Role of the Federal Trade Commission

No review of antitrust policy would be complete that ignored the Federal Trade Commission which is charged with enforcing the other statutes the Clayton Act.

- all ch Section 2 the Robinson-Patman Act and

Section 7 prohibiting mergers and antitrust Ttrials that may substantially less competition are particularly important and the Federal Trade Commission Act whose operative provision Section 8 forbids

unfair or deceptive acts or practices a term that has been interpreted to embrace even...
more than the cast ares of netScompetitive behavior
proscribed by the Shertndn Clayton Fct as well as
consumer fraud and some immoral sales methods such as
lotteries As is evidence the Commission s jurisdlcffon Largely
overlaps that of the Antitrust Division

In its antitrust work the FTC has concentrated on price
discrimination on practices believed to oppress or coerce
small dealers

and on mersvers especially vertical and conglomerate and
dually in industries which by long-established understanding
with the Antitrust Division have been assigned as the
Commission s sphere of primary competence

unhappily itse that the commission undertakes in the
antitrust area can be defended in terms of the ob,ecuve of
maintaining and strengthening a competitive economv
consider price discrimination There Is now ad Impressive
body of literature arguing the improbability that a profit-
maximal seller even one with monopoly power would or
could use below cost seling to monopolize additional ma-
sets Yet not only has the Commis;slon conuDued to bring
predatory price discrimination cases but The alleged danger
of predatory pricing remains n principal prop of Its vertical
and conglomerate satimerger cases As for secondary line
disc-ntllDation (that Is giving discounts to some dealers or
distributors but not to others who compete with them) the
Commission has never attempted to differentiate those cases
(if there are any) In which a monopolistic buyer is able to
extract unjustified price concessions from his suppliers to the
prejudice of his competitors from those In which deSmmanud as employed by oligopolistic sellers who wish
to cut prices severely—and should be encouraged to do so—
and those in which price differences (which the Comma slon
tends to equate erroneously with discriminatory) are not in
fact discriminatory Over The last eight years the Commission
often under the prudcLicy of reviewing courts has paused
some of the sting from enforcement of the Robinson-Patman
against secondary-line discrimination. It has demanded
somewhat stronger proof of competitive Injury: the
meeting-competition and cost-justification defenses have
been reD-dered meanlagful: and The provisionst of the Act
relating to advertised allowances and brokerage payr ents are
in general no longer wed to compel selll to compensate
for services that are Dot ecdomically beneficial to the
seller (SCC 3 as advertised by tiny retail outlets or
brokerage Whed a broker 5 services can be dispensed with).
AIU ough the retreat from per se rules against
secondary-line discrimination has led to a general diminution
or enforcement. activity by the FTC (private suits continue of
course and are dowsed later) the ComrSsslon stud brings
many cases that Impair rather than promote

compeutloD and efficienve For example the Commission has
In recent years waged vigor ow war against 4functional
discounts which are discounts offered to middlemen who
perform certain distributive functions (such as warehousing)
that other middlemen who are not given the discounts do
not perform. Moreover as ersplaited later In this Report
we can conceive Or no case Or de-crimination In which the
Sherman Act would not provide an adequate remedy—
adequate that Is. to protect the interest In maintaining an
erfectively competitive economy—and so we view
Robinson-Patman enforcement as In

-herently likely to be pushed beyond proper

S limlO.

The efforts of the Commission to protect small dealers
from allegedly unfair are coercive business practices
constnue a dark

• chapter in the Commisslon s history Nuch Or this
enforcement activity docs not eventuate in formal
proceedings What happens is that a dealer who Is terminated
for whatever reason is likely to complain to the Commission
knowing that the relevant Commission staff Is well disposed
to and small bus

(2*7)

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ness The staff uses his threat of an ETr proceeding to get the
supplier to reit-state The dealer and Or threats fall—usually
thus succeed the FTC may 51e a complmnt cng

Ing the supplier v lth hexing cut Ott the dealer because he
was a price cutter or or some other nef3riotos reason Our
impression Is sum is that the Co-e35Sion espe<331/3 at
the infrorral level his evolved an e recall e 135 Go dealer
pro ecUon that Is unrelated and often contrary to the
objectives or the antitrust Is vs. The Commission Is
supported In this endeavor by the Supreme Court S rulings
that section S or the FTC Act empov-ers the Comrr.ission

(2*7)
to suppress practices ti at resemble antitrust Tlola~: With respect to the Commission’s enforcement policy in the merger held it is III-<r naZing to compare the recent statements of Commission merger policy with the Department of Justice Merger Guidelines discussed elsewhere in this report The Commission is even more severe Unlike the Department it attaches a good deal of significance to the absolute size (in Independent Our market share) of merging firms to the alleged power that large firms have over small: and to the dangers of price squeezes

It will, for example, challenge virtually any acquisition by a cement producer of a ready-mix concrete company normally any substantial acquisition by a large food chain etc the Merger Guidelines are models of restraint compared to those promulgated by the Commission which are as hard on economic theory as on mergers

We conclude that substantial retrenchment by the Commission in the antitrust field is highly desirable In addition to retrenchment (at least by stopping the increase of the Commission’s appropriations) its resources devoted to regulating competitive might be redeployed. The two principal pos-sibilities are (1) consumer protection and (2) economic studies utilizing the vast fact-gathering powers vested in the Commission by its enabling legislation Undoubtedly either route could be followed in a way that endangered competition An In-competent economic study can be misused by policy makers—witness the influential 1945 FTC study which erroneously suggested that concentration was on the rise in America. Can industry Overreach enforcement of consumer protection legislation Can also have errant results. We note the application of consumer protection laws is almost always invoked not by consumers but by competitors whose interests lie in protecting their market. DOT In 5Vi0s Consumers full information: and that elaborate requirements relating to packaging. safety etc can curtail consumer choice limit competition. reduce the consumer’s incentive to exercise care: and—what is most serious—impose substantial Unit Costs on society

The Federal Trade Commission tur-ent y needs a basic reform but this need will be difficult to fulfill Quite apart from the fact that there are no vacancies on the Commission any dramatic or far-reaching Presidential-inspired reforms would run up against the lone tradition of regarding the independent agencies. In general—and the FTC in particular—as arms of the Congress That has at times meant an office of economic opportunity for Congressmen more Important it meanders that a Wrong showing of Presidential interest in the operations of the Commission

Perhaps the best short-run path of improvement—at runs through the Offices of the Antitrust Division and the FTC It is so largely over-upping the Commission and the Ditr-ion of close liaison at the highest levels indeed it is something of a wonder though explicable in terms of bureaucratic rival(r)s that such Ad
The third is factual: there are a number of important industries in our economy whose structure is oligopolistic—how large a number depends upon what a “so number” means. The second is interpretive: the circumstances which determine whether different for pending mergers than for establishments of permissible concentration he who whole and we believe to be numerous and economically important.

If we turn from predatory to collusive, this in turn usually depends upon what is the effective number of sellers in the area or the absence of good distribution facilities. This is misleading in delineating regional or local antitrust The Guidelines test or whether a product is sold in less than a relevant market within which it is sold In all important cases the Guidelines seem to invite a substantial degree of monopoly, especially in delineating

The easier (quicker and cheaper) new cases can enter the industry, the smaller and the more elastic the demand for the product. As a rule, the size of buyers larger buyers for a variety of reasons including possibility or backward preference for the brands presently sold, the larger the number of Independent enterprises—\( n \) in the industry is equivalent to what would be the concentration and rates or return on Investment and integration for more competitive prices.

Numerous statistical studies have been made of the relationship between concentration and rates or returns on investment and these studies generally yield positive but loose relationships: concentration is not a major determinant of the interest among In- during the profit of the firm, other things being equal. A significant factor is the number of rivals to be expected. An industry may be considered in the Guidelines and yet still not contain any meaningful local markets An example would Illustrate. Assume that the price or steel \( P_0 \) is \$20 in Alumina and \$160 in Chicago and the cost or shipping the bars from Chicago to Minnesota is 44 cents On these facts, it is plain that the Alumina sellers could

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five and ten){ but extent it usually enough to
ensure that a firm can set a price without loss of elasticity. Concern with oligopoly has led to extensive analysis of the problem.

...cannot endorse these proposals on the basis of existing knowledge. As indicated the core concern with oligopoly is not whether an industry is or is not an oligopoly, but whether it...
We do not have the exact date and the record likely is < 1969 - < entries, their independence should be

should not be explicable by introspection

If the product of X is really a legally tran-ferable if transferable X is the file

The cutting edge of law is not the abstract statement of a legal duty but the sanctions provided for its nonperformance and that to true The antitrust laws as other systems of legal obligation it is essential that those laws clearly and accurately define and forbid the practices that impair competition and efficiency but it is equally essential that the sanction for violation be effective in compelling compliance and with a minimum of undesirable side effects

In testing the antitrust sanctions by this standard it will be helpful to distinguish two purposes of sanctions that of preventing the repetition of prohibited acts and of deterring the proponent of such acts

We have proposed that concentration be tested by the standard of the industry As we have put forward in legislation the standards for evaluating the compliance with the antitrust laws as other systems of legal obligation it is essential that those laws clearly and accurately define and forbid the practices that impair competition and efficiency but it is equally essential that the sanction for violation be effective in compelling compliance and with a minimum of undesirable side effects

The one position asserts that many and that in certain situations a vertical merger should not be permitted without control of his outlets vertical integration will be limited and maintained only if and as long as it is justified by the cost savings it permits It is not method of extending monopoly power

The two positions coalesce on one policy conclusion: vertical mergers should not be forbidden in all cases

The COT172/NelsonLee Mergers The large conglomerate enterprise with an aggressive acquisition policy has only recently become Enron and 26bworth - - Antitrust law has seemed to some connexen/Scot weapon with which to attack large conglomerate mergers It interprets full elimination of potential competition as a source of the Sherman Act and rules that will be made light of titles the companies in the merger should not be established by introspection

Changes in the market, the merger firm be true the monopolist of X, domestic or foreign, and that the fear of entry and on the record likely to enter their Independence should be

size and economic power These fears should be either confirmed or disconfirmed and an important contribution would be made to the solutions by the antitrust commission on this subject if it is genuine situa- tion i.e. the problem of competition probably have these meetings in each respective of the FTC has tried to do already and by the

The control task of the Antitrust Division is to preserve competition in the American economy This is splendid and challenging task and requires the following sources of the Division • We shall use the least effective ways to achieve the objectives of the task and in doing so aim to the least effective means of injury and as far as possible we will be able to bring

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fixin3 eases; and most Important the Injury caused by a price-fi:dag conspiracy is often so widely diffused (for example among millions or consumers) tnat no one has an incentive to bring a suit The
government itself can sue for damages only when It v as the victim of the unlawful conspiracy.

If concealable offenses under the antitrust lav 3 are to be
effectively deterred either the resources devoted to the detection of such offenses must be vastly augmented—and there are obvious limitations to this routed or the Ones must be increased to a point where they will give even the large combinations considerable pause before participating in an illegal conspiracy. For example, the government can sue for damages only when it v as the victim of the unlawful conspiracy.

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The Stigler Report, JVGE 22, 1969) 115 Congressionl Record 15653-57

Juice Jo, >79 CONGRESSIONAL RECORD—SENATE

16:7

A current scheme to function as a regulatory agency, and it is now likely to escape real competition of the economic sort with which the report now (and a time function in the Department to which I attach much moral implication) are likely to proceed. In all such cases it is likely to come as a surprise to some who may not have been familiar with the history of the Sherman Act.

For the future, we urge that the Department adopt a policy of not proposing or accepting decrees that threaten the market’s efficiency, in order to promote their efficiency more generally. We suggest that these decrees contain a definite—and near—termination date, or some other such provision. Our recommendation is that decrees do not remain in effect beyond the period of time needed from the decree’s entry to the industry condition.

Little is known of the current to which a large number of past decrees are still active, and it is of any real value in protecting competition, but one or two such procedures are necessary:
1. The current relevance of the decrees, or at least those running against large industries, should be examined by the economics section or the Antitrust Division.
2. Older (say 25 years or more) and obsolete decrees should be vacated. This procedure might result in a net decrease in the number of active decrees.
3. Changes in Antitrust Statutes

Serious legislative reform could improve substantially the functioning of the antitrust laws. We have recommended above a substantial increase in the maximum level of fines. In addition, we recommend immediate repeal of the Sherman Act. The low quality of many Supreme Court antitrust opinions has been largely responsible for the fact that cases appeal frequently require the Supreme Court to pass on an extensive record or to consider the essential issue. The Supreme Court must have the power to review appeals in those cases. It is preferable in this respect, that no amendment that would not be based on the number of appeals would be desirable.

The Sherman Act should also be retained. The courts of equity, in their commerce and the antitrust laws; the Sherman Act. The Sherman Act has been a great success. It is preferable in this respect, that no amendment that would not be based on the number of appeals would be desirable.

The Webber-Pomerene Act should also be retained. The creation of cartels in foreign commerce is antithetical to the Sherman Act. The Senator that exempted cooperation between competitors in the export field will lead to illegal cooperation at home is too great to be viewed as merely a potential abuse. Nothing in US exports policy or foreign economic policy warrants the retention of this outmoded approach to international competition.

On the agenda for long-term legislative reform must be the Robinson-Patman Act. The Act leads to rigidity in distribution patterns and to uniform price discrimination in industries with few sellers, price reductions are more likely to be made in those cases than in others. Final limited exemptions affect even more limited price differences. The Act:

1. In Section 2(a), the prohibitions against price discrimination in Section 2(a) should be repealed while making clear that the standards of amendment subsection (a) applicable to practices that Section 2(a) y have been treated under those repealed Section 2(a) sections Enr Task: Eri recognize the constitutional support that the Robinson-Patman Act retains in some quarters and the danger that an attempt to amend the Act might give particular interests an opportunity to add even more restrictive provisions. As a consequence some of our members view amendment 2(a) end as a long-term albeit important reform others wish to idave it alone.
THE WHITE HOUSE

2B. WHITE HOUSE "WHIM PAPERS THE ITT ANTITRUST DECISION, JGUEY 8, 1974 1-2

THE WHITE HOUSE

The ITT Anti-Trust Decision

In the thousands of pages of testimony and analysis regarding the ITT case since 1971, the only major charge that has been publicly made against President Nixon is that in return for a promise of a political contribution from 2 Subsidiary of ITT, the President directed the Justice Department to settle antitrust suits against the corporation.

That charge is totally without foundation:

--- The President originally acted in the case because he wanted to avoid a Supreme Court ruling that would permit antitrust suits to be brought against large American companies simply on the basis of their size. He did not direct the settlement or participate in the settlement negotiations directly or indirectly. The only action taken by the President was a telephoned instruction on April 19, 1971 to drop a pending appeal in one of the ITT cases. He rescinded that instruction two days later.

--- The actual settlement of the ITT case, while avoiding a Supreme Court ruling, caused the corporation to undertake the largest single divestiture in corporate history. The company was forced to divest itself of subsidiaries with some $1 billion in annual sales, and its acquisitions were restricted for a period of 10 years.

--- The President was unaware of any commitment by ITT to make a contribution toward expenses of the Republican National Convention at the time he took action on the antitrust case. In fact, the President's antitrust actions took place entirely in April of 1971 -- several months before the ITT pledge was even made.

I. President's Interest in Anti-Trust Policy

Mr. Nixon made it clear during his 1968 campaign for the Presidency that he stood for an antitrust policy which would balance the goals of free competition in the marketplace against the avoidance of unnecessary government interference. One of his major antitrust concerns in that campaign was the treatment of mergers. Concentrates had become an important factor in the American economy during the 1960's, and despit
public fears that they were threatening free competition in the marketplaces of those years—In Mr. Nixon's opinions had not been clear in their attitude toward them. In one of his 1968 campaign books, *Nixon on the Issues*, he put forward in summary form his conclusions about national and international issues, Mr. Nixon expressed his dissatisfaction with existing conglomerate policies:

'The Department of Justice has recently proposed guidelines for 'conglomerates' but the guidelines have not provided any substantial criteria on which businessmen can safely depend. Moreover there is the problem of unsettled case law on the question. I hereby administration will make a real effort, and a successful one, I believe, to clarify this entire 'conglomerate' situation...'

To help resolve the issues involved, Mr. Nixon during his campaign appointed a Task Force on Productivity and Competition, headed by Professor George Stiller of the University of Chicago and including several eminent academicians. The task force presented its report to the newly inaugurated President on February 18, 1969. The group recognized public fears that conglomerates posed a 'threat of sheer bigness but said these fears were tenebrous and should not be converted into an aggressive antitrust policy on the basis of knowledge then available. 'We strongly recommend,' stated the reports: that the Department (of Justice) decline to undertake a program of action against conglomerate enterprises..."

A similar view was set forth by many outside the Government. In an article in *Fortune* in September of 1969, Robert Borl, then a professor of antitrust law at the Yale Law School, attacked the policy of antitrust enforcement against conglomerates that he thought was emerging at the Justice Department. He noted that unless conglomerates mergers were involved in horizontal price-fixing within an industry, there was no economic foundation for believing that they were anti-competitive. He also noted that 'The campaign against conglomerate mergers is launched in the teeth of the conclusion reached by the task force that President *Nixon himself* appointed to study and report on antitrust policy.'

A second major concern of the President and his advisors was their fear that the ability of U. S. companies to compete in the world market might be threatened by antitrust actions against conglomerates. The United States faced a shrinking balance of trade surplus and the President and many of his advisors felt that U. S. multi-national companies could play an important role in improving the balance.

The President feared that antitrust action against these companies which was based upon something other than a clear restraint of trade Would render them less able to compete...
Ladies and Gentlemen:

On behalf of the Board of Directors and Officers I want to welcome you to your 49th Annual Meeting.

This is our first meeting to be held in Detroit which reflects our policy to bring ITT to the shareholders throughout the country's economic and financial centers.

During the past 10 years we have brought our Annual Meeting to Baltimore, San Francisco, New York, Boston, Philadelphia, Cleveland, Los Angeles, Atlanta, Denver, and today - Detroit.

Today's meeting also has a special historic significance for the Company -- today's meeting is the first official meeting at the beginning of its 50th Anniversary.

Turning back now to Detroit and the State of Michigan, this is an area that has increasing significance to ITT. We are represented in the area by 19 of our major divisions which provide a variety of services and more than 20 product lines.

We are clients of Detroit's great bands and financial institutions and major purchasers of its products. The annual dollar volume of our oven activities in this area alone would total swell over $100 million.

Among the better known of our activities in the Detroit area are:

Hornson Industries suppliers to the automobile trade
These two reports, the Neal Report requested by President Johnson, and the Stigler Report requested by President Nixon deal with exactly the problem we are speaking of today. Each report represents the formal opinion of a distinguished group of economists and businessmen.

Each report concludes that there is no legal support for an attack on size as such and that Congress, armed with all of the information, facts, and opinions from hearing all sides, would be required to pass new legislation to do this.

*The Stigler Report (which is the Nixon report) went even further* to state that there was no dangerous concentration of industry in their opinion talweina place and specifically warned against antitrust actions against large diversified companies on the basis of "nebulous fears of size 2nd economic power."

Furthermore, the Stlglr report warned against anti merger attacks on large companies which would have to be made through "a contrived interpretation of the Clayton Act.

Yet, what I have described to you is precisely what this report warned against and yet what we are literally experiencing not once, but possibly twice and three times.

Needless to sz

:ounsels are eminent, independent experts who say that we are legally correct and since the mergers we have sought have strong significance to our future and were arrived at openly and willingly by both parties on each case and based on the exchanae of sound

(34)
3. Apparent(1)~, in June of 1969, Mr. John N. Mitchell, in the office of President Nixon, discussed certain technical concerns of C-ITT, including, but not limited to, the U.S. vs. Delpa. John N. Mitchell, for one, thought the meeting should be inappropriate because of ITT’s legal involvement with the Department of Justice.

The meeting was not scheduled.

3a Letter of June 9, 1969, from Loren Berry to the President enclosing one copy of a June 3, 1969, letter from Gene

3b Memorandum of July 14, 1969, from John N. Mitchell to John Ehrlichman

3c Memorandum of July 16, 1969, from Dnvight L. Chapin to Peter Flanigan
June 9, 1969
President Richard E. Nixon
The White House
Washington D. C.

Dear President Nixon:

I am sending you herewith copy of a letter containing late information regarding matters of vital importance to our country both at home and abroad.

The letter, dated June 3rd, was written by Mr. Harold S. Geneen, President of International Telephone & Telegraph Corporation, to Secretary Maurice H. Stans, and sets forth vital information which I believe you would like to have. I note that Mr. Geneen has asked to see you in the hope that he can give you any further facts needed. I sincerely hope you can arrange such a meeting at an early date because it would be a very useful and friendly visit.

I want to thank you for a wonderful evening at your dinner party May 27th. It was a real pleasure for me to be there, also to see you looking fine.

Best regards and all good wishes.

Loren M. Berry
Chairman of the Board

Encl.
June 3, 1 'R69

From the newspaper reports I can see the immense amount of globecircling coverage you have been putting into some of the long-standing problems of the Department in an effort to get them cleared up promptly. I think your example bears out what all of us knew you would accomplish in a difficult public assignment.

Because of your own load I hesitate to raise any further problems with you, yet timing is of such importance that I would appreciate very much your reading the contents of this letter, and then perhaps I can talk to you briefly on the phone without disturbing your work schedule too much.

I First, to put this in context, I write concerning a problem that involves

national policy and also deeply involves our company and which, very importantly, comes under the jurisdiction of your Department.

The United States balance of payments situation is, in my opinion, probably the most difficult, long-standing problem that the nation faces and it will continue to be potentially the most dangerous and troublesome one that will be with US into the future as far as we can see.

Essentially, the payments problem is a balance of trade problem that primarily confronts the Department of Commerce for solution. Against this background, let me use our company as an example of the difficulties that any of us ill this activity faces.

First, ITT has consistently brought back cash to the United States -"net of everything" -- for the past 20 years.

The rate at which we are bringing this back has been doubling every five years.
This year, 1969, ITT will bring back approximately $200 million of everything, in the next four years we should bring home approximately $1 billion (again ret or every). Yet there is a problem for any U.S. company in "bringing back the bacon" in its worldwide.

Let me recall my early days with the company ten years ago to explain. I had been in the company little more than 12 months when Cuba seized our telephone company in Havana which, at that time, represented about one-quarter of our total earnings. Despite the fact that Bob Murphy, then Undersecretary of State for Political Affairs, assured me that the U.S. Government would have the company back for our shareholders in 90 days, ten years have passed and Castro still runs Cuba and we still do not, of course, have our telephone company back. However, the telephone company been returned that XYZS expropriated in Brazil (though on that one we received some compensation), and every morning I look for a headline about what will happen to our Peru Telephone Company, a pawn in the current problem in that country.

A hell we lost the Cuban Telephone Company, we lost a great deal of investor confidence at that time. The loss coupled with the fact that 80% of our earnings then came from overseas, although some 93% of our stockholders were (and are) U.S. citizens, gave us a tremendous problem. Use decided then and there that it was necessary for us to establish a broad, firm U.S. base in order to continue to carry on foreign trade. This we have done, complying with all of the laws of the U.S., including those of Antitrust.

In short, Islaury, in order for a U.S. company such as ours to be a "bacon winner" for you abroad and to be able to continue to contribute to the balance of payments account, we have understood it is absolutely essential to our stockholders' confidence and support, to establish credit and raise money abroad-- to do all of the necessary things with which you are so familiar -- to have a large, strong domestic base. We put the requirement as approximately two-thirds domestic to one-third overseas earnings.

I think our record on balance of payments testifies to how well this system works, including the fact that any acquisitions we have made, we have taken overseas promptly to enhance both our positions abroad and to maintain our "bread winning" role.

(38)
Now, as against this problem, we are running into a problem with the Antitrust Division of the Justice Department, which is suing us on mergers we announced last year, and we are advised by counsel that this is done on highly speculative and improper grounds. As a matter of fact, Mr. NeeLaren now candidly admits to us that he is really bringing this suit because we are a "conglomerate" and because we are not a "bib company" and that he will continue to do so using any pretext he can dream up. This policy of Mr. NeeLaren's is all the more difficult to understand because we have and are proceeding in compliance with the antitrust laws of the land as they have been interpreted by the legal profession and the courts for a great number of years, and in compliance with the guidelines laid down by the Justice Department. We are still assured, as I write, by our antitrust attorneys that the grounds on which these cases are being taken probably will not stand up in court.

This is reassuring to a degree, but the suit filed and the prospect of other suits are a severe deterrent to carrying out our plans, running the business daily and, most importantly, a major impediment to continuing our role as one of the leading foreign commerce companies of the United States.

Only last week we had a serious example of this negative impact abroad. We had a bond issue in the United Kingdom that was simply a flop: This was our first flop in six years of raising funds abroad and while there are many factors that have to be considered, certainly one that cannot be overlooked -- reflective of the antitrust policy -- was a press report, prominently placed in The Times of London, on the issue saying that "the U.S. Government was against ITT because it is a conglomerate". The European pickup of The Times story and the failure of the issue will not, to put it mildly, be helpful to us or to you.

The significance of the unwarranted and unjustified antitrust policy now appears in light of the responsibilities of your own Department in connection with the balance of payments effects in our activities abroad, as well as domestically.

Now, let's look at some additional factors.

1. There are in existence two outstanding reports on the economic effects of antitrust policy, and the role of the conglomerates is dealt with specifically. These reports were compiled by outstanding panels of economists, one at the request of former President Johnson, the other at the request of President Nixon. The first report is known as the Neal Report and was released last week by Mr. NeeLaren after repeated requests not as dist-losv;re.
3A. HAROLD GENEEIY LETTERS JUNE 3 1962

- The report states very simply, in effect, that the suits
  contemplated a suit were now supported by law and it recommends
  further a limit of antitrust enforcement that would not leave provided
  a basis of title for the suit that was filed against our merger with Canteen.

  The second report, now as the Stigler Report and compiled
  by an independent panel of businessmen and economists, not only reiterates
  the main points of the real Report, but even more emphatically opposes
  the use of the Antitrust Division to curb mergers on the basis of "way-out"
  theories of "reciprocity", "potential competition", etc., except where
  clear evidence of illegality exists. The Stigler Report has not been
  released though it has been reported as a "secret Nixon Report" in the
  Washington Star, and reliable sources are quoting its contents in
  Washington.

  2. In a discussion with Arthur Burns, I found that his general
  thought was support for the position that there is no sound basis for the unwarranted
  attack on conglomerates that is being waged.

  3. In an informal discussion with David Kennedy, I found that
  his concerns are against "improper concentration within an industry"
  and not with conglomerates per se or because of size, a position also
  taken by the Nkay and Stigler Reports.

  In tallying with several of the key Republican policy people in
  the Congress, including Senator Dirksen and Congressman Ford, I find
  they hold equally strong views against unjust attacks on conglomerates
  because of size per se or "fancy" theories of reciprocity which are
  untried in law and generally regarded as unsound.

  Among the Government Departments which would be directly
  involved, it appears your Department would have a sharp and immediate
  interest. Of course, I don't know your detailed views on this subject,
  but I do have the impression that you were concerned about the aspect
  of "raiders" in the business world. As you know, this has also been the
  concern of Congressman Mills. As I am sure you are aware, we have
  never indulged in these "raiding tactics". On the contrary, all of our
  mergers have been jointly agreed to, they have been harmonious and
  the considerations have been represented by normal stock securities.
It does appear, Maury, that the need for your support of large American foreign trade companies is very real. The need is to be allowed a domestic base from which to move assured assurance in worldwide trade.

This, I think, is demonstrated by the fact that such acquisitions as we made are done freely, that they are paid for fairly, with proper securities. Most importantly, these kinds of acquisitions result not only in more efficiency domestically, but — by carrying these activities abroad — they increase the ability to expand balance of payments remittances.

It does seem that almost every one in Government who should be concerned with these matters is in agreement on one thing — that a proper policy would recognize the care with which we have planned our activities in close compliance with the law, as well as the very real contributions we are making domestically in addition to remittances from abroad. I have said "almost every one". There are, however, who seem to feel that the only proper course is one of harassment and of punitive legal actions.

since it appears we are to be the first at bat, there remains only this question — "While there is still time, how can we do anything about this?"

I have asked to see the President in the hope that I can draw the facts to his attention.

I can see no virtue in any discussion with Mr. McLaren or in turn with the Attorney General who either from conviction or commiss arent continues to express support of Mr. McLaren's actions.

The purpose of this letter is to see if I can elicit your support based on the facts that I have outlined here to do two things:

1. See that the Stigler or Nixon Report is released officially. I believe it might have a healthy influence on this problem since it represents the Administration's best advice on policy solicited at the President's request.
- 2. Possibly, since I feel this directly and indirectly affects your own responsibilities, that you request that there be an Administration review and reappraisal of these policies with all of these facts now brought to light. Sufficient differing policy versus the current activities of the Justice Department in attacking conglomerate mergers on speculative grounds, has been expressed at high enough levels, as detailed above, to indicate that such a review would be in order.

I do want to point out that while this is essentially a broad policy issue, our company is directly and justifiably interested in the outcome.

I would like to talk with you briefly on the phone, after you have read this, if I may have the opportunity.

Thank you for your courtesy and consideration.

Sincerely,

01gx

(42)
July 14, 1969

TO: John Ehrlichman

FROM: Jof Av
RE: Attached

As you may know, Mr. Geneen's company is involved in a number of antitrust suits with the Justice Department. Further, some of the companies in his conglomerate are represented by the Mudge firm. I would see no reason for the President to see Mr. Geneen unless he wants further review of the antitrust problems from him. Needless to say, the Geneen letter attached does not reflect accurately the legal position of the Justice Department in the antitrust suits.

It might be well to leave this matter with Maury stans for a follow-up on the balance of payments matter.
4. In March, 1971, the Solicitor General authorized an appeal to the Supreme Court from an adverse decision in the United States v. ITT (Grinnell case) because of practical difficulties in the future if the decision were left standing. The Solicitor General and his associates thought the case to be very hard; his chief deputy thought the government's chances of winning were minimal.


4b Memorandum from Daniel M. Friedman to the Solicitor General, dated March 15, 1971.

4c Supplemental memorandum from A. Raymond Randolph, Jr. to Daniel M. Friedman, dated March 25, 1971.

4d Memorandum to the Solicitor General from Daniel M. Friedman dated March 26, 1971.

4e March 26, 1971, appeal authorization of the Solicitor General
I recommend appeal to the Supreme Court, although not on the primary basis set forth in the accompanying memorandum from the Antitrust Division.

Appeal is sought mainly on the ground that the district court erred in refusing to consider evidence of a trend toward concentration in the economy as a whole. Basically the theory is this:

Section 7 of the Clayton Act forbids one corporation from acquiring another whole in any line of commerce in any section of the country, the effect of such acquisition may be substantially to lessen competition. The Court has held that "any section of the country" can mean the entire country, United States v. Pabst Brewing Co., 384 U.S. 546, and it should similarly hold that any line of commerce can mean the entire economy. The court has also recognized that a trend toward concentration in a specific product market is relevant in determining whether a merger may have a substantial anticompetitive effect in that market. United States v. Von's Grocery Co., 9/ Dr. Wheeler's proposed testimony.
The obvious Question is: To the effect of this merger on competition in the particular product markets or to the effect on competition in the entire economy? While it is far from clear in the memorandum, apparently Antitrust would answer "both." Thus, one theory is that with respect to the particular product markets involved in this merger, something less than the usual quantum of proof is needed to show that there may be substantial anticompetitive effects if, in addition to such proof, the government can show a trend in the economy toward increasing aggregate concentration (see p. 25, 2d M[)]. The other theory is that this merger will increase aggregate concentration; that a considerable increase in aggregate concentration should be equated with a substantial lessening of competition under Section 7; that the general trend toward concentration supports this equation and must be considered in assessing the effects of an increase in concentration by a particular merger; and that the anticompetitive effects in Grinnell's product markets are a microillustration of the general results of greater concentration through conglomerate mergers. (See p. 5, 1st i, 106x741)

At the outset I should note that there is no serious problem about whether we properly raised these issues below. The Memorandum in support of Dr. Wiueller's proposed testimony does seem to focus only on the first theory:

Consequently, such evidence [the trend] is relevant to the issues in this case in two respects. First, the specific anticompetitive consequences of this merger must be considered with the perspective of this merger trend. The result of placing this merger against that background is to require
that greater judicial concern be given to demonstrated anticompetitive effects within specified lines of commerce, because of the additional impact upon competition in general.

But other statements do hint at the second theory also:

In addition, apart from its instant anticompetitive consequences, this merger must be viewed as one which would further and encourage the previously discussed trend toward increasing concentration. [Id.]

In the first theory, I fail to see why it is at all necessary to argue that Section 7 should be construed so that "any line of commerce" means all lines of commerce. If the general trend toward concentration bears on how the merger will affect competition in, for example, the fire sprinkler system market, then the court should consider it -- and vice versa. But the interpretation or Section 7 has nothing to do with this.

However, rather than offering reasons why this trend is relevant, the attached memorandum seems to proceed on the basis that it is sufficient to argue that Section 7 can mean "all lines of commerce". Congress itself deemed the evidence of a trend toward concentration relevant and that is enough. One obvious difficulty with this approach is that the legislative history in support of construing Section 7 to mean "all lines of commerce" is weak. Obviously in order to persuade the court to accept this construction something more will have to be shown. tend that something must consist of a demonstration of the pertinence of this trend with
4A. A. RAYMOND RALPH, JR., IlegORA11DUM, ItIRCH 2 1971

respect to competition in the particular lines of commerce involved in the r.lerger. Unfortunately such a demonstration has not been made and, frankly I doubt whether one could be,

Moreover, even if Section 7 is interpreted as

Antitrust urges, there is still the problem z^, thether proof about aggregate concentration in the entire economy -- that is the trend toward such concentration -- assists proof wits respect to particular product markets. If more than the trend itself is needed to show a lenesing of competition in all lines of commerce!, and i £ the o Gher evidence is less than adequate to show this in a particular line of con~.merce, there is no apparent reason \\hy some combination of the two shows a substantial diminu-

ition of competition within a particular product market, other than the bald and conclusory assertion that increases in aggregate concentration through conglomerate mergers musL be stopped so~.neho->v. This seems to be little different From a case where we have introduced insufficient evidence of anticom-

petitive effecLs within the entire country andalso within a specific geographical market. No one would contend that this nevertheless makes out a violation of Section 7 with respect to the specific market area. Yet the arguments in support or the proposed theory do essentially just that, although for lines of corunerce rather than Xor sections of the country.

Unless it can be shown how the Lrend increases the probable anl:icompetitive effects of the merger within the product markets, unless this nexus can be supplied, the proposed theory is baseless.

It musL be remembered that the trend use seek to prove is a trend toward agTrecTate concentration, not market concentration. (Apparently most economists agree that there is no trend toward the latter.)

As indicated above, there are, in my viesEt, no grounds for arguing that this has an anticompetitive effect on a particular product r.lar!,fWet. To be sure, ITT is

one of the largest conglomerates; it has been gobbling

(49)
up companies in diverse industries in the past; and this past practice, together with the general trend in the economy toward increasing concentration, indicates that ITT Quill continue to follow the same course in the future. As ITT acquires more and more companies, the opportunities for reciprocal dealing brought about by the acquisition of Grinnell, while perhaps somewhat less than substantial at present, may intensify. If this were the theory, it would at least be understandable. But (a), the trend adds little, if anything, to the force of this argument, and (b) this is not the theory. The difficulty in considering the trend toward aggregate concentration with respect to effects within specific product markets is not so much in requiring courts to try to add apples with oranges. The fundamental problem is that we have given them no reason to even try to perform that task.

Perhaps this is why no satisfactory basis has been offered for explaining just how the trend toward concentration should be combined with other factors to allow a court to form an overall judgment about the case. (Of course, it is asserted, as indeed it must be, that the district court's failure to consider Dr. Dlueller's testimony made a difference in the outcome, p. 253.) Obviously if one cannot show why certain evidence is relevant at all, it is impossible to say how much weight a court should give to such evidence in deciding the case before it.

II

The other theory of the case is that this merger has lessened competition in the entire economy - all lines of commerce -- and that the trend toward aggregate concentration relates to this. One might ask how this could possibly help Lichen there appears to be trouble enough, in making out a case with respect to only a few lines of commerce. Actually it would be easier to show a violation of Section 7 under this theory for little more than the trend
plus the size of the merging firms would have to be proved.

As noted earlier, the Court has held that a tendency toward increasing concentration in a product market is highly relevant. The reason is that, in the Court's view, an industry that tends toward oligopoly becomes less competitive. While a particular merger, as seen in isolation, may seem to push the industry toward oligopoly, it may be that other new firms have been entering so that the overall movement is in the opposite direction. Also, the concept of oligopoly itself necessitates looking at more than one firm; the actions of other firms in regard to their share of the market must therefore be considered. Thus, the trend toward concentration in the market is highly relevant.

The basic problem with using this approach with the entire economy is twofold. First, as noted above, the increase has been in aggregate concentration, not market concentration. (This is perhaps understandable in light of the fact that conglomerate mergers do not increase market concentration.) While there is substantial economic opinion that increases in market concentration do not decrease competition, there is an even more weighty line of authorities who contend that increases in aggregate concentration do not have any appreciable effect on competition. (Dr. Mueller, of course, does not agree.) Second, and more important, the trend in a product market has been treated by the Court as just one factor to be considered. But here, aside from the size of the merging firms, we have little else to offer.

Thus, if we ask the Court to assess the competitive effects of this merger on all lines of commerce, the question arises whether we can supply any meaningful guideposts. The Court has stated that "the purpose of delineating a line of commerce is to provide an adequate basis for measuring the effects of a given acquisition." United States v.
Continental Can Co., 378 U.S. 441, 67. Surely the trend plus the size of the acquired firm cannot be. Suppose Grinnell, although relatively quite large, was not a leader or even close to a leader in its product markets and suppose also that the top four firms in that market held a significant combined share. It would seem that ITT's acquisition could in fact increase competition; at the least, competition would certainly not be decreased. Yet the merger certainly added to the trend toward aggregate concentration and under the proposed theory it would violate, violation, violation, Section 7. However one views the desirability of such acquisitions as a policy matter, the fact is that there was certainly no intention to forbid them under Section 7; indeed encouraging this kind of activity may have been part of the purpose or the statute. In short, if trend and size are the only relevant factors, this would mean simply that conglomerates cannot acquire relatively large firms. I don't think there's a ghost of a chance that the Supreme Court would buy such a nonselective and indiscriminate approach.

This brings me to the question how the evidence with respect to competition in Grinnell's product markets comes into play. One thing seems certain. The fact that we have failed to show a substantial lessening of competition within those markets assuming that the district court was correct - cannot be fatal under the proposed theory. For if such a showing were required, then the theory itself would be mere surplusage. On the other hand, if, the proven effects of the merger in particular markets are intended to illustrate the general result of increased aggregate concentration, it seems quite damaging that these effects are somewhat less than substantial in the very product markets directly involved in the merger (again, assuming the district court was correct in this regard.)

There appears to be no satisfactory way out of this dilemma. Indeed, given this problem it is difficult to see why we
should even address ourselves to the anticompetitive consequences within Grinnell's product lines.

Unfortunately I must conclude that neither theory comes even close to holding water. Quite frankly, we should not attempt to take a case to the Supreme Court on such a flimsy basis.

However, it would be unwarranted to conclude from this that we have no weapons under Section 7 against conglomerate mergers. We of course still have the more traditional arguments with respect to entrenchment of a dominant firm, although these proved less than persuasive to the district court on the facts of this case. Another line of attack which at least seems more persuasive than the approach proposed here would be to argue that the acquisition of one of the top four leading firms in concentrated markets should be illegal because (a) the possibility that that firm will become further entrenched, thus making the market more rigid, and (b) even if this in itself might not be enough to show a substantial lessening of competition it should be considered as such because the acquisition of a more minor firm would have helped it to increase its share of the market, thus decreasing market concentration. Obviously the major argument against this is that we are not showing a lessening of competition, but rather the failure of the merger to be pro-competitive. Nevertheless I still believe that this line of argument is much more tenable than the theories expressed in the attached memorandum. A/

Although I thus not appeal on the basis of the theories discussed above, there are, however, two grounds on which I would recommend seeking Supreme

A/ since we did not argue this below, I should think; that we cannot now offer it to the Court.
Court review. The first is with respect to the district court's finding that Grinnell is not a "dominant" firm in its product markets. This term has never been defined by the Court and here the district court supplied no definition. The meaning of the term is important because it has been thought that if a dominant firm becomes more entrenched by the merger this will substantially lessen competition. (See pp. 29-30 of the Antitrust memorandum.) The memorandum spells out in detail the arguments against the court's finding (pp. 29-33) and these seem quite persuasive.

I recognize of course that the district court went on to hold that even if Grinnell is a dominant firm the government's proof is nevertheless inadequate. On this score I think we can mount a strong attack against the court's findings with respect to the possibility of reciprocity. Again this seems to give rise to significant questions on which the Supreme Court has not yet spoken: e.g., whether it is enough to show that the structure resulting from the merger makes reciprocal dealing likely regardless of the acquiring firm's disavowals of following this practice; and whether the possibility of reciprocal dealing must entrench a dominant firm in order to be deemed substantially anticompetitive or whether that possibility standing alone is enough. See pp. 41-42 of Antitrust's memorandum.

In my view a win on either or both of these grounds will go a long way toward halting the trend toward conglomerate mergers and will certainly 'De a significant step in the direction that Mr. McLaren has indicated the Department or Justice should move.
MEMORANDUM FOR THE SOLICITOR GENERAL

Re: United States v. International Telephone
and Telegraph Corporation (D. Conn.)

I recommend APPEAL

This is the first of the government's conglomerate merger cases that has been decided. Since the beginning of his administration as head of the Antitrust Division, Assistant Attorney General IllcLaren consistently and repeatedly has taken the position that Section 7 of the Clayton Act reaches such mergers, in a 1909 speech the Attorney General suggested a similar belief. Three other conglomerate cases are pending before the district courts. Considering all the circumstances, I really have no choice but to seek Supreme Court review of this decision which, if left standing, would be a serious adverse precedent that probably would doom our remaining cases and would also make it extremely difficult to proceed against future conglomerate mergers.

The basic problem is developing effective theories upon which to challenge Judge Timbers' decision. The latter, unfortunately, is an able job, and at every turn fife will be up against carefully drawn findings in which the Budget's credibility determinations played an important part. It is vital that our appeal not involve a wholesale frontal attack on those findings; I must avoid presenting the case so that the appellee effectively could argue that "What the Government asks, in effect, is that we try the case de novo on the record, reject nearly all of the findings of the trial court, and substitute contrary findings of our own" (United States v. YeU on Cab Co., 338 U.S. 338, 340). I ale may have to challenge some of the fine9Ln~s-the fewer the better, of course--but basicAv y our case for reversal must be that the district court applied the wrong legal standards in holding that this merger did not violate Section 7. Several theories are possible.

1. The most persuasive argument to me is that the nature of the large modern conglomerate enterprise necessarily carries with it a sufficiently serious likelihood of reciprocity that the effect of its acquisition of a major firm may be substantially to lessen competition in that firm's industry within the meaning of Section 7. Federal Trade Commission v. Consolidated
Foods Corp., 380 U.S. 592, seemingly announced the rule that the acquisition "of a company that commands a substantial share of the market" (as Grinnell does here) violates Section 7 if it creates the "probability of reciprocal buying" (p. 600). The Court recognized that the "mere possibility" of the
4B. DANIEL FRIEDMAN MEMORANDUM, MARCH 15 1971

It prohibited restraint is not enough'' (p. 598) and it relied heavily on the Commission's finding, solidly supported by clear proof, that the merger there created a real likelihood of reciprocal buying.

In the present ease, on the other hand, the district court found expressly to the contrary. It ruled mimeograph, opinion 47-48) that the substantial credible evidence demonstrates that reciprocity and reciprocity effect is not likely to occur, even if the merger were to create the opportunity for reciprocal dealing particularly in view of ITT's anti-reciprocity policy, implemented by the withholding of purchasing; and sales data and the profit center organization Or I'1""' and that "the government has not sustained its burden of establishing either that the merger:...er ill create an oppo tunity for reciprocal dealing through a market structure conducive to such dealing, or that reciprocal dealing in fact is likely to occur even if the merger were to create an opportunity for it." It reached these conclusions on the basis of a comprehensive and careful analysis of the evidence, and its findings will be extremely difficult to overturn. Our best chance will be to argue that the findings rest upon an erroneous concept of what kind of showing the government must make to prove the "probability of reciprocal buying," and that the court has imposed too strict a standard upon us. The problem, of course, is that the proof we urge as sufficient may strike the Supreme Court as showing only a mere possibility, and not a provability, that the merger will substantially lessen competition. Although there is some support for our view in the recent White Consolidated decision (N.D., Ohio, February 24, 1971) with its acceptance of the theory that a merger leading to "reciprocity effect" may involve a significant change in market structure that decision was on an application for a preliminary injunction, and the court did not have before it the detailed record of the present case.

2. Antitrust also proposes that we stress the advantages that would accrue to Grinnell as a result of IT&T's ownership of Hartford Fire insurance. The use of automatic sprinkler systems reduces fire insurance premiums; insurance brokers will point this fact out to their customers; and Hartford's brokers, aho presumably are aware that Hartford is a member of the same corporate family as Grinnell, are hardly likely to be insensitive to the desirability of encouraging purchases from the latter. Moreover, insurance brokers apparently are an excellent source of business leads for sprinkler installation firms, and IT&T's ownership of both Hartford and Grinnell will give the latter an entree not available to others in the business.

The district court rejected this theory because of findings which, in its view, eliminated the factual basis therefor. Here, too, we will have a hard time overturning the findings. More importantly, this theory is less attractive than the reciprocity approach for two reasons: (1) If we won on this ground, it would have no impact beyond this case and would not furnish an effective tool for challenging other conglomerate mergers. (2') It seem_ somewhat anomalous to be attacking the Grinnell acquisition because
of the allegedly harmful effects that flow from IT's ownership) of Hartford, when in another case we are simultaneously challenging IT's acquisition of that company.

3. Antitrust stresses the cumulative effects of reciprocity, the fire insurance company interlock and various other alleged competitive advantages of the merger for Grinnell, from which it concludes that the merger is likely to entrench Grinnell's dominant position in the automatic sprinkler- business. It contends that such entrenchment condemns the merger under the rationale of Federal Trade Commission v. Procter & Gamble Co., 386 U.S. 568. The findings of the district court, however, seriously undercut this theory. In Procter & Gamble arc had the advantage of Commission findings that established the factual foundation for the entrenchment theory, and it was not difficult for the Supreme Court to accept those findings and then to conclude that they supported the agency's conclusion of probable anticompetitive effect. In the present case, on the other hand, the district court's findings lead to the opposite conclusion. Particularly in dealing with the entrenchment theory, I think that our argument seems particularly vulnerable to the charge that we have shown only the possibility, but not the probability that the merger will cause competitive injury.

The district court's reliance upon its conclusion that Grinnell is not the dominant company in its industry may be vulnerable. In the first place, Grinnell is the largest firm, with 20-24 percent of the market, and if it is not the dominant firm (although I think it is), it certainly is a dominant one, and that should be enough. In any event, as long as the acquired firm is important and significant in the market, the entrenchment of its position due to a merger should suffice to condemn. In the merger under Section 7, whether or not it is considered dominant. But even if the district court is wrong in its dominance ruling, we still have to overcome the court's further finding that in any event the merger would not entrench Grinnell in the sprinkler market, and that is where our real problem on this branch of the case will be.

4. Finally, there is the theory that this merger is invalid because it furthers a trend toward economic concentration in the economy as a whole.

(a). The first facet of this theory is that amended Section 7 was intended to prohibit any merger that produces a significant increase in such concentration. This argument which I understand Antitrust does not now propose to make--relies on the legislative history of the 1970 amendments: It's to Section 7, in which Congress frequently indicated its concern over the increase of concentration in American industry. The
difficulty is that the method Congress chose to deal with the problem was to strengthen the prohibitions of Section 7, but not to change its basic focus. Congress apparently did not abandon the traditional approach to mergers which emphasized the impact of the acquisition upon competition in the particular geographic and product markets involved; it merely provided a more flexible definition of those markets, in order to strike at the general trend toward
concentration by prohibiting all mergers that have the prescribed anticompetitive effect "in any line of commerce in any section of the country."

Antitrust suggests (Memo. p. 10) that since in United States v. Pabst Brewing Co., 384 U.S. 546, the Court held that the government may establish a violation of Section 7 of the Clayton Act by introducing evidence of a merger competition may be substantially lessened throughout the country as a result of a merger competition without focusing on any particular product. In Pabst, however, the district court had recognized that the continental United States was a relevant market; and we introduced evidence showing a significant trend toward increases in the level of concentration in the beer business on a national basis, which the Pabst-Blatz merger significantly furthered. It is quite another matter, however, to conclude that because there has been a general increase in concentration in the economy as a whole, a merger of two large firms which increases that concentration -- although necessarily only slightly--produces the anticompetitive effects that Section 7 condemns. This theory leads to the conclusion that any merger -- whether conglomerate or not -- violates Section 7 if the companies are large enough that their combination fairly can be said to be a significant step toward furthering concentration in the whole economy. Perhaps Congress may enact legislation taking that approach to mergers, but it is difficult to conclude that it did so in Section 7 of the Clayton Act. This theory also would require the Court to ignore its frequent statements that, in order to determine the anticompetitive effect of a merger, the relevant geographic and product markets must first be ascertained.

(b). A second aspect of the aggregate concentration theory is the one Antitrust seemingly now urges: that because there has been an increase in concentration which in recent years has been mainly the result of conglomerate mergers, a lesser degree of proof of traditional antitrust criteria should suffice to establish illegality in conglomerate merger cases. Under this analysis, Antitrust argues that the evidence it cites to show the entrenchment of Grinnell, although perhaps not sufficient to establish illegality if a nonconglomerate had been the acquirer, is enough where the acquirer is a large conglomerate. I do not understand the basis of this analysis. The anticompetitive consequences that stem from IT&T's status as a conglomerate exist because of the widespread nature of IT&T's operations and the relationship between those operations and Grinnell's business. This relationship would be the same if IT&T were the only conglomerate. The fact that there are many other conglomerates that also have made acquisitions that allegedly have weakened the play of free competition in many industries is not relevant to determining what the competitive effect of this merger is likely to be. It is difficult to understand why lesser proof should
suffice in a particular case merely because elsewhere in the economy similar mergers have taken place.

To recap, it is an extremely difficult case, and our chances Of winning in the Supreme Court are minimal. Nevertheless, I think we have...
no practical choice but to appeal. Our best approach is the reciprocity theory, and even that may founder on particular facts. It holds the best promise, however, and if accepted would provide a powerful tool for conglomerate acquisitions. It is impossible to evaluate the strength of our various theories with, but a detailed study of the lengthy record, when we write the brief on the merits, some of our other approaches may turn out to be stronger than they seem at present. At this stage, however, all we can really do is outline our theories, and avoid arguments that will not withstand probing analysis. We should take a bold and broad approach that minimizes challenges to the findings of and disagreements with the district court on minor aspects of its decision, and moulds the issues in terms that will avoid the appearance of seeking a trial de novo.

Daniel M. Friedman
MEMORANDUM

TO: DMF

FROM: ARR

SUBJECT: SUPPLEMENTAL MEMORANDUM FROM ANTITRUST

DATE: 3/25/71

Now that Antitrust has reiterated its strong recommendation that we appeal, we doubtless have to appeal. On that much everyone-agrees. Everyone also agrees that on appeal we should attack the court's holdings with respect to dominance and reciprocity, although I do not think that either Antitrust's confidence that the court's findings of fact will not be a substantial problem because we need only challenge the inferences drawn from those findings. And finally everyone agrees that our chance of prevailing on these arguments is mighty slim.

But unanimity ends when we get to the business about the trend toward concentrations which is discussed on page 3. Antitrust answers none of our questions and meets none of our criticism about the relevance of that trend. We are first told that the ITT-Grinnell merger will scare smaller firms into merging with other large companies. But even assuming this shows that an anticompetitive effect will result (whatever happened to the desire to encourage foothold acquisitions?), (a) if the district court was right that the ITT-Grinnell merger will not have any significant anti-competitive effects it is hard to see how we can show that the other firms will be scared into merging, and (b) what has this got to do with the trend toward concentration in the economy as a whole?

one of 11g shares
The rest of the second paragraph of page 3 is, to put it bluntly mumbo-jumbo. Now it seems the idea is that the trend is relevant only to acquisitions by large conglomerates of leading firms. Ergo there should be no concern that foothold mergers will be prevented. I am at a complete loss to understand why, if the trend is relevant at all, it vant only to the former situation. In any event, the whole point of my memorandum and yours was that Antitrust had failed to show how the trend toward concentration is relevant at all. We still do not know.

Where do we go from here? I would strongly urge that the Dean, when he authorizes appeal, limit this to the dominance and reciprocity holdings of the district court. If our case is weak on those issues, we will not even be able to put up a respectable front before the Court if we taint and obfuscate the rest of the case by attempting to work in some full-blown theory about the trend toward concentration.

Incidentally it seems quite strange for Antitrust to suggest (on page 4) that the ITT- Canteen case could be considered by the Court with this one. It is my understanding that Dr. Mueller's testimony was excluded in that case on the ground of incompetitance because of the FTC's refusal to release underlying data. The instant case has enough problems of its own without introducing that can of worms into it.

A. R. RANDOLPH Jr.
Like Ray Randolph, I don't find Antitrust's memo particularly illuminating. I agree that you should authorize appeal. But the precise scope and form of our arguments must await the jurisdictional statements; we should not attempt to foreclose making any arguments that either hold out some prospects of success or, even if they really do not present a theory upon which the Supreme Court should rule---if only to open the way for legislation.
DIRECT APPEAL AUTHORIZED.

ERWIN N. GRISWOLD
Solicitor General

I think this is a very hard case, but it is an important one and Antitrust wants to go ahead and it is in the public interest, I think, that we should learn more about what the law is in this area. ENG.

Retyped from indistinct original

(63)
March 26, 1971

Re: United States v. International Telephone and Telegraph Corporation

DIRECT APPEAL
AUTHORIZE

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ERWIN N. GRI SWOLD
Solicitor General

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5. After the President’s telephone call of April 19, 1971, to

Kleindienst ordering him to drop the Grinnell appeal, Kleindienst met, in his office, with McLaren

and the Solicitor General and requested the Solicitor General to apply for an extension.

McLaren had no objection to the application for an additional extension of time.
Senator KENNEDY. Now, at some time you had a call from either Sir. McLaren or Mr. Walsh about the 18th, that is right, April 18;?

Mr. GRISWOLD. No, I never had a call from either. I understand now that the 18th was a Sunday, so this must have been on the 19th.

Senator KENNEDY. And your secretary told you that the Deputy Attorney General wanted you down in his office?

Mr. GRISWOLD. That is right.

Senator KENNEDY. Could you tell us about that meeting?

Mr. GRISWOLD. I think I have summarized it quite completely in the statement I have already filed.

Senator KENNEDY. There was no one else there?

Mr. GRISWOLD. NO one else was there. It didn't last more than 5 minutes, perhaps less.

Senator KENNEDY. And as I understand from your memorandum—could you repeat for us what you believe to be the reasons for seeking the delay in the filing of the jurisdictional statement?

Mr. GRISWOLD. The basic reason was that the Deputy Attorney General wanted it. And I understood the underlying reason was, the letter which he had received from Mr. Walsh which requested it, which was summarized, but which letter I didn't see—I didn't ask to see, it wasn't withheld from me—it was simply, as I recall it, it was on the desk or the side, in front or beside the Deputy Attorney General as he was talking to me, and he pointed to it—but the substance was that there were some matters here which ought to receive further consideration.

Senator KENNEDY. There is nothing further that you can add about that conversation?

Mr. GRISWOLD. NO.

Senator KENNEDY. He just said that there are other matters that have been included in this letter that deserve further consideration?

Mr. GRISWOLD. No; as I understand it, it was matters relating to whether we should proceed by litigation on conglomerate mergers.

Senator KENNEDY. The materials we received from the Department show the Solicitor General's memorandum up to March 26, 1971. Can you give us any idea what, if anything, happened between March 26 and April 19?

Mr. GRISWOLD. The jurisdictional—let me start over again Senator. We had probably 30 or 40 other cases in my office moving through during that time. Once the appeal was authorized, word would be sent to the Antitrust Division, and they would be requested to make a draft of the jurisdictional statement. The jurisdictional statement would be prepared, it would come to my office, and it would be worked over in detail by one of my younger staff members, and then reviewed thoroughly and carefully by my senior staff member, and then I would come to me, and then we would go to the printer.

As I recall it, it went to the printer on Thursday or Friday before April 19, and was due back on the afternoon of April 19 in printed form.

Senator KENNEDY. Thou have supplied materials, or the Department has, a series of memoranda, the following documents—you are familiar with those items here? Are you familiar with the letter from Mr. Wilson that was sent to the committee?

Mr. GRISWOLD. I don't know what you are referring to, Senator.
Senator KENNEDY. Air. Solicitor, has there been any other occasion in the times that you have served under this or previous administrations when you have been directed by the Deputy Attorney General to seek a delay 9 days after the time expired?

Mr. GRISWOLD. If you say 9 days, the time hadn't expired, Senator, and the rule says that you are supposed to apply not less than 10 days before the time expires, but makes it perfectly plain that you can apply within that period, but you have got to show some reason. And I don't recall any case where we did it on the next to the last day.

On the other hand, it is not at all unprecedented that we do make applications within the 10-day period for one reason or another.

Senator KENNEDY. But have you made them at the direction of the Deputy Attorney General any time?

Mr. GRISWOLD. I don't like to accept your word "direction." This was at the request of the Deputy Attorney General. I cannot now name you some. I have had many conversations with the Deputy Attorney General about cases and have frequently heard people, usually other agencies of the Government, who have expressed an interest or concern, and I have delayed my action until I heard them. Ordinarily, however, that would not require any application for an extension of time, because we had enough time. I think this one is the only one that I know of within 1 day, and as far as I can recall, within a 10-day period.

Senator KENNEDY. Do you know Air. Walsh at all, Dean?

Sir. GRISWOLD. Yes, I have know Judge Walsh at least since the time he was a judge, and then as Deputy Attorney General, and since.

Senator KENNEDY. But you never had occasion to talk with him about this case?

Mr. GRISWOLD. Never whatever about this case, except on Monday afternoon of this week he called me on the telephone and asked me what I said in that statement. But he didn't in any sense complain about it, he simply wanted to know what it was so that he could respond to questions that were coming to him.

I read him, over the telephone, the paragraph relating to him and he thanked me. And I did talk with him to that extent OD Monday of this week. Otherwise I have never talked with him about this case.

Senator KENNEDY. I want to thank you for coming up here this afternoon and being so helpful.

Mr. GRISWOLD. Thank you, Senator.

Senator KENNEDY. You have certainly been very forthright and candid with us, and I want to express my own personal appreciation to you. It is nice to see you again.

Mr. GRISWOLD. Thank you, Senator.

Senator HRUSKA. Dean Griswold, the 10-day rule has been mentioned often. That rule is simply this, is it not, that if there is any request for a postponement of a filing or to meet a deadline, the request for such postponement should be made at least 10 days prior to the date that is sought for extension?

Mr. GRISWOLD. That is right, Senator.

Senator HRUSKA So that is the general rule. How ever, the Supreme Court does say, if it is within those 10 days, for good reason, we will still allow the postponement.
Solicitor General and his staff had some reluctance about the appeal, anyway.

This was a request merely for an extension of time. That (did not affect the ultimate disposition of the case because it would not have been argued before that term, and as I think you know, the appeal was perfected(1 subsequently, and McLaren said I see no harm in it, and I then called the Solicitor and he came in.

Senator KENNEDY. You tell us when you read the letter? Did you read Mr. Walsh’s letter?

Ali. KLEINDIENST. Well[1]! I think I read the letter comprehensively and thoroughly for the first time during these hearings.

Senator KENNEDY. So, at the time that you made your decision, it was really based on the representations that were made by Air. McLaren as to what the substance of the letter was?

Air. KLEINDIENST. Right, and also his characterization and representation as with respect to what the issue was in the memorandum of law, and the letter.

Senator KENNEDY. Well, now, having read the letter in connection with these hearings here, what do you think was meant by Sir. Walsh when he said, “It is our understanding that the Secretary of the Treasury v, the Secretary of Commerce, and the Chairman of the President’s Council of Economic Advisers all have some views with respect to the question under consideration.”?

Mr. KLEINDIENST. Well, I do not like to speculate as to what Mr. Walsh thought.

Senator KENNEDY. Well, you do not—did you have any reason to believe that they had views?

Mr. KLEINDIENST. No. I did not know

Senator KENNEDY. Were you at any time in contact with the Secretary of the Treasury, or the Secretary of Commerce, or the Chairman of the President’s Council of Economic Advisers about this case?

Mr. KLEINDIENST. No. So.

Senator KENNEDY. About antitrust policy generally?

Mr. KLEINDIENST. No. Well, other than—I never had a conference with Secretary Stans, or the Secretary of the Treasury, about the antitrust policy. I know that just based upon the general statements, public and otherwise, that Secretary Stans had some very sharp differences with the antitrust policy of the Department of Justice, as enunciated by the Attorney General, and effectuated by the Assistant Attorney General McLaren, and there were a lot of other people who sharply disagreed with Judge McLaren’s policy, as enunciated by the Attorney General, and supported by the Attorney General, myself, and the President of the United States.

I might have the order wrong.

Air. McLaren. May I add a word, Senator Kennedy?

Senator KENNEDY. Yes.

Mr. McLaren. I think it is fair to say that at the time we did have underway an overall antitrust kind of review going on; and I know that there were meetings going on at that time.

There was an interagency thing. I was one of the principals on it. I do not know whether or not there was any connection between this letter of Walsh’s, as to which Mr. Klein(dienst is perfectly right, I (disagree.
For example, he said in there, as I recall, that our policy was that perfectly normal legitimate mergers that had nothing to do with effects on competition and I strenuously argue, with that.

Other parts of his legal pitch I very much disagree with. But, I— it subsequently developed that there M as no connection between what he was saying and the— an (I no connection ever developed between what he was saying and the antitrust review we then had underway—.

Senator KENNEDY-. Well, Mr. McLaren, after reading the letter, particularly the I part which—

It is our understanding that the Secretary of the Treasury, the Secretary of Commerce, and the Chairman of the President's Council of Economic Advisers all have some views with respect to the question under consideration.

do you remember mentioning that to Mr. Iselndienst rollen vou gave it; im your summation of the letter?

Alr. McLAREX-. I elo not s(pecifically remember it, Senator, but tille agencie all had rel(resentatives on this group thas t~vas rerie\-inCr antitrust) policy overall.

Senator ISENEDY. Knd actually, some of those—rVIlsn't tllat tlllat yprimarily the reason for the extension, as stnted in the Solicitor Gelleral's rrepresentation?

Alr. AICLANTI REx. Tllat is tllle reason I did not oppose it. If ~ -- zrere Ivere talkin( alsort a strai~~-\-l( legal l)rol)osition, as to ryhether or not tllt tllat s Coul(l tllat exte(ision, I ^~--oilIkl—I ~ --\)ould ont llas-e a~~--reell ^ sitil that. But, for a kistl(l of a l)olie( re~~--ierv tllin(, I X\(2S intereste(l to tllat lll( rhat develop(\)e(\). l\!:lv information at tllat tllle ~ --\)as that he ~ ~R-as—or lllV feelinC at th2l tllle ~ ~V-as that lle -- ; as ~ ~V-ron--.

I tilought that Dr. StCracl(,en, for exampl(, was very muell in favor of our antirtrlst l)olie(, an(I lhere neve( heald, atltlloof(!! ~ --\)e ha(l differelcles on tllle sixecifics, I llever heard that Secretara- Stans or tllle Treasulr l\(eol)il\(e ~ ~N-ere a~~--saillsl it, an(I lI subse(luellel(!---- tulllle( out to be rii --<ht. ~ --e lla(l the extension, but ~ ~e-e rvent aheaul and file(l the brief.

Senator ISEXEDY. \(21S tllS tllle first tllle tlline Vou t\10111"11t. tllf2l tllle Secretary of Treauil(, and of Commerce, an(I tllle Counleil of Econonric Advisers, o--ou(t(l lms-c ~ ~~-exvs on tllis learticul2l case?

Alr. AICLANEN. \(X--eI1, Me h2td l\(eel\( \vorkino Olll this l)roject fOI' SOtile lencsttl( of tllre.

Senator ISEXEDY (.SENATOCR \(VENEXEI) Y lA--eI1, so tllat di(l not come as mlvtlll" velsnvel to z-out, did'l it ~

Alr. AICLITREX. 'trlle ne~~E- tllinC ^X-as silnlizlv, .9enator, Ak. Walsll's

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Senator IXEXED5-. Can vou tell us ~ ~Vllat vou foun(l lzaricellkttr!(r l)ersuasive about tllle W--aIsI; letter tllat M'OIlIi(l lhave been tllle lyasis for

\(Mr. AICL-REEx. I sasr nvain, I stronCl(~~- objected an(I xvus no(l) I)el

sunde(l as to the leaffl aspects of it.

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-- Senator I:EXXYED. So, \(e lleave a Sittl):ltof Illere ~--\-lle--re Sllr. AIL.Ire it
Senator IIEXNEDY. Could you tell us the conversation on the 19th? NV6lat did that involve? f

Mr. ITLEINDIENST. Well, it took about, I suppose it wouldn’t take a few seconds unless I would have talked to him about the new legislation. Let’s assume I did not talk; there’s nothing about a judicial letter. It would have just been a matter of a few seconds. Scn:ltol

Senator IIEXNEDY. And this conversation with Mr. Walsh was about—what vou feel you had to call him back?

Mr. ITLEINDIENST. I think as a courtesy. I don’t know if I did or not. Senator IIEXNEDY. You didn’t mention his name during the course.

Mr. ITLEINDIENST. No, sir. I haven’t met personally Mr. Rohatyn at that time. At about that time, I suppose I would have called me to come in and talk about that matter.

Senator IIEXNEDY. When was the final time for the

Mr. ITLEINDIENST. I believe the 90th was the last day. I don’t know if I did or not. Senator Kennedys: I because the call you described indicated that he was going to deliver the letter and the memorandum to me by a voitna man in my office. The time was rather short, as I think you can tell. The 16th—the 90th was the last day. I don’t know if I did or not. I know when the yollng man came to my office and handed me the materials, I did not even read them. I called Mr. Comegys or I called for Mr. ScLaren and he wasn’t there and Mr. Comegys came up and I handed the materials to the yollng man in his presence.

Senator ISENNEDY. Aheen the final time for the

Mr. ITLEINDIENST. I believe the 90th was the last day.

Senator TTTENEDY. So this was on the 16th and

Mr. ITLEINDIENST. NO.

Senator TTTENEDY. NO. sir.

Mr. ITLEINDIENST. I believe the 90th was the last day.

Senator TTTENEDY. So this was on the 16th and
SerIntOr ITEXSEDY. LM1iCh (iCInXt?
:\[\[r. IQLEIXDIENST. ANell, these; I mean that there ~~~\-asn't any
tarticlllar sianificance to thesc matters other than just routine

(970)
concissions, Senator.

Senator JtEN'l's-EDY. What conclusions do t7OU dra-s~ from ttlem, just from that langueage?

Sr. ITLEIXDIENST. \-0t11 mean if I accept this lallguagc for xv1-[ ]-t apl)al enlt lv it says?

Senatoi KENNEDY. ]-OU evere acetopt.illy lalltuaCc in the letter.

Mr. ITLEINDIENST. I dake it a= N-l(as I got it.

Senator IVEN'XEDY. Oh, you didn't reacl this letter, either?

Sr. ITLEINDIENST. I didn't read it when I got it.

Senator JtENXEDY. Oh, you didn't read this letter, either.

Sr. ITLEINDIENST. No, sir, Mr. Grissvold and your meetin- EVith Sr. Grissvold, --what did YOII---ltle ntahl tihat ?Dr. Grisvvoid look in behalf of the Government, rvits thst on his initiat-

\[38x279]e?\]

Thell on :Monday afternoon, A1r. INleL:llen contacted me and sai(l I have gone o--er this request of JUidere Walsh an(l I would like to tell; to ATOII about it. He canze tlp. \*Ve discussed it.

- Selator KENNEDY. I don't recawll, Sellator. I he l). it

\[346x474]i 1

\[82x486]th:~ that I di(l an(l it is so said in his statemellt. I don't think it

\[52x486]o

But it. seems to nle illasmuch as 110 larin call l)c (lolle b-- <tivinc ttle exellision, sin(e ttle case cotlik lIoT 11C 11eard in thal. ternl of ttle tourn. hc 1xad no objec.tiof. if \ \ e r e questes(ltllle extellioll.

At Il)nt point, I called the tlector Gellernl alld lle callle dov-ll to nlv ofHice XVlfisC Judoc Alc\[1aren rvas llere all(l ~ve gsked lviin if lle evouI(l xvouI(l nsk for ttle extellision. An(l lIC sai(l tuld.t he ~voulc do ovvlel, all(l lle lrl.

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d

\[152x526]--- Sellator IVEXEDE-. -J-OU called hilll, as I uwlerst,ll(l il"
Senator KLEINDIENST. Just on this final point, just a continuation, can you help us on why, or whom you talked to in the morning, that you believed it was going to be negative and what transpired during that period of time that turned it around to be positive as Judge Walsh said?

Mr. KLEINDIENST. I think I should have talked to Judge Blearen. Senator KEXN-EDD. He would have been negative or positive?

Mr. KLEINDIENST. Yes; he would have gone negative.

Senator KEXN-EDD. He would have been negative?

Mr. KLEINDIENST. Tes, sir.

Senator KEXN-EDD. How did you talk to that made it positive?

Mr. KLEINDIENST. Well, if AlcLaren was negative and the Solicitor xwas neutral on it, how did the decision come out for the 30-day extension?

Senator KEXN-EDD. Well, if AlcLaren was negative and Judge Walsh was neutral, how did the decision come out for the 30-day extension?
6. On June 17, 1971, McLaren recommended Kleindienst that the IT'S suits be settled. Kleindienst approved the proposed settlement by writing: "Approved, 6/17/71. RGK." In affixing his approval, Kleindienst relied on the expertise of McLaren.
to the extent that ITT and its subsidiaries are able to finance foreign operations through foreign borrowings in lieu of expatriating funds or reducing the fl\D of funds from foreign subsidiaries to the United States.

- Hartford is obv iously not a major direct factor in ITT's overall favorable balance of payments posture. Hartford's impact is indirect in terms of the balance sheet strength it adds to ITT. To the extent that the divestiture of Hartford affects ITT and its subsidiaries' ability to get credit on favorable terms there would be a longer-term impact upon ITT as an earner of foreign exchange.

A final factor should be mentioned. Several hundred million dollars of ITT stock is held by foreigners. The increase or decrease in such holdings, while representing short-term investment swings, nevertheless affects the balance of payments. If ITT is a less attractive investment without Hartford, there could be some balance of payments impact from liquidation of foreign holdings.

In addition to Hartford, the Justice Department is also seeking, through court action, the divestiture by ITT of Canteen Corporation and Grinnell Corporation both acquired in 1969. In December 31, 1970, the U.S. District Court rendered a decision in favor of ITT in the Grinnell litigation, this decision is being appealed by the Justice Department. The Canteen litigation has not yet come to trial.

In 1970 Grinnell earned $18 million after taxes and Canteen earned $10 million after taxes. With Hartford the three companies accounted for 12% of consolidated revenues of ITT and 33% of consolidated net income. While it is not possible here to comment with definiteness as to the effect on ITT of divestiture of these two companies, including their value as separate companies, the effect on ITT's capitalization, etc., it is reasonable to assume that divestiture would have some impact upon the investment community's view of ITT and the predictability of its earnings. Most likely it would result in further concern as to ITT's ability to manage consistent earnings increases and such concern would probably be reflected in a diminished multiple on the common stock.

CONCLUSION

In conclusion, I think the following statements can be made:

1. Hartford and ITT as separate companies would be valued in the market place at approximately $54 per present ITT share versus $64 is for the combined company on 54171. This represents a 16% diminution in market value, or almost $1.2 billion.

2. A spinoff to ITT stockholders would appear to be the only feasible way of divesting Hartford. However, because of the div requirements of the Series N preferred, the elimination of the dividend from Hartford to ITT would probably have a meaningful impact upon the ITT parent company and its liquidity. A logical result would be a cut in the dividend on the ITT common stock.

3. The divestiture of Hartford would have a negative impact upon the ITT parent company and consolidated balance sheets. The result would be a reduction in ITT's incremental parent company debt capacity and possibly credit rating.

4. Finally, to the extent that the changes in (2) and (3) affected ITT's consolidated credit picture, there could be some indirect negative effect on ITT's balance of payments contributions.

RICHARD J. RAMSDEN

May 1, 1971, 1.

Mr. McLAREN. I might say that the man that made that report is the same man I used in analyzing the Ling-Temp-Vought situation when we began to be concerned that that company might go down too during the course of our proceedings.

After receiving this report—the report from the Treasury, as I recall, was an oral report—\---Re in the Antitrust Division gave very careful consideration to it. The alternative means of settling the three cases, consistent with antitrust objectives, but without the massive
adverse impact upon OTT and its shareholders that would attend a divestiture of Hartford.

Ultimately, Mr. Hummel—tvllo as I mentioned was the director of operations—and I, with some participation by Messrs. Comegy's, Carlson, and Mr. Joseph Widmar, the principal trial attorney on the Grinnell case, developed a proposal which was as reduced
to writing in the [form oft memorandum to Deputy Attorney General Klein/iest dated June 17, 1971.

I presented this memorandum to the Deputy Attorney General Klein at a regular scheduled briefing on June 17, 1971, and he approved. I have a copy of this memorandum with me and it is attached to 1117 prepared statement, which has been furnished to the members of the committee.

(The memorandum referred to follows:)

DEPARTMENT OF JUSTICE.


MEMORANDUM FOR THE DEPUTY ATTORNEY GENERAL

Re Proposed Procedure in ITT Merger Cases

Pr. 1 Background.—We have three anti-merger cases pending against ITT: the Grinnell case (sprinkler systems), which was tried and lost in the District Court and is now on appeal to the Supreme Court, the Canteen case (vending and food service), which was tried and is now sub judice, and the Hartford Fire Insurance Co. case, which is set for trial in September.

About six weeks ago, representatives of ITT made a confidential presentation to the Department, the gist of which was that if we are successful in obtaining a divestiture order in the ITT-Hartford Fire Insurance Co. case, this will cripple ITT financially and seriously injure its 250,000 stockholders. Essentially, this is because ITT paid a $500 million premium for the Hartford stock but took its assets in at book value in a so-called pooling of interests transaction. It cannot now sell its Hartford stock without (a) suffering a serious loss as opposed to what it paid but, at the same time (b) incurring a large capital gain tax. A “spin-off” to its own shareholders would be a—and probably the only—feasible alternative; however, a spin-off would leave ITT with the large preferred dividend commitment it made in acquiring Hartford ($50 million a year), but without the earning power which was counted on to cover that commitment. The result, we are told, would be a loss of over $1 billion in ITT common stock value, a weakened balance sheet, and reduced borrowing capacity.

We have had a study made by financial experts and they substantially confirm ITT’s claims as to the effects of a divestiture order. Such being the case I gather that we must also anticipate that the impact upon ITT of a divestiture order would have a ripple effect in the stock market and in the economy.

Under the circumstances, I think we are compelled to weigh the need for a divestiture order in this case—including its deterrent effect as well as the elimination of anticompetitive effects to be expected from a divestiture order—against the damage which divestiture would occasion. I propose the following terms of settlement of the ITT cases:

1. Grinnell—divestiture. This would require a joint motion in the Supreme Court to refer the case back to the District Court for entry of consent order—which was the procedure the Department followed in National Steel Corporation (No. 31, Oct. Term, 1966).

2. Canteen—divestiture by consent order.

(75)
3. Hnrt, ford—hijlllinctlill aolilig lines of LTIZ, including particularah
(a) Prohibitiiol for 10 years of (i) aqllisitation of ata corpor:utioll --ith assets of
Sl(100 million or more, or (ii) acquisiiion of any corporatioll xvith 0Es. Is
- of Sl(1 million IOI) million ritho--st approval of Ule Departiritlilt, or per-
mission of the court; aud (iii) for a period of fin additional ifive years, pro-
hibition of any acqllisitioll of an-- corpor.--tion --s-th atset* over S10 flillion
except on a sholing that it s-ill not teld to lessen competitioll or create A
fillowolotly.
(b) Prohibitioll again1st elllagitzzg in systematic reciprocity.
(c) Dvectit ure of Az-Is and Les it t.
Finally, in awll three cases, I think me should have the right to approxe ITT's press
releases. We want no great protestatiolls of inllocence, go--erlllent abuse, etc., etc.
I recommend that you appro--e a program siloling the lines of the foregoing-
allowing, of course, for some leeway ill legotiatillg.

Approved, 6/17/71.
R. G. E.

SIR. 51cLAREN. This plan contenu]lated dis-estiture of Grinnell and
Canteen! divestiture of Avis an(l Levitt; l)rolibilitt for 10 years of
acquisitions of an+,- corporation nith assets of $100 nlillion or more, or
acquisitions of any corporation --s-th assets of more than $10 million excel)t
on a sho--X-ing that it sould not tend to lessen comlletition! and so forth—
that xyoukl be a shorving bx ITT an(l \soulf be their burtlen of T>roof;
y)prohibition against engfl--ring in sl-sternatie recil)rocitv; anel certain other
prosisions alony the lines of our Lrt\ decree.

At the conclusion of m+-- meetine rwith Nlr. Elein(lienst, I tele--)hone(l ! \n\r. Felix Rohatz-n fron; Alr. Irleindienst's office—while lle ~s-as J)resent—
and outlined mv pro)osal to him. This (~sas at npI)roxinlatelv 10 o'clock
in the nwormill(r on June 17. Slr. Rohatx7n aslie(l celtauq questions about
joints in the T)rolisolal and repeated his un(1e1slall(4inclg of ttle prosolal as—
it alg]eared to me—he took notes on it. 1 tol(l Slr. Rohat+--n that if the
l)ropocal ~X-ns acceptable to ITT as a bavis for a settlement, ll-, sholl(l
I have ITT's trial counsel get in touch XVIII 111C. I ma(le clear tflat if ITT ~ras
un-stillig to accel) the basic outline of the ploposal, ~as-s neCotiation only-
as to details, I did not care to discuss the matter fur(ler.

On the cxrenill? of Julle 17, I inforllfled illessrs. Hummel, Alallllfflie and
Carlson of the Anlitrust Diirision that our proposal hatl heen commuclic,l,t( l
to ITT's re)resentative. I did this because Alr. Carl on an(l Alr. \ n elmar +
X-ere (~oilege to tal:e the delsions of some of 11 f-b lOI) exeuteis in
Ne\N\ olle on Jul)e IS, mld I felt that the-- should he fully inforlll(le(l as to
the stntus of the case.

Therefter 3\r. Henrv Sailer. Of tle Col-in(rtoll & Burlincr laxs- firllll.
ivho xv.as tros colll]cel for ITT at the Gr,ntteiil and Hartfor(lcases, as i
said before, tele]holle(l me for an al])ointment. Jud~~in-- frotl the
tele]holle recor(l maintained by mv secretarv, t]lis al)parenta- ~:-as ou June
IS; s--e mflde all al)oll)ntment for a l;relierminar) discl;ssel(110) on Julle 2J!. At
the meeti(l)-- on June 94, LIE Saller S1IO),\ l-e(l ba- lIIS (Onl)nellllts that he i2l(l
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litle to Alr. Rollat--~ls, an(l he inaluisse-l as to variotls sl--(ifi(s of ollr
luolsosal. For exam:l,le. he he ~u--rested(l it ~s-owall(l be apl)rololuate to a(lxise
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neactiations. Al*o. S-villl resl-ect to (:anteen, he isuiberied if we ~von(l be ~-illulg to let ITT l'ep after-ala(sluelet prol)ertie>, that is, tllore

- holltrht or constructed after tlle nlilia slc(UIisOII, +)th resl)cct to Grirlllell, lle ar~ue.1 thl tft shollld be permitted to divest only part of Grillllell, that is, the fire protection business! ~z-(h h;k(l been discilsseel durilrg the trill of the tnsr. \Nith respett to l.evitt, he rise(l(l the after-acqitiretl l)roperty ]oint and also ilzeluired nboout retainina overse;ls ~s~roil)erties. He plote(t(l that tlre xvas no Coo. antitrust, reasoll ~ hv I L T SllOll4ld be forced to divest Xvis. Tllell le.tske about the neaotiatibilitv of our ])rovisioll on no ae(luisitions over 810 million, vm(1 so forth. I told hillel \z-e \voultl negotiate on details, but that ttle basic plOViSiOIls of the prol)osal ~s-eve {irlll.

\0-itllill the next IP (I;~vs ~ve a>neil intellalllv th.lt C?arlsson an(l lxHnldle the ne~~otiatiollsls and by Julle 30 Carlson an(l l ~idmar had so atltvised Sailer, a ld h;l(l ha(l s disUijf(60II ~S-i-th ]lBI Coll ec(t illll' :-ro edure.

(} in July 1, I nlet \vith Siailer, C7arlson und \0-ldllltr nn(l after a very short seszion, prillcil)ally tovering the I)oints I hatl discissse(l ~Vitl Sailer on June '4. I left (Carlson and \1-idmar •X-th S;ailer to continue the neaotiations.

SieM>otiatiollsls l)etss~een Carlson and \0-ir(lmar on the one hand ancl Sailer on the other Ilalld continuel threreCrh the molth of July—a p.lr of ~s-hich tinte I think from ahollt Julv 10 to ,Jtlv 90, I was in l.oll(lon at the ~B.-t meetin<~~--an(l in the laft fesv days of the month, Carlson and RIfi(lmar adoised me that the matter rvas about wollll(l up an(l l tlat it woul(l be hell)ful if I xvoltlld sit in one or two sessions to coxer some final points. On Julv 30, I a~reed that we woul(l accept direstiture of the Fire Protection Diexion of Grinnell, rather than insistin~~ Oll full divestitlle. L dl(i so because NLessrs. (:arlson and \1-idmar, xVitl Alr. HulHncll concurrilll(78 felt that sepalatiillCr the Fire Protection Division from the rest of Grillnell evould be a rocom)etitive stel), puttinCr the rejt of the ineluisty on a more even com-)etitive basis xvith ()rinelli, which incidentally xvas the leadel in that particular industri(7, ~ ~ti(-h h acl had a com()etitive n(lvant(7--e bs- rea3011 of its vertical inte-.ration ancl its brood contacts in the constrution business.

There ~vere certain other minor points still in dissplte. and our meetjna adjourned on the evening of Julv 30, which was a lrridav, for ALr. Sailer to consult ~vith 11S Client. \Ve reconvenetl our meetinv on Saturday morning, Julv 31, an(l iron(l out the final points. Alr. Sailer then contactc(l ITT—and I believe they polled the directors for final ap)rov(al of the proposed settlement by telel-hone durin~ the dav. I ttlel prel)are(l a press release, for immediate distribution, anounting thl;lt we llad rea(l]et(l an agreement in principle on thecrms of consent decrees which it aplanove(i by the courts, ~-ould terminate the three cases. This xvas done in or(icr to head olf any further newspal)er speculatios and any possible insider tradillg rvhen the markets real-ened on the follo~rin(g Aton(lav.

In conclusion, I want to emphasize that the decision to enter into settlement negotiations wVih ITT was mv own personal decision; I lwas not pressllred to reach- this decision. Furthermore, the plall of settlement was devised, and the final terms were negotiated, by rne ~vith the a(lvice of other members of the Antitrust Disision, and by no one else.
Mr. KLEINDIENST. NO; I might have talked to Governor Nunn two or three times since I have been in the Government. I know I had OIC conversation in which he was interested in being a judge. And I think that is the most lengthy conversation I even had with him.

The CHAIRMAN.~N-. Your time is up.

Senator COOK. Mr. KLEINDIENST, just a couple of very short questions. There was, as a matter of fact, a great divergence of opinion within the administration relative to, not yourself but Mr. McLaren's policy in the Antitrust Division; was there not?
• Mr. KLEINDIENST. Not only in the administration but in tile country in the legal profession

Senator COOK;. As a matter of fact, the Stigler report, that had been filed, stated that, and I quote: "vigorous action on the basis of our present knowledge of conglomerates is indefensible." And the report went on to say and I quote again from the report which was made to the President of the united States:

we strongly recommend that the Department decline to undertake a program of action against conglomerate mergers and conglomerate enterprises pending a conference to gather information and opinion on the economic effects of the conglomerate phenomenon.

So there was a divergence of opinion, was there not, and, as a matter of fact, as the result of Mr. McLaren's position as head of the Antitrust Division, the largest corporate divestiture that ever took place in the history of the United States occurred as a result of his actions; did it not?

Mr. KLEINDIENST. Yes; not only that, but an agreement against further acquisitions.

Senator COOK. For a period of 10 years.

Mr. KLEIDIENST. Right.

Senator Coon. And as a matter of fact, at the time that this debate was going on and his actions were going on, the former I end, under the former President, of the Antitrust Division took the position that the position of this administration in its antitrust policies was wrong?'

Mr. KLEINDIENST. That is correct.

Senator COOK. Did he not?

Mr. KLEINDIENST. Dr. Turner.

Senator COOK: Thank you Air. Chairman.

The CHAIRMAN. Birch]1.

Senator BAIE. Mr. Kleindienst, the last question I asked before deciding there was nothing to begained in pursuing other questions was something to the effect that were you aware of the Ramsden report and you—I mean, were you aware of its specific(s—ant you said, as I recall, you were not aware of any of the specifics at all?

Mr. KL EINDIENST. Never read(l it . r Senator BAYH. And, as I recall the hearing, at least part of the I answer to the last question was that your reliance on Judge McLaren recommended this solution
Senator B.-Y|r. Yes,sir
Mr KLEINDIENST. That is the only reason why I went along with it. He recommended it.

- Senator B. BAR H. Was that recommendation and **the reason for** it th?l] compelled you to accept his judgement contained primarily in the

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memorandum that we have all read? It is on page 111 of the record, 'Ale Memorandum for the Deputy Attorney General Re Proposed Procedure in ITT Merger Cases.' If you are not familiar with the Rams(len memo, are you familiar with that memo?

Mr. KLEINDIENST. I (10 not have any present recollection of having read it. Sir. McLaren would send me a memorandum and then went what we would usually do is discuss it, M which would save me a lot of time and(lv also gave him an opportunity to present it, I think a little bit more clearly. I might read it Senator Bayh I do not know

Senator BAYH. This memorandum (if I might try to ask you to) refresh your memory, which was (dated) June 17, 1971, and which lists

Mr. KLEINDIENST. Right.

Senator BAYH. Then I understand that after this ITT was called.

Mr. KLEINDIENST. It was, it does. Now I know the know you are talking about. Whether I read it or not in its entirety is doubtful to me. Air. McLaren would have discussed it with me and I would have approved it in writing just so it would show it was approved in his file. After that we called Sk. Rohatyn and Mr. McLaren outlined the broad outlines of the proposed settlement to him.

Senator BOYS. When a man like Judge McLaren, your assistant, makes recommendations like that, of this consequence, is it your judgement to take the memorandum and its discussion at face value or do you try to substantiate it with, from other sources?

Air. KLEINDIENST. No, I have never tried to substantiate a recommendation or opinion of Judge McLaren from any other source. I have read complaints or memoranda and have raised questions about it, and then have had a conference, and had it explained to me, and I guess, Senator bayh, the antitrust law is probably the most specialized form of the art that we have. Consequently, you have to make a judgment whether you have a competent lawyer in the field, and I do not think anybody challenges McLaren on that; and then, second, whether he is a man of integrity, so that when he tells you something you know- what his reason for telling you something is. I think it would have been presumptuous for me to go out and hire a consultant to check on McLaren in a field of law about which I then knew very little and about which I still know very little, although I have learned a little bit more about it.

Senator BAYH. I must say I have the greatest sympathy with you in your description of the antitrust law being complicated. I would find it much more so than Lou. And I would be inclined, I suppose, to rely on a man your Judge McLaren's expertise. I keep coming back to this inconsistency and perhaps you can help us out on this. If we are to accept your reasoning, rationale, which I am prepared to do, relative to the ITT case, why is it again you did not go along with Mr. McLaren's advice on the Warner-Lambert case?

Mr. KLEINDIENST. That is the one exception, and I guess that hopefully proves the rule. When the Warner-Lambert situation came up, as I try to recollect it again, I was out of town, I got a call from Air. Mitchell, wherever I was, on a Friday afternoon or a Saturday morning, indicating that they had come up with a recommendation
Richard Kleindienst Testimony, April 27, 1972, 3rch 2732-33

In early 1971, ITT began to formulate a plan, based on economic theory, of why it was important for ITT to retain Hartford. Eventually, on April 29, 1971, ITT made an economic presentation to the Department of Justice on national economic consequences if ITT were forced to divest itself of Hartford. As a result of that presentation, in combination with the Ransdem Report from his own independent financial expert, McLaren proposed a settlement offer enabling ITT to retain Hartford. *~~ ~*

7a Memorandum of John W. Poole, Department of Justice

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to files dated August 7, 1970, , 82

7b Memorandum of August 18, 1971, authored by

Richard W. McLaren................

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7c Affidavit of Harold S. Geneen, dated June 12, 1972, given

in connection with a Securities and Exchange matter..............................88

7d Testimony of Richard G. Kleindienst 2 KCH 129 - 95


7f Testimony of Richard W. McLaren, 2 KCH 165,.. - ...

7g Testimony of Richard G. Kleindienst, 3 KCH 1736.- - (81)

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MEMORANDUM

Io Files

Ace Of John Poole, Jr., Assistant Chief
General Litigation Section

United States International Telephone
and Telegraph Corporation (Canteen):
Conference with Defendant's Counsel

On August 6, 1970, Hammond Chaffetz and William Jentes of
the Kirkland Ellis firm called on Mr. McLaren in Washington to
discuss possible settlement or disposition of the captioned l
case, Gerald Connell and I were also present. - - i

Mr. Chaffetz contended that the Government's evidence elicit
so far is so weak that the case ought to be dropped. He and Mr. Jentes
adverted among other things to what they described as I the
extremely small number of "reciprocity" incidents revealed i in the
recent depositions of the Government's proposed witnesses: Fishman,
Walsh and Manthy. They mentioned also that of all the possible
incidents which have cropped up in Canteen documents in
only 10% of these instances has Canteen gotten business. Overall
Mr. Jentes said that the incidents of reciprocity which the
Government intends to prove are insignificant given the size of
this industry, - - - - -

Mr. Chaffetz also admitted that at one time
Canteen had practiced reciprocity as "everyone" had practiced
reciprocity because it was understood that it was legal if
coercion was not used. He said that this was no longer the
case and particularly in view of ITT's management it was
unrealistic to expect Canteen to engage in reciprocity.

Mr. Chaffetz also asserted that ITT would only improve
Canteen's operations and this would redound to the benefit of
the industry as a
whole. (Mr. Jentles hastened to add that the management improvements ITT would make were not of a sort which would be available only to large firms.)
Mr. McLaren stated his intention to pursue the case, pointing out that the reciprocity issue was only half the case; there was also a major issue of the trend toward concentration through mergers, a trend in which ITT has been a leader and a prime contributor and one which runs afoul of the concerns voiced in the legislative history of the CollerKefauver Act.

Mr. Chaffetz said that although he had not spoken to Mr. Geneen of ITT on the subject he thought that ITT might be willing to consider an injunction of some years duration against further acquisitions as a means of settling the pending antitrust cases. He also stated that if the facts warranted it, ITT would be willing to settle the Canteen case on the entry of an order along the lines of that entered against U.S. Steel. Mr. McLaren indicated it he felt that divestiture was the proper remedy here.

Mr. Chaffetz asked whether this was rewarded as a "testiest case" and Mr McLaren challenged that characterization, pointing out that this was one of a group of cases where the grounds for Government suit had been clearly described to the proposed defendant, before suit was brought.
August 18, 1971

MEMORANDUM CONCERNING NEGOTIATIONS FOR SETTLEMENT OF ITT CASES

Three cases were filed with respect to ITT acquisitions: Canteen Corporation, Grinnell Company and Hartford Insurance Company, all in 1969. At various times in 1970, overtures were made by counsel to settle these cases and in every case counsel was advised that the cases could be settled but a sine qua non was divestiture of at least Hartford and Grinnell.

E In November--of 1970, Ephraim Jacobs of the law firm Hollabaugh & Jacobs of Washington, representing ITT, visited me and proposed that ITT would be willing to divest Canteen, the principal parts of Grinnell and ITT-Levitt as well as certain other subsidiaries of ITT which might be agreed upon, provided that they could retain Hartford. I said that this was out of the question. Jacobs later wrote me a letter substantial confirming the discussion we had.

At some time in March, we were advised by ITT representatives that ultimate divestiture of Hartford would be almost a fatal blow to ITT and that they would like to make a presentation to establish this fact and to establish a basis for negotiations for settlement without a Hartford divestiture. Arrangements were made and a meeting was held in this office attended by the following representatives of ITT:

Howard J. Aibel, Senior Vice President and General Counsel

Felix Rohatyn, Director of ITT, member of Lazard Frères

Henry P. Sailer, Covington & Burling

and as special consultants:

Dr. Raymond Saulnier, Columbia University

Willis J. Winn, Wharton School, University of Pennsylvania

* On April 29, 1971
Representing the government were Deputy Attorney General Richard KLEINDENST, Messrs. Comegys, Hummel, Mahaffie Carlson and myself of the Antitrust Division, and Bruce MacLaury and Timothy Green of the Treasury Department.

The substance of the ITT presentation was that a Hartford divestiture would cost the ITT stockholders approximately 51 billion. The reasons for this are varied but include the fact that ITT paid a $500 million premium for Hartford; it would have to pay a very large capital gain tax on a sale of its Hartford stock; and if it spun off the Hartford stock to its stockholders, it would be left with an unmanageable issue of preferred stock.

Following the meeting, we requested the Treasury representatives and an outside consultant to evaluate the ITT claims.

Shortly after the middle of Play, these experts reported that there was substantial support for the arguments made by ITT and that a Hartford divestiture would indeed be very difficult for ITT and, because of changes in the law and in accounting practice, such a divestiture would probably entail a very large loss to ITT stockholders.

Following this report, there was consideration in this office of alternative means of settling the case consistent with antitrust objectives, and Mr. Hummel and I, with some participation by Messrs. Comegys, Carlson and Widmar, developed a proposal.

This culminated in a memorandum which I prepared for the Deputy Attorney General dated June 17, 1971. I presented this Widmar to the Deputy personally at approximately 8:30 in the morning on June 17, and after considerable discussion, he approved our plan of settlement.
This plan contemplated divestiture of Grinnell and Canteen; divestiture of Avis and Levitt; prohibition for 10 years of acquisitions of any corporation with assets of $100 million or more, or acquisition of any corporation with assets of more than $10 million except on a showing that it would not tend to lessen competition, etc.; prohibition against engaging in systematic reciprocity; and other provisions along the lines of our LTV decree.

At the conclusion of our discussion, Hr. Kleindienst and I telephoned Mr. Rohatyn at approximately 10:00 A.M. on June 17 and outlined this proposal to him. Mr. Rohatyn apparently took notes on the proposal; he asked certain questions about details of the proposal. We suggested that if this appeared to present a reasonable basis for settlement, with negotiation as to details, to have ITT's counsel get in touch with us.

On the evening of June 17th, I informed Messrs. Hummel, Mahaffie and Carlson that this offer had been communicated to ITT's representatives.

Thereafter, Henry Sailer telephoned for an appointment (apparently on June 18) and came in for a preliminary discussion on June 24. He had received a rather full and accurate account of the proposal I had made to Rohatyn and he inquired as to certain specifics of our proposal. For example, he suggested it would be appropriate to advise Judge Austin, who then had the Canteen case under consideration, that we were entering into serious settlement negotiations. With respect to Canteen, he inquired if we would be willing to let ITT keep after-acquired properties. With respect to Grinnell, he strongly urged that ITT be forced to divest only part of Grinnell, i.e., the Fire Protection business. With respect to Levitt, he raised the after-acquired property point; and also inquired about retaining overseas properties. He protested that there was no good antitrust reason why ITT should be forced to divest Avis. Then he asked...
about the negotiability of our provision on no acquisitions over $10 million, etc.

Within the next few days, we agreed internally that Carlson and Widmar should handle the negotiations, and by June 30 Carlson and Widmar had so advised Sailer and had had a discussion with him concerning procedure.

On July 1st, I met with Sailer, Carlson and Widmar and after a very short session, covering the points I had discussed with Sailer on June 24, I left Carlson and Widmar with Sailer to continue the negotiations.

The negotiations continued through the month of July and we reached our ultimate agreement on Saturday, July 31. (On July 30, we indicated for the first time we would accept divestiture or the Fire Protection Division of Grinnell rather than insisting on full divestiture.) Carlson and Widmar have notes of their discussions, and their notes and memories would be the best source of information concerning the time when substantial agreement was reached.

The foregoing was dictated in the presence of Messrs. Comegys and Hummel of the Antitrust Division, and messrs. Rossen and Borowski of the SEC.

RICHARD F. McLaren
Assistant Attorney General
Antitrust Division
Department of Justice
In the Matter of
TRANSACTIONS IN THE SECURITIES
OF INTERNATIONAL TELEPHONE AND
TELEGRAPH CORPORATION
File No. HO-536

STATE OF NEW YORK
COUNTY OF NEW YORK

HAROLD S. GENEEN, being duly sworn, says:

1. I am the President and Chief Executive Officer of
International Telephone & Telegraph Corporation ("ITT").

2. I submit this affidavit to provide the Commission
with information concerning a rough draft memorandum dated May 5
1971 (Exhibit A hereto) which I prepared for the use of internal

counsel at ITT.

3. The background of this May 5 draft memorandum is a

I follows:

In about January 1971, I was informed that Assistant
Attorney General Richard McLaren had rejected a proposal by ITT
to settle the three antitrust cases pending against it and had i
inquired why ITT was so insistent against having a divestiture of
Hartford Fire Insurance Company ("Hartford") included in any
possible settlement. We understood Mr. McLaren's question to me
that it would take a detailed financial and economic presentation
on the importance of Hartford to ITT to persuade the Justice

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HAROLD GENEEN AFFIDAVIT  JUNE 12, 1972  

Department that divestiture of Hartford could not realistically be expected to be part of any voluntary settlement of these three antitrust cases. Accordingly, preparations thereafter began for a presentation to the Department of Justice on the adverse economic and financial impact which a divestiture of Hartford would have and it was eventually decided that Mr. Felix Rohatyn, an ITT director and acknowledged expert in the financial community, should take the lead in making this presentation to the Justice Department. For this purpose, arrangements were made for Mr. Rohatyn to see Deputy Attorney General Richard Kleindienst on April 20, 1971 (Attorney General John Mitchell having previously disqualified himself from acting on these cases).

Mr. Rohatyn met with Mr. Kleindienst on April 20 and made a preliminary economic presentation on the importance of Hartford to ITT and the national economy. I understand that following the meeting arrangements were made for a fullscale presentation by ITT to Mr. McLaren and others on this subject for April 29. It is my recollection that Mr. Rohatyn also reported to me that, during the April 20 meeting, he had suggested to Mr. Kleindienst that the maximum divestiture which he felt he would personally recommend to the ITT Board of Directors in an overall voluntary settlement of the three antitrust suits against Hartford, Canteen and Grinnell would be a divestiture of Canteen and Grinnell. Mr. Rohatyn told me that Mr. Kleindienst did not respond to this statement and there was no further discussion on the subject. While I recognized that as a practical matter the Department of Justice might insist upon a
of an overall settlement, I was concerned that Mr. Rohatyn's statement might preclude us in the future from negotiating a lesser divestiture with respect to Grinnell. I took the position that ITT had not violated any antitrust laws, as demonstrated by Judge Timber's final decision in our favor in the Grinnell case on December 30, 1970, and that consequently ITT should not be re-quired to make a complete divestiture of both Grinnell and Canteen.

On April 29, Mr. Rohatyn led the full-scale ITT pre-sen-tation to Mr. McLaren, Mr. MacLaury Or the Treasury Department, members of their staffs, and Mr. Kleindienst, with respect to the economic importance of Hartford to ITT and to the national economy. I was informed that there was no discussion of possible settlement terms in connection with that meeting.

Upon reviewing the materials which were left with Mr. McLaren in the course of the April 29 presentation (Exhibit B hereto), I felt that several points should be further amplified. Consequently, I suggested to Howard Aibel, ITT's General Counsel, and to Mr. Rohatyn that a follow-up letter should be sent to Mr. McLaren. This was done by a letter of May 3, 1971 (Exhibit C hereto). In the course of my discussions with Messrs. Aibel, Rohatyn and Scott Bohon, ITT's Assistant General Counsel, with respect to preparing this letter, we also discussed what other steps might be taken to follow-up the economic presentation of April 29. It was decided that Mr. Rohatyn would attempt to set up another meeting with Mr. Kleindienst for about May 10, 1971.

In preparation for such a meeting Mr. Bohon wrote a memorandum, a copy of which he also gave to me, pointing out some of the practical financial
problems which would be involved in a possible total divestiture of Grinnell and the importance of Grinnell to ITT's diversification.

It is my recollection that after receiving a copy of Mr. Bohon's May 4 memorandum, I then dictated a rough draft memorandum of my thoughts on this subject, which is the memorandum

; dated May 5, 1971 (referred to in paragraph 2 of this affidavit) It is my recollection that I sent this rough draft memorandum to Mr. Bohon. I do not recall whether I also gave a copy of this draft memorandum to Mr. Rohatyn, but I may have done so.

In the course of my conversations with Mr. Rohatyn, I recognized that his statement to Mr. Kleindienst on April 20 concerning a divestiture of Canteen and Grinnell might be interpreted as a commitment as to the outside limit to which ITT would be prepared to go. Accordingly, I agreed that if the subject of possible settlement terms came up in any subsequent meeting with the Justice Department and he was not successful in gaining acceptance of the idea of only a partial Grinnell divestiture, he could fall back to the statement he had made to Mr. Kleindienst on April 20. It was this statement by Mr. Rohatyn that I refer to in paragraph 1 of my rough draft memorandum of May 5 as "the nova of Grinnell."

However, because I earnestly did not believe that a total Grinnell divestiture was really necessary from the Justice Department's standpoint, paragraph 2 of my May 5 memorandum goes on to set forth possible courses of argument for counsel to develop on this subject in preparing for any future meetings. It
1Xwas my thought that we should try to persuade the Department of
Justice that a partial divestiture of Grinnell's Fire Protection
Division should really be sufficient to satisfy the Government's
- antitrust theories. We had coon the Grinnell case derisively on the merits, and the Fire Protection Division was the only portion

Nor the company involved in the proposed appeal by the Government. I felt strongly that it would be manifestly unfair and unnecessary for ITT to be required to divest all of Grinnell when there were not even any anti-competitive charges involving most of Grinnell’s business operations. I understand that if Bohon then prepared a final memorandum dated May 7, 1971 (Exhibit E hereto), using certain of the material in my rough draft memo of May 5, which communicated our make if the subject of a possible Grinnell divestiture should come up. Our position in this respect is set forth in tI greater detail in another May 7, 1971 memorandum prepared by Mr. Bohon, captioned 'The Grinnell Antitrust Cased (Exhibit F hereto)

is which was also given to Mr. Rohatyn.

4. After Mr. Rohatyn met with Mr. Kleindienst on May 10, he reported to me that the conversation was essentially confined to a repetition of the economic and financial points made during the April 29 meeting and in the follow-up letter of May 3: Mr. Rohatyn said that he briefly mentioned that the Justice Department should not require ITT to divest any portion of Grinnell other than its Fire Protection Division since that was the only part of Grinnell which was involved in any potential antitrust problems. But, Mr. Rohatyn reported that Mr. Kleindienst made no response to this point and that there was no discussion at all of any possible settlement terms.

5. Thereafter I received no further information about the Justice Department’s reaction to our economic presentation
I, Harold Geseew, do solemnly swear that the statement made by me below is true and correct to the best of my knowledge.

The facts as I recall them are as follows:

On June 17, 1971, I was told by Mr. Rohatyn of a telephone conversation he had had that morning with Lessors, IlcLaren and Kleindienst in which they informed him that the Justice Department's 'negotiating position' for a settlement of the three Antitrust cases would permit ITT to retain Hartford but would require divestiture of four large companies - Canteen, Grinnell, Avis, Levitt - and that ITT would impose severe restrictions against future domestic acquisitions and against possible reciprocity practices. As I have also testified, both War. Rohatyn and I were surprised and dismayed by that "negotiating position" since we considered that the price the Justice Department was suggesting for settlement was "very steep", and was one which in no event would we recommend that ITT accept (Tr. 9-12, 19). Prior to that time - as is shown in my May 5 rough draft memorandum - the maximum voluntary divestiture which I had even contemplated was divestiture of the two other companies whose acquisitions were directly challenged in the Government's lawsuits, Canteen and Grinnell. And even in that respect, as is illustrated by my May 5, 1971 rough draft memorandum, I was extremely reluctant for what I sincerely considered to be very valid reasons to agree to any complete divestiture of Grinnell. Furthermore, I should emphasize that any willingness on our part to even consider a divestiture of all or Grinnell was only in the context of an overall settlement which would require divestiture of two companies - Grinnell and Canteen. Certainly, when the Department of Justice, on June 17 and thereafter, in...
fisted upon a divestiture of the four large companies, a total divestiture of Grinnell from my point of view was simply out of the question.
divestiture of Grinnell should not be required as part of an overall settlement of the three antitrust cases. It was not until July 30-31, 1971, when a settlement agreement was reached, that he withdrew from this position.

Sworn to before me this,

/o2<day of June, 1972

,} S., - b? 3~

Notarz: X. 42-42 au Count-t,
YCounW

\i 30,1973 '

(94)
H~<j.~7_
' HartlW t. Geneen
May 3, 1971

-X am 'writing this le tier to ampl if y ar.d ausr..~n~ 2point
was made in the course of the d i SCtSSz on which we nad in your office
last Thursdays in i:re ho-_
-that its importance will not be oxterloo, sed e Hen tioug:it tfa$ not fully
developed in She brief summary menc randum which was left with you,
Mr. KleindionsP and tar. I4acLallry.

The point is that in the event a divestiture ok: | the Hartford was
carried out by. ITT through. some kind. E;pin-off, -ITT would be placed in a
very difficul i cast position which would severely itap2ct i ts ab.iRlitit to c:- pate
in markets abroad. There could be as muon as a 8. reduction q r. cash available
to ITT. This shortfall i . available cash would arise from the reduction of
ssarnings by $88.7 million on such spin-off Penile the rates obligation to
pay dividends o:E.$50,000,000 on the Se--. $preferred
stock would continue, since as I exDlainextensively at
t'ne meeting, the exchange couia no. -a: ticably be wade
For the series N stock. These reduced would in turn adversely
affect borrowing pocket by an
2equal a:r.ount since every dollar of retained earrlins A.
Support a dollar of borrowing This shortfall is
illestratea by the follo<sing_t&ble:
1970 Earnings after Dividends with Proforma Adjustment to Put on Preferred from partial Year to Annual Basis

Net Income
Dividends Paid and Proforma
   for 1v Pre-errec' ~:~~~
   All PreXerreds Excess N :

   N Preferred for Hartford -
   Paid in 1970 Partial Year   $26.0

N Preferred for Hartford Proforma to Bring to Annual Amount .

Preferred Dividends Common
Dividends total

1970 Retained Earnings after Adjustment for 1970 to Put Hartford N Preferred on Annual Dividend Basis

Borrowing Capacity on 50/50
Overall debt/equity ratio

Total Cash Available From Retained Earnings

Shortfall in Cash Source to \~X-@;~c\~ Reduction in Earnings due to m-X*X\~siOno of Hartford and Retention of Series N Dividend Obligations

(97)

\$265

\$40.7

24.0

90.7

\$162.1 102.1

\$191.2 103.

\$362.4

\$207
labile the cash problem would be ameliorated to some extent by spinning off the Hartford shares in exchange for ITT shares, thereby reducing partially the total dividend requirement for ITT common shares, the short fall in available cash would still be a major concern.

are (1) the Series N Dividend requirement of $50,000,000 would remain and (2) the exchange ratio offered to ITT shareholder would undoubtedly have to be more than one share of Ford for each share of ITT common tendered in order to induce the exchange. As a result of being required to offer a substantial discount the number of ITT shares retired could be as little as one half the 22 million Hartford shares, distributed, and certainly no more than three-fourths.

You will remember, I am sure, that at the meeting Dr. Saulnier pointed out that the credit worthiness of the borrower in foreign capital markets such as ITT is, heavily dependent on the value which is placed on its common stock on the stock exchanges here, and on the credit rating which its outstanding debt securities receive. Dean Willis Jinn, in his remarks in particular, referred to the importance of the credit worthiness of a U.S.-based company in the United States to successes financing abroad, a major requirement for companies with foreign operations like ITT's in light of the current balance of payments situation.

A major reduction in available cash such as that demonstrated above, will, in addition to having the obvious adverse operational impacts which inevitably: a contraction of cash, have an adverse impact on earnings as dividends on the common stock come under scrutiny. Such a cash shortfall would also undoubtedly an adverse impact on the holders of outstanding ITT instruments and on ITT's ability to raise additional funds through debt financing here, but more significantly abroad.
Among the adverse consequences to the nation that would inevitably follow from the requisite contrac.t by ITT or its foreign operations is loss of market shares to major foreign competitors such as Ericsson, Sickens, Philips, Nippon Electric and Hitachi. Loss of market shares abroad can only result in a diminution of the cash which ITT should have otherwise redatri.e to the United States. It should appear, contrary to the national interests of this country to take conscious actions which would have such an adverse impact on its balance of payments.

Thank you once again for the courtesies which are extended to me, Dr. Satlhnner, Dean Finn, and counsel. We very much appreciated the opportunity to discuss the overall policy implications of this situation with you, Mr. Kleindienst and Mr. MacLaury.

Untruly

...
An agreement for a further $100,000, a normal substitute for advertising, was a normal substitute for advertising in the San Diego Sheraton Hotel.

Your kind of decision that the executive committee would not go into is what we would the advertising budget of Avis. This is or should not; we'll take some decision in the future out in any case, expenditures of that kind for normal business poses Wouldn't come up to the board.

Senator ISYR. As far as the board of IIT-Sheraton it's .

Judge AICLAREN- No, sir. You sir.

Senator Balm, let me throw a few more questions at you very quickly here if I may.

Could you enunciate a bit more specifically the whole reasoning that necessitated or that resulted in your chanting your feeling about accepting the negotiations AN what really concerns me is that the impact on stockholders is important, the impact on the economy is importailt. Pelt if we have a corporate merger that violates the law have we eaten ourselves in the position that if the merger is big enough, it doesn't make any difference what the law says?

JUDGE RIESE Senator I think that doesn't really fairly express the situation. Let me put it to you this oval. I think that a responsible enforcement officer has to take into account the overall impact of what he is bili:izing about. Until they came in and proved to my satisfaction that it was going to tremendously weaken ITT and was going to cost their stockholders something over 3 billion dollars, I saw no reason for settling this case short of a divestiture. I thought that they nll; de their bed, they could lie in it.

Now, when it became clear to me that we were talking about this kind of devastating effect on them, then I began to think in terms of what kind of a settlement we could work out that would achieve our antitrust objectives and would not jet into this kind of a tremendous adverse effect upon the company and its shareholders. I use the paring off kind of analysis that I explained a little while ago to Senator Hart.

If you look at IIT as it was before the Hartford acquisition and you say to yourself, what can I pare off of ITT such that if they had not owned those companies that are pared off, I would not have filed suit against their acquisition of Hartford? Now one of the things that we objected to was the fact that the Grinnell Fire-Safety Division was tied into this complex and Hartford 2

Senator B. a. Mavv I interrupt?

Non has e been very kind and I think you have already gone through this.

Judge AICLAREN- Yes, sir.

Senator Balm. And I remember it. It is in the record at least once or twice. I don't want you to have to labor through that again. I understand that weighing and slicing and trying to come up with something that you feel—andA have the greatest respect for your judgment and + our expertise—would conform to the law.

5X5! that I m-as trying to get at is what philosophical responsibility (lo we have in Government? I am concerned about stockholders losing
8. On July 31, 1971, the ITT cases were finally settled. Whether ITT would have to
direct itself completely of Grinnell was a principal matter of consideration between June
17, the date of McLaren's proposal, and July 31, and in ITT's eyes, a matter upon which any
settlement hinged.

According to McLaren and Kleindienst, McLaren and his staff were
responsible for the settlement. Kleindienst did not talk with McLaren about this matter
at any time from June 17 until July 30. Mitchell and McLaren never talked with each
other about the cases. There exists no testimonial or documentary evidence to
Indicate that the President had any part, directly or indirectly, in the settle
ment of the ITT antitrust cases.

McLaren was unaware of any financial commitment by ITT in regard to San
Diegots hosting of the Republican National Convention until long after the
negotiations had terminated. McLaren has stated ITT's contribution had nothing to
do with the settlement.

Page
8a Affidavit of Harold Geneen, dated June 12, 1972; 4-7........................... 105
8b Testimony of Richard W. McLaren, 2 KCH 113, 361, 125,
116-1 17, 144, 174. • • • • • • • •
8c Testimony of Richard G. Kleindienst, 2 KCH 142, 99,
8d Testimony of Felix Rohatyn Z SCH 119. - -
8e Testimony of John N. Mitchell 2 KCH 541--------
Page

8f Test mony of Richard W. McLaren 2 KCH 139............ 124

8g Remarks of Richard W. McLaren onl ace the (3-19-72)..................... 126

(104)
In the Matter of
transactions in the securities
of international telegraph and
telephone corporation
File No. H0-536

Harold S. Geneen, being duly sworn, says:

1. I am the President and Chief Executive Officer of
International Telephone & Telegraph Corporation ("ITT").

2. I submit this affidavit to provide the Commission
with information concerning a rough draft memorandum dated May 5,
1971 (Exhibit A hereto) which I prepared for the use of internal
counsel at ITS.

3. The background of this May 5 draft memorandum is as
follows:

In about January 1971, I was informed that Assistant
Attorney General Richard McLaren had rejected a proposal by ITT
to settle the three antitrust cases pending against it and had inquired
why ITT was so insistent against having a divestiture of
Hartford Fire Insurance Company ("Hartford") included in any
possible settlement. Rifle understood Mr. McLaren's question to mean
that it would take a detailed financial and economic presentation
on the importance of Hartford to ITT to persuade the Justice
management and other problems which would be involved in a possible
total divestiture of Grinnell and the importance of Grinnell to ITT's diversification.

It is my recollection that after receiving a copy of

Mr. Bohon's May 4 memorandum, I then dictated a rough draft memorandum of my thoughts on this subject, which is the memorandum dated May 5, 1971 (referred to in paragraph 2 of this affidavit). It is my recollection that I sent this rough draft memorandum to Mr. Bohon. I do not recall whether I also gave a copy of this draft memorandum to Mr. Rohatyn, but I may have done so.

In the course of my conversations with Mr. Rohatyn, I recognized that his statement to Mr. Kleindienst on April 20 concerning a divestiture of Canteen and Grinnell might be interpreted as a commitment as to the outside limit to which ITT would be prepared to go. Accordingly, I agreed that if the subject of possible settlement terms came up in any subsequent meeting with the Justice Department and he was not successful in gaining accepts for the idea or only a partial Grinnell divestiture, he could fall back to the statement he had made to Mr. Kleindienst on April 20. It was this statement by Mr. Rohatyn that I refer to in paragraph 1 of my rough draft memorandum of May 5 as "the offer of Grinnell."

However, because I earnestly did not believe that a total Grinnell divestiture was really necessary from the Justice Department's standpoint, paragraph 2 of my May 5 memorandum goes on to set forth possible courses of argument for counsel to develop on this subject in preparing for any future meetings. It was my thought that we should try to persuade the Department of injustice that a partial divestiture of Grinnell's Fire Protection Division should really be sufficient to satisfy the Government's
antitrust theories. We h2vi won the GinneiL ease decisively on
little merits, and the Fire Protection Division was the only portion
of the company involved in the proposed appeal by the Government.
I felt strongly that it would be manifestly unfair and unnecessary
for ITT to be required to divest all of Grinnell when there were
not even any anti-competitive charges involving most of Grinnell’s
business operations. I understand that Mr. Bohon then prepared a
final memorandum dated May 7, 1971 (Exhibit E hereto), using cer-
tain of the material in my rough draft memo of May 5, which com-
unicated our final suggestions as to the points Mr. Rohatyn
might make if the subject of a possible Grinnell divestiture
should come up. Our position in this respect is set forth in
greater detail in another May 7, 1971 memorandum prepared by Mr.
Bohon, captioned “The Grinnell Antitrust Case” (Exhibit F hereto).

4. After Mr. Rohatyn met with Mr. Kleindienst on May
10, he reported to me that the conversation was essentially con-
01 fined to a repetition of the economic and financial points made
~ I
} during the April 29 meeting and in the follow-up letter of May 3.

1. Mr. Rohatyn said that he briefly mentioned that the Justice

!!Department should not require ITT to divest any portion of
Grinnell other than its Fire Protection Division since that was
the only part of Grinnell which was involved in any potential
antitrust problems. But, Mr. Rohatyn reported that Mr.
Kleindienst made no response to this point and that there was no
discussion at all of any possible settlement terms.

15. Thereafter I received no further information about the Justice Department's reaction to our economic presentation.
until June 17, 1971 when, as I have previously testified before the Commission, I as told by Mr. Rohatyn of a telephone conversation he had had that morning with Messrs. IllcLaren and Kleindienst, Win which they informed him that the Justice Department's "negotiating position" for a settlement of the three antitrust cases would permit ITT to retain Hartford but would require divestiture of four large companies - Canteen, Grinnell, Avist Levitt - and would impose severe restriction against future domestic acquisitions and against possible reciprocity practices. As I have also testified, both Mr. Rohatyn and I were surprised and dismayed by that "negotiating position" since we considered that the price the Justice Department was suggesting for settlement was "very steep", and was one which in no event would we recommend that ITT accept (Tr. 9-12, 19). Prior to that time - as is shown in my day 5 rough draft memorandum the maximum-voluntary divestiture which I had even contemplated was divestiture of the two other companies whose acquisitions were directly challenged in the Government's lawsuits, Canteen and Grinnell. And even in that respect, as is illustrated by my May 5, 1971 rough draft memorandum, I was extremely reluctant for what I sincerely considered to be very valid reasons to agree to any complete divestiture of Grinnell. Furthermore, I should emphasize that any alillingness on our part to even consider a divestiture of all of Grinnell was only in the context of an overall settlement which would require divestiture of two companies - Grinnell and Canteen. Certainly, when the Department of Justice, on June 17 and thereafter, insisted upon a divestiture of the four large companies, a total divestiture of Grinnell from my point of view, was simply out of the question.
6. As the COIT---issOn is aware, lairs ilcLaren disagreed 1
for some tiide with our position that a complete divestiture Or
 innell should not be required as part of an overall settlement
~ of the three antitrust cases. It was not until July 30-31, 1971, 1

when a settlement agreement was reached, that he withdrew from

this position.

Sworn to before me this

__ day of June, 1972
negotiations also, (vitil resl)ect to Canteen, he illustrated (lifex2-zou
l'srvill to let IT'S level after liquefying (pro)ecties, that is, tlo.se (vht 01- constructs
also the Ill11111 unit rittibilitation. (vit Vinyl, he al->led that IT'S sholl{t}e pelmented to l11vest only part of (.rinl4ell. th.it it, the fire protctie--Il btisiness, XV4iql1{1 ha.l
iveen disca1lse(l) (furista ttle trial of the) case. 1Y1-th relsct to L, evitt, he raise(l the i (after-
ac(1uiretl prol)erty) l'llt alt also inquire(l (atoll retaining overs(tes) lr)ecties. He proteste(l
that there-\-as no aood antitRtslst r.7 e; lsoolls \- l l l\ l R S hould
becold(1)vest-tvvis Theilllleashe(1.11)oltt the negotiabilitiv
of ollr (r0siToTi 011110 nC(luisiliolls over 810 lllilioll), 2llld SO forth. I tolk him -ve xvoulel
netrotate on details, but that t.hc basic provisions of the t}ro) asal 'zere firm.

' WN-ittl111 the next f-n davx xve ncreed interutlly that Carlson nd RN-itmar showi{l
h1llldlcle tile neaotiationolls an(l by June 30 Callsov1. nd Il idill.lIr ha(l so advisel sailer, 'an(l flall ilfa\l a discussion lili him concerllll\l(at)l)ro)educre.

On Julv-1 , I met -vitit sailer, Callson an(l lVidmar xlth and after a very shol t sesskiou,
prime)all \l'OR'eIIIC the points I hud clis(used XVIt
S liler 011 Julle 94, I lefl C5arlso1 aind Wielmar xvitl sailer to continue the nerJoti.111olls.

, lce-otiatitions het-veen (aralson ndd 10-idmar 4011 the one hancld atld Sailei 011 the other
hall(l continue(l. l lousurr the month of July—a part of xvhicil time I think; frolall about fivle 10 to
Jui+ 20, I lvas in Lon, (on at the &B, & meetin,a—a nd in the last ferv claves of the month,
Calisoll und lVidm{lIr azl:vised me th,tt the matter lwas abollt AVoUIld Ul) nn{l t}l);it it xvouk}l
be helpful if I xvou1{( l Sit in on one or tvxvo sessions to wover some final lOilt8. On Julv 3{l, I
agreed that -ve xvould aere ptcet tiesture of the Fire Protecion Disissiou of (cri111ell. rather tha
insi jici 011 full dis estiture. I did so lacaesis Alessrs, Carlson and AN-idmar! xvitl LIIl.
Hummel encourra1ia, fell that separatina the Fire 1'rotection f)ision frorrl the re.t of (Sri, mell
would be a, }.rocom)etiit-e--stel-, pilrinnrz the rest of the imillstrv on a more even competitive
ba-Ij xvitl Giim,ilxv, xvilich incidentall• as the lea(er lnh that particular industr-
1, lvhilch had had a eorl-1e3let-tis acls-alluge b-- retson of its vertical integration an(l it's broad contactS in
the construction business.

The1e lvere certnin other minor points still in dispute, and our meetina acljourne(l(l on
the evelling of JuIV 30, rvhich lvas a. k'ridav, for Stlir. Sailcr to COlIlSulf vtith his client. We
reconvelle(l our meeting on Saturday molninC, Julv 31, and ironcel out the final points. Afr. Sailer
then contacte(l lTT—and I believe they polled the directors for final approval of the propose{l
settlement by telephone dulina the clav. I then ple(l)wrec a press release, for imine(1iate
distribition, announcina that xve ha(ld reached an aareemellt in principle on the terms of colisent
decrees lvhich, if apl)v0)1{ {lv the coutls, -voul( terminate the three cases. ~his was done in
order to head off any further nervs)aper speculation, aanl any possible injider
tradina xwhen the markets raope1}le(1 on the folloxsDing A1Onday. o

In conclusion, I' lvant to emphasize that the decision to enter into I
settlement negotiations ~sith lTT rvas I\- oxvn personal cleesion, rl
lvas not pressured to reach this decision. Furthermore, the plan of
settlement ~-as devised, and the final termXs evere neaotl2rteid, by me
lvith the aclsi1e of other members of the AntitRtslst IZivision, alid by 0 no one else. 2

(110)
3GI

'I'll<zlt, as you may remember, is a peat of Foul lrej).lred stateillellt at
ata)l at leatet lii [of the t*pexlvitten copv3 of the resold.
All. \kks\SEX 5:-es. I thiny I used the teln' t discuss" there in the
,>i or ":b.,lls,lt sVitzl.]*
Peril lids, the Senator has in mind one of the menlorillts eve tug n in
\vhiell indicates that I sent the Canteen case up to the Attorney General
Shell I initially recollilllllende(l suit.
I }lns-e] reviewed the situation there. Sk. Mitchell had listed (SotintelllIl P
7\ Пред н т111с111 client of his former firm told Oll-- indicated that it llama
latex been nequile(l by IT'T. I thiny What hap;:-ene(1 X-as that I sent the
proposed case up, and then he telephoned me about it all(l said he Was
(lisqlatalified, and then he sent it (loxvn to \A1. lilein(liellst. I thinly tl tat M-as
the extent of any tables I had With him.

Senator J\NENA-EDY. And Senator I1art, in discussion, questions, rwith
Alit. itloin(jiellst, said:
"\NTha- discussions (lied You have lvitll John \Nitchell rvith respect to any
aspen ts of the ITT cases?"
Air. TQeleirclienst said "hime," and Senator Hart said: "\Nr. \McLaren,
Jyel-e S 1 cJal en?"
Anti Judge \McLaren said:
"I ha(l none, sir."
Air. LIcLAcztEx. I think that ~X-oul(l be correct. Tllere is a "buck" slip
sloxvina that the Attorney General's executive as3istallt sin splv bульced
the matter down to Air. Ixleindie1lst.

Sen.lt(yr ILEXEDNY Air. Cllairnlan, in the Del)artnwent documents mafle
a part of the resold of this heali3la there is, as Sk. WIcLaren \Bet \E1as\Eded, the
mer.1ollulldum from \lr. Alc-laren, dated April 7, 1969, ackllessed to W1r. \A
\litchell Which states as follows:

The aStor3eys for ITT arc coming in to talk about the Canteen acquisition tomorrow
mc,rlilllg, I expect to tell them Eve are recomunling suit, including a prompt Inotioll for ten
por.ly restraining order, unless the merger is abandoned.

And the second document is a memorandum dated April 7, 16369, from
the executive assistant to the Attorney General, addressed to Air.
lileindienst, lvich reads as follows:

This is a proposed civil antitrust complaint to prevent ITT from acquiring Canteen
Corporation, a nationwide food service and vending company.

This looks like a good case under section 7 of the Clayton Act. There is a vertical aspect in
that Canteen will be in a position to muscle its competitors and potential competitors out of food
service and vending at the installations of ITT and its affiliated companies.

Canteen and ITT will also have the power to expand the former's business by anticompetitive
reciprocity action directed at suppliers of ITT and its subsidiaries. Moreover as alleged in the
complaint, the merger vs ill tend to cause similar mergers by Canteen's competitors simply
seeking protection against the effects of this one or atsrressively seeking similar competitive
benefits.

Diek AlcLarentl has talked to the Attorney General—

and it saws "A.G."

about this case so that he is aware of it. I don't believe he is aware that it is noxv "ripe." You nay
avant to talk to him about it on the phone.

And then it continues:

As far as your signing the complaint is concerned, I dare say you can scratch out the
A.G.'s typed name and then sign yours as Acting Attorney General.

And, then, at the bottom of the memorandum there is a hand

(TokatiOT) "To ALcLia,en. O.I-..

(111)
cases, I think all of us feel uskino lim in that light, and thatolv svoukl understtlr(l certainly our reslJonsibility in asking in that respect.

Some of the al eas that I xroul(l like to inquire into hetve been touche(l on, bot.11 by Sen;tor Hart and by your oxvn commAents, but in any e~cnt I think it is useful and helpful to the oeneral nnderstan(linffl to erllll)s ha~e these responses, alone the liaes of quest,ions that

(112)
mcmoran(lum allegedEv & rotten by AIrs. Dita Beard. Ml. - asked whether the subject of that memorandum had entered into l.-V conversations with the Justice Department. I flatly denied that anything having to do with the Sheraton commitment had ever been discussed by me with Mr. Eleindienst or any other representative of Justice.

Let me say now that I (lo not knoxv Wlrs. Beard and, in fact, had never heard her name before talking with Mr. Hume. Moreover, I never knew of an ITT commitment of the San Diego Convention Bureau until December 1971, when I read about it in the public press. This was 6 months after the antitrust settlement had been reached. Therefore, it was literally impossible for me to have participated in any conversation regarding the commitment.

The settlement requires, so far as I know, the largest divestment in the history of world enterprise-comprising companies with sales approximating $1 billion in assets. Even apart from forced sale, I can think of no case in which a single owner voluntarily parted with values of this magnitude. As a director of the company, I considered this an extremely harsh settlement, arrived at after protracted and difficult negotiations between representatives of Justice and ITT.

- If I may, sir, for the record, I would like to place the dates of my meetings with Mr. Eleindienst:
  
The first one took place on April 20, 1971, where I have orally some of the policy considerations Mr. Eleindienst stated that since the Attorney General had disqualified himself, the ultimate decision with respect to and litigation would necessarily be his. He said he would make that decision based on Mr. McLaren's Antitrust Division recommendations, and told me any presentation should be made to Mr. McLaren and the Antitrust Division.
  
The next meeting took place on April 29.
  
This was followed by the meeting of May 10.
  
The next meeting was June 29.
  
The last meeting was July 15.
  
Thank you, hair.- Chairman. Mr. McLarens! Antitrust Division, you say you were solelv responsible for this settlement, with your staff?
  
Mr. McLar. I'm sorry. I couldn't hear the last sentence.
  
The Chairman. Did I understand your staff was responsible for this settlement?
  
Mr. McLar. That is my testimony ves. sir. -
  
The Chairman. Did you know anything about a $400,000 contribution from ITT to the city of San DieCo?
  
Mr. McLar. Absolutely not. I hevezv nothing about and of this I Whole business, or even that the convention divas zoint there until I read about it in the newspapers I hvere someone tried to make a connection between an alleged pawn ent and the settlement of the I case.
The CHAIRMAN. NOV, did ASIr. Iileindienst. -Alr. Mitchell, or anyone else attempt to influence your decision in this settlement?

Air McLAREN. The direct answer to +our question is \-o\- then did not. I would like to add this: When I was first interviewed be-
AL.. Alitiehell anl SIr. Ixlein/iienst in the Pierre hotel in December Or leas with retard to coming down here, I had an understanding xvitll them

( 113)


Sr. ECLEIIXDIEXT: ANTell, I tluderstood tllat tlr. ROJttn 11 had GI. \ 
oec Tiltis Onl till liis situ,tIol-. That I was to first lna!~e .t fillallcicl-een-
nomic presenlatioll to tle Deleartment. T]at v;as done Oll April -. 
Tllen! VV]len All. BICLaren brouFrllt up tle proposed settlement 
outlinet 
I presume because of tle fact tllat tllat ZIJ. Ilolett) n Ivas tlle lle.lt(1 of tl e 
company at tle April 2D meetina is avllv ~e ~anted to call S51. 

Rto.l.a 
tyu Oll June ]7 to tell him ~a,ll ave avoul(l l 1--e svillina to do. 
I uldelstand tllat tllat I<--er>.lftel. l]ased uloll ,lildfre AlcLlLlleJs testi-
emonvt lle tllen netrotiated t]le settle,ntent V<ittt ttle company i alvlers. 

r Se;rlator ISEN:N-EDE. He was tle one lvlso ~vorlved 011t tlle 
settien-le-le-~t 

1 vvtill tlle I.T. & l'. directors '~- 
ATr. KZLNTN-EN-ST. Altillll tlle la+a+vverrs. 
Sellator IVes-S-rDr. MTith tle lasryers ? 

318. ITLeRs-D1ENST. Yes, sir. I nes-er did anvttillg in t]lat re~ard. 
SenatOr IVENNEDY. Alr. AlcLaren, did ~ou (rather t)e imll)lessioz 
tllat tlle attornews of I.T. & T. understxd tllis re proteins tooi I 
Illean, at anz time, did allly of tije attorneyx, for I.T. & T. sat, Alr 
Ito1lal+--n is tlae felloxo sort of to xvork t}~rot1ell ? 

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deal ivtill ttle lavysers. ~'lsen Alr. Sailel came l)acl t]le ne st d--;t--; 
and sai 1, OIs let's sit dorvn and net.;otide, I tooti tllat—partiel]all-- 
because of tle information lle had, it \VTaS olmvious lle llad zrotten 't 

\froml RollatI.-n.-c. 

\From t}~ere on, I dealt avittll tllier lassvcrs. 

\senator ICE.SXEDE. \ATell, 5011 can see p.lrt of ttle prolulem ITT. .i! 
\its pless rejease, said acreelieilxt xras re.ledex xvltill the .Tustiee 

\lppea-r. 
aent onl~ after llard negoti.ttions l)etxreen ;;our outside Je~~al eou-
lseX 
and tllen .&ssistant.Sttorllev (Rener.ll, l'iealler(l Alel,arenq sllld llis 
ctali. 

'\Neit-llel Sirs. T3eard llOl' anv otllel (xoxa course} m-ere altltlorized ~-;w 
carry ont sucll nenrotiatioll.s." 

\Tldfre A Le L vra :N-. T]lat is true. 

\RenatoI IVEN-N-EDV-. 1 tllo1n1ltt + 0111 just said --ou felt tllat Air. 

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ro1rl lavXvers. 

\T]le-- sent t}~eir la-~vlers in. and from tllere on, re netrotiatedt sr s. 

\bodefinition. 

\F Nolvs. tllere sre a lot o1 tlillt rs rve netrotinttd abOIL. TH'['l' aire 111.:'- 
\details. Senator. If I svere to go IJaClS and reconstrllt. I could 

\tro5Jal.: - 

\sslol tlillinfrs ill tllle decrees tl-lat ~vel e l-soints nt issue tllat tllev svc r 
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Senator IRRISSL. Tllis is tllle one in tllle ITT-B, rXfo2dt case, that is

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Senator IRRISSL. This is tllle one in tllle

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Judge NCCLAREN. But there w-ere three cases.

Senator IRRISSL. If tllere w-ere tllree decrees! tllan we ^~ oulel to

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Senator IRRISSL. X. Tlleen A\r. Siohavlll hv y.s notiifel aIIx lile lresfilll:tlR! too!~ it llll} rVitll his
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The Chairman. Let us have order.

Senator B.Y. What is the substance of the reason for subject, sir? Vote on it?

Mr. Kleindienst. Senator, I outlined in precise detail his proposed framework for a settlement, and gave me his reasons for it. Those reasons were very persuasive.

Senator B.Y. And these reasons were, again?

Mr. Kleindienst. Well, I'm sure he must have relied on that but I...

Senator B.V.Y. Did: Atr. Mr. Kleindienst still remain in discussion on that? resolution of that? outcome of that?

Mr. Kleindienst. Yes. subscribe to the final figures that would be...
Alr. 1STLEIN-DIENST. Yes, sir. I believe the statute requires the involvement of the Attorney General in all antitrust aspects of the cases.

Senator HART. The statute requires the...
JOHNF MITCHEL TESTLMOXY, MARCH 10, 1972, 2

KCH 541

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(123)
Senator KENNEDY. Why would you discuss that with him? Is there any— I am just interested.

Judge 3CLAREN. Do you understand the LTV decree? It is a very broad decree. It was a very important case at the time. LTV was in very bad trouble n-hen we began analyzing it. I think I must have consulted with others—Paul 3tClarenven, perhaps. I wanted to be sure I was right on it. I think that is all.

Senator KENNEDY. Sure.

Well now, to tet back—are you sure as to who recommended Mr. Wallis to you? It was either Mr. Flanigan or the Treasury?

Judge 3CLAREN. Either it was Lang or MacLaurie. I have no specific recollection, but that is the best I can remember.

Senator KENNEDY. In any event, he was the one who took this material, as I understand it, provided by ITT and did the survey and the study and made a recommendation to you. Is that right?

Judge 3CLAREN. Both Ramsden and MacLaurie.

Senator KENNEDY. Both of them. And then they made the evaluation?

Judge 3CLAREN. Yes.

Senator KENNEDY. And the evaluation of the ITT materials?

Judge 3CLAREN. Yes; they made their own evaluation, I think, as we shall see when we see what I think was the most important.

Senator KENNEDY. Also did you talk at any time with Mr. Flanigan or any other in the White House about the ITT case?

Judge 3CLAREN. No; I do not believe so.

Senator KENNEDY. Also did you not have any conversation with anv one in the White House about the ITT case?

Judge 3CLAREN. No, not at all. Also, as you recall, I have the ITT case.

Senator KENNEDY. What materials have been provided by ITT as to the ITT case?

Judge 3CLAREN. Yes; certainly.

Senator KENNEDY. Certainly. The materials are available to the members of the COR for the record and I am not sure.

Judge 3CLAREN. The materials are available to the members of the committee if they want to look at them.

Senator KENNEDY. You saw any memorandum kept by Mr. Eilein, the memorandum of the meeting that was held?

Judge 3CLAREN. No. I believe I do not.

Senator KENNEDY. Do you have any?
Let me say, nor do I know Mrs. Beard; in fact, I never heard her name before today. Moreover, I never met her or any representative of Justice until December 1971, when I read about it in the newspapers. This was months after the antitrust settlement had been reached.

Therefore, it is absolutely impossible for me to have participated in any conversation I regarded as the oddest activity.

The history of xworld ellertl is a story of companies that have approached the settlement oflitigation by a multi-billion dollar settlement. The largest of these is the settlement of the U.S. Department of Justice, which has reached a total of $1.7 billion.

The next meeting with Mr. McLaren was on April 20, where I gave the Justice Department a letter stating that I would not participate in any conversation with representatives of Justice. I then met with Mr. McLaren and the Antitrust Division again.

The next meeting took place on April 9. This was followed by the meeting of April 10.

The last meeting was June 9.

Thank you, sir. Chairmen.

Mr. McLAREN: I do not think that you were, sir, and your statements were sufficient for this settlement?

Mr. ICLAREN: That is my testimony, sir.

The CHAIRMAN: Did you not know about a contribution from ITT to the CaM of $200,000?

Mr. McLAREN: Most certainly, not. I believe that about all of this business, or even if it were, it was tried to influence your decision in this settlement.

Mr. McLAREN: I would like to add this: when I first met Mr. Alitchell and Mr. Mason in the Pierre Hotel in December of 1970, with regard to this matter, I had an unexplained visit from them.

Mr. ICLAREN: That is my testimony, sir.
HERMAN: Let me ask you one other in-their-shoes question. Do you think it was right and proper and "also wise for ITT to make this large pledge to an organization connected with the Republican Party while it was engaged in this litigation or these negotiations?

JUDGE McLAREN: I just have no way of commenting on 'that. I knew nothing about it. It never came to my attention, even where the convention was going to be, until long after our negotiations. I never met Mrs. Beard, I never had anything to do with that. According to their story, as I understand it, for the big hotels to make contributions, particularly on a big opening, as I understand that Sheraton's going to have out there, that's a pretty customary thing.

HERMAN: But by five times customary. They are the second largest chain, they gave five times as much, I understand, as the first largest chain.

JUDGE McLAREN: Well, they've got three hotels - I don't -- I can't argue that -- I knew nothing about it at the time, and I guarantee you that that Republican convention site and ITT's contribution had absolutely 100 per cent nothing to do with this settlement that I made.

STRAWSER: If, as Mrs. Beard claims, that memorandum that did link the two was a forgery all along, do you feel that it was unnecessary for you to sit through all those days of hearings in the Senate?

JUDGE McLAREN: I don't -- I -- Mr. strawser, it's completely inexplicable to me. Based on my knowledge of the events, what I said before was that the memorandum is absolutely incredible. Now whether it's spurious, a forgery, or just name-dropping, I just don't have any
9. On July 23, 1971, the Republican National Committee selected San Diego as its selection site for the 1972 Republican National Convention. San Diego was the preferred site by William Timmons, who had investigated that city as a potential site and the Attorney General's convention task force, and was the highest regarded city for security purposes.

Memorandum of May 6, 1971, from William E. Timmons to H. R. Haldeman

Memorandum of June 23, 1971, from Gordon Strachan to H. R. Haldeman

Memorandum of June 26, 1971, from Deb Magruder and William Timmons to The Attorney General and H. R. Haldeman

Memorandum of June 30, 1971, from Department of Justice, Law Enforcement Assistance Administration to William Timmons

(127)
May 6, 1971

H. H. HALDEMAN
WILLIAM E. TIMMONSF
172 Convention site

I spent two days in San Diego this week surveying the city as a possible site for the 1972 Republican National Convention. A report on my findings is attached in Tab A.

There has been no effort in this paper to compare San Diego with other possible locations. Also, there is no evaluation given to California in relation to the possibility of Reagan or McCloskey contesting the nomination or weight given to vice Presidential politics. Both of these factors must be considered at some point however in the decision process.

I believe San Diego would make an excellent location for the next Convention. However, there are two major obstacles and three minor problems:

**TIMING:** It is absolutely impossible for San Diego to host the Convention before Labor Day, September 4th. The city's hotel rooms are always committed during August by tourists and there is an unwillingness to lose regular customers. Also, the Hall is booked by the International Machinists Union September 3-17 and by the Fleet Reserves from September 17-21st. If these two organizations were willing to reschedule their conventions, even the early September date presents a legal difficulty for us. A number of states require Presidential candidates to file by late August in order to get on the November ballot. In 1968 I'm told the Democrats ran into this problem in several states but were able to get waivers. I am having two groups independently research the various state laws and possible waivers. Unless this is satisfactorily resolved, San Diego will not offer a bid. I'll keep you posted on the results of my investigation.

**FINANCES:** The RNC estimates it will spend $800,000 to run the convention. Bidding cities are requested to pay the Committee this amount, part of which can be in services, rents, etc. It will be impossible for San Diego to raise this kind of money. They talk of only $200,000, but if they are really in the running I feel the city can come up with
FINANCIAL (continued)

\$400,000 with the remainder coming from RNC and California GOP sources. If the timing problem can be resolved, I will make the necessary contacts to work on the financial bid.

HOUSING: The lack of excess first class rooms and available parlors present a minor problem. By stretching, San Diego can commit sufficient rooms for the event, I feel.

CONVENTION HALL: The RNC requires 150,000 square feet of work space in - or adjacent to - the convention Hall. This is mostly for media. The San Diego Sports Arena has only about 30,000 square feet of off-floor work space. Therefore, a temporary building with approximately 120,000 square feet will have to be erected. This can be done.

GOP FACTIONS: If San Diego is chosen as the convention site, we can expect a blood-letting confrontation between the Finch and Reagan forces for control or at least public exposure. The battle lines are already forming, and I suspect the situation could become bitter. NOTE: Al Harutunian apparently has tentatively reserved the Sports Arena for mid-September under the name of Billy Graham. It is widely believed he is acting as an agent for Finch. I have information that Bob will be in San Diego this week-end and may discuss the convention. While I did not see Harutunian, he has learned of my trip and will undoubtedly spread it around. I suspect Dick Capen told him, although this is just a guess.

San Diego will definitely make a formal bid for the 1972 convention. I am obligated to report to them if we can consider a September event.

The site committee of the RNC will have to visit San Diego, but Bob Dole tells me he can arrange for a favorable report on any city the President wants.

CONFIDENTIAL/EYES ONLY

(129)
June 23, 1971

MEMORANDUM FOR: H. R. BLID

FROM: GORDON STRACHAN

SUBJECT: 1972 Convention site

Magruder will meet the Attorney General today and discuss memorandum attached at Tab A concerning the RNC site Committee's visit to San Diego.

To summarize:

1. The site Committee found the same faults Bill Timmons' noted in his May 6 memorandum (limited office space at the convention hall and barely adequate hotel accommodations);

2. The local politicians are indifferent, but the state officials, especially Ed Reinecke, are enthusiastic.

3. The San Diego bid is $500,000 in cash and $1,000,000 in inflated price services. This excellent bid is considered primarily the work of Reinecke and Magruder will suggest that the Attorney General call Reinecke and thank him.

4. San Diego is the favored site of the Attorney General's task force, though Chicago, Miami, and Louisville are still under serious consideration by the Site Committee.

5. Dole, Timmons, and Magruder believe the Convention site Committee's request to see the President should be denied. Rather, Timmons should see the President, get his decision, relay it to Bole, and have Dole program the site Committee to recommend formally to the President and announce to the media the location of the 1972 RNC Convention.

6. A formal decision paper will be presented to you and the Attorney General when San Diego submits its formal bid, hopefully this week.

On a related matter, Timmons submitted the memorandum attached at Tab B concerning the number of White House Staff who would be attending the convention. Timmons believes all commissioned personnel (approximately 50) are "entitled to be present whether or not they are actively engaged in the Convention."

(130)
The following are the options of which number two.

Options of which I recommend

1. All commissioned personnel attend

2. Only those Staff who are contributing, whether commissioned or not

3. All male Staff down through Staff assistant level (150)
CONFI DENTIAL

MEMORANDUM
FOR:
FROM:
SUBJECT:

9B. ROBERT ODLE MEMORANDUM JUNE 22, 1971

CITIZENS FOR THE RE-ELECTION OF THE PRESIDENT

WASHINGTON
June 22, 1971

M. J EB S. MAGRUDER

ROBERT C. ODLE, J R.

1972 CONVENTION SITE

The RNC's Convention Site Committee has now returned from San Diego, thus completing its series of visits to all the cities which have bid for the 1972 Republican National Convention. The Committee was not as impressed with San Diego as we hoped it would be, citing the lack of office space for the media and the RNC at the convention hall as the main drawback. Also, some political officials in the city, chief among them the mayor, either suggested that the city did not want the convention, or were at best indifferent to the prospect of getting it. On the other hand, business leaders and state officials, led by Lieutenant Governor Ed Reineke of California, were very enthusiastic and members of the Site Committee reacted favorably to these people.

Bill Timmons reports that his contacts in California tell him the city is now offering $400,000 in cash and approximately $600,000 in services bringing the total offer to approximately $1,000,000. However, the city is putting very high pricetags on the services, so in reality the figure might be more like $800,000. The final bid is being prepared this week in San Diego and should be received by the National Committee at the end of the week -- we will obtain a copy of it. It is our understanding that in this bid, the city will offer to construct a building adjacent to the convention hall which can house offices for the media and also for the RNC. San Diego will donate the use of the convention hall for as long a time as is needed to ready it for the convention, and also for the convention sessions.

CONFIDENTIAL

(132)
CONFIDENTIAL

Incidentally, San Diego Democrats are reported to be upset that the city did not bid for the Democratic convention and therefore San Diego has decided to put in a pro forma bid for the Democratic convention.

It also should be noted that the Site Committee believes the list of cities under serious contention is now down to San Diego, Miami, Louisville, and Chicago. The committee has ruled out Houston because it has not expressed a real interest in the convention and has refused to make a firm offer of cash and services. San Francisco was ruled out because the committee fears possible problems with the nearby campuses and does not feel the convention hall and hotel situation is as good as it is in other cities.

In the meeting of our convention strategy task force on Friday, San Diego emerged as the very clear favorite, followed by Houston. There was no support for any of the other cities. Those attending that meeting were Pat Buchanan, Bill Safire, Dick Moore, Harry Dent, Len Garment, Don Rumsfeld, and Bill Timmons. Dwight Chapin, Fred La Rue, and Frank Shakespeare were out of town. In addition to favoring San Diego, the task force agreed that the convention should begin the week of August 21, 1972, and should be a three day convention.

Jo Good told me today that members of the Convention Site Committee are in Washington this week and that she would like Chairman Dole, Fred Scribner, and the vice-chairman of the committee to meet with the President later this week or next week to review with him the thoughts of the Site Committee, so that the President might be informed of everyone’s views before making up his mind. I have advised Bill Timmons and Gordon Strachan of this, and the three of us have agreed that the following strategy should be employed rather than having the committee see the President. Also, Timmons tells me that Dole agrees with him that we should pursue the following scenario:

As soon as the bid from San Diego comes in, we (Timmons, Magruder, Odle) will examine it. If our inclination is still to go with San Diego, I will prepare a decision paper for the Attorney General and Mr. Haldeman. Assuming their concurrence, we will then request that Timmons discuss with the President his views on all the cities in contention for the convention site and our recommendation that we go to San Diego. Assuming the President concurs with this choice, Timmons would then talk with Dole and communicate the President’s decision to him. Dole would talk with the members of the Site Committee regarding this and at some future point in time (next
week or the week after), either Dole by himself or Dole with the other members of the Site Committee would meet with the President and announce to him their decision that the convention go to San Diego. The President would tell the Site Committee that he concurs with their recommendation that the convention be held there. Members of the Site Committee could then go into the Briefing Room and announce to the media that they had recommended to the President that the convention be held in San Diego, that the President had approved their recommendation, and that they hoped the Republican National Committee would approve the recommendation in Denver on July 23. This would put us publicly on record as having chosen a convention site before the Democrats.

If the general strategy as outlined above is approved, we will Proceed as suggested with the initial decision paper.

Approve Disapprove _

Comments _

.I: KJ  

/bcc: Mr. Gordon C. Strachan (for Mr. Haldeman's approval and concurrence - if necessary) ri 0
MEMORANDUM

FOR:

FROM :

SUBJECT:

THE WHITE HOUSE

VVAS H IN GTO N

June 21, 1971

H. R. HALDEMAN

WILLIAM E. TIMMONS N

'72 Convention

In preparing my preliminary plan for next year's convention, I need to know how many White House staff we may be required to accommodate with rooms, transportation, tickets, etc.

No doubt a number of key staffers will be involved in the convention campaign and, of course, those will be included in our early plans.

I personally feel that all commissioned personnel are entitled to be present whether or not they are actively engaged in the convention. This would be a morale booster, give staff a greater insight into politics, and serve as crowd fillers' for selected events.

RECOMMENDATION:

That I include plans for having all commissioned White House staff attend the '72 Convention.

APPROVED

OPTIONS:
If the recommendation is disapproved, then

1. Only those staff who can make a contribution to the Convention

If the recommendation is approved, then

1. Include male staff down through staff assistant level
June 26, 1971

MEMORANDUM

FOR:

FROM:

SUBJECT:

THE ATTORNEY-GENERAL
H. R. HALDEMAN

JEB MAGRUDER
WILLIAM TIMMONS

1972 Convention

This paper with its attachments is a summary of information relating to decisions that should be made immediately regarding the 1972 Republican National Convention. We make three recommendations:

1. That San Diego be selected as the site city

2. That the Convention start August 21, 1972

3. That it be a three-day Convention

We suggest you discuss these topics, at the earliest opportunity, with the President to get his guidance. When resolved, Chairman Bob Dole should be notified so he can engineer his Site Committee to make identical recommendations to the President. Later, Dole should meet with the President to advise him of the Committee's views, giving the President an opportunity to concur. Should San Diego be selected, this meeting might be considered for San Clemente the first week in July.

I. DEMOCRATS

Every available signal is that the opposition will hold its national convention in Miami Beach, starting on July 10, 1972. While Miami has good facilities, hotels and vacation atmosphere, the Democrats are probably more interested in the security aspects of Miami as a
result of the '68 riots in Chicago.

II. REPUBLICANS

Bob Dole is Chairman of the Republican National Committee Site Selection Committee. The Committee membership is listed in Tab A..t Bids have been received from:

CONFIDENTIAL/ EYES ONLY

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Committee visitations have been made to all cities except San Francisco. An analysis of each city's bid and some pro and con arguments of the various sites are in Tab B.

Since the President will control the Convention machinery and can schedule events to fit television prime time, media coverage is not a significant factor in site location. Presumably we will try to target time for maximum exposure, and this can be done by a little earlier program on the West Coast or a little later on the East Coast.

Also, while we question the argument that site location helps deliver a state's electoral votes to the Party, it certainly is a false issue for regular convention cities such as Chicago, Miami and San Francisco.

Facilities, security, a healthy "upbeat" atmosphere, confidence and control are important considerations to site location.

The Site Committee will make its formal recommendation to the full Republican National Committee at the Denver meeting on July 23. It is expected that the RNC will ratify the recommendation without difficulty. Additionally, Dole has indicated he recognizes that the President will call the shots on the Convention.

III. DATE OF CONVENTION

The Republican National Committee, Justice Department and White House counsel agree that a September convention would be too late to guarantee that the nominees can legally be placed on the ballots in a number of states. While some waivers may be possible, a September Convention cannot be considered. The Summer Olympics start in Munich, Germany the last week in August, and ABC has exclusive coverage and a commitment to carry events in prime time. ABC officials say that is locked in and it would be difficult for their crews and equipment to cover a convention the last week in August.
felt we would lose a substantial audience if the Convention were to compete with the Olympics. Therefore, August 21 appears to be the latest date the Convention could start considering the circumstances. The RNC favors the Convention for this period.

CONFIDENTIAL/EYES ONLY

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IV. THREE-DAY CONVENTION

Historically, both parties have held conventions varying in length from two days to five days. A four day convention has been the most popular. Because of the expected renomination of the President, a shorter Convention is felt appropriate for 1972. This would help eliminate delegate and public boredom and leave fewer opportunities for the media to emphasize Republican differences, demonstrators, etc. On the other hand, official business can hardly be condensed to fewer than three days. It is anticipated the sessions might be divided as follows:

Monday, August 21
Morning
First Session

Monday, August 21
Evening
Second Session

Tuesday, August 22
Morning
Third Session

Tuesday, August 22
Evening
Fourth Session

Wednesday, August 23
Evening
Fifth Session

Convening
Committees appointed
Temporary Chairman

Keynote Address
Permanent Chairman

Reports of Platform
Rules, Credentials, etc.

Nomination Speeches and
election of candidates

Acceptance Speeches
The principal change in this agenda schedule is that normally the committee reports, including Platform, are held during evening prime time on the second day. With an incumbent Administration, it is felt this event could be held in the morning even though we are exploring ways (films?) to make the platform more interesting and attractive. The RINC favors a four day convention because of anticipated hotel commitments to the host city and fear emergencies may require longer individual sessions.

We urge adoption of our recommendations.

1. San Diego as site
   APPROVE

2. Start August 21, 1972
   APPROVE

3. Three-Day Convention
   APPROVE
   DI SAPPROVE
AVAILABILITY

HALL:

BID:

HOTELS:

SECURITY:

ARGUMENTS:

SAN DIEGO

August date is okay.

Seats 15,000. Will require temporary facility for network and service organizations.

$1,500,000 in cash, goods and services.

Can meet 18,000 requirement, some rooms better than others. Short on parlors.

Good local police force and state patrol. Military installations close by. Access to hall is good.

PRO: -- Republican Governor (Reagan) -- Republican Congressman (Wilson) -- Close to Western White House -- Outstanding climate -- New, nonconvention city -- Emphasizes GOP interest in Western votes -- Best money bid -- California has most delegates and most electoral votes - Many things for delegates to do -- Outside, wholesome atmosphere -- Copley papers
CON: -- Democratic Mayor (up for re-election this year) -- City never handled big riots -- Shortage of parlors -- Construction of temporary facility next to ball -- Possibility of Reagan candidacy -- Internal competition between Reagan and Finch forces -- Proximity to Watts -- Berkeley could assure demonstrations -- Arnhold Smith IRS problems -- Must have earlier sessions to accommodate national prime time

CONCLUSIONS

-- Aerospace unemployment
- Considered a non-union town

By far the best of bidding cities. Security is main concern.

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AVAILABILITY:

HALL:

BID:

HOTELS:

SECURITY:

ARGUMENTS:

MIAMI BEACH

August date is okay

Seats 16,000. Excellent hall.

In neighborhood of $600,000 in cash, goods and services.

Good rooms and parlors in sufficient numbers. However, they are stretched out with only one artery.

Excellent because of geography.

PRO: -- Close to Key Biscayne
-- Sentimental return to '68 site
-- Lot for delegates to do; beaches
-- Best security of all cities
-- Easier for media to cover both conventions

CON: -- Hurricane season
-- Old hat; nothing new
    -- Public boredom of having two conventions in same city
Democratic Governor and Mayor
-- Afraid of riots; seek shelter
-- Not truly a "southern" city
-- Local Cuban competition
-- Have had racial problems
-- Must have later sessions to accommodate national prime time

CONCLUSION:

Second best choice
AVAILABILITY:

HALL:

BID:

HOTELS:

SECURITY:

ARGUMENTS:

PRO:

CON:

CONCLUSION:

CHICAGO

August date would require moving American Legion convention. This may be possible.

12,000 seats -- a little small in black ghetto section.

The required $800,000 anyway we want it.

Excellent number of rooms and parlors.

Police good and have riot experience.

Republican Governor (Ogilvie)
- Midwest location
- Transportation center
-- GOP can do what Democrats couldn't.
-- Good prime time coverage for nation
-- Big City atmosphere

Red flag to demonstrators
- In Daley's hands
- Have been there before
- Governor Ogilvie is opposed
- Chicago is not truly representative

Heartland America
- Not much new for delegates
- Racial and unemployment problems
- Hot, humid climate

The risk is too **great for any** marginal benefit.

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AVAILABILITY:

HALL:

BID:

HOTELS:

SECURITY:

ARGUMENTS:

PRO: -

CON

CONCLUSION:

9C. JEB MAGRUDER AND William Timmon memorandum June 1971

HOUSTON

Possible in August subject to rescheduling of baseball games.

Astrodome is too large but Astrohall has 15,000 seats. Modern facilities.

No firm offer made.

Limited. Must utilize rooms far away from hall.

Probably adequate.

A new convention site
- Will influence Texas and southern votes
- Republican Senator (Tower) and one local Congressman (Archer)
- Midwest television time
- Central geographical location
- Few demonstration problems
Democratic Governor -- LBJ image covers Texas

Hot and humid climate -- Not much for delegates to do -- It was apparent to the Site Committee that Houston was not genuinely interested in attracting the convention and refused to cooperate. If Houston is chosen, it will require a great deal of RNC staff work to get a decent bid.

"Dark Horse" third choice but harder negotiations required.

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AVAILABILITY:

HALL:

B:

HOTELS:

SECURITY:

ARGUMENTS:

PRO:

CON:

CONCLUSION

LOUISVILLE

Anytime we want it.

New, excellent downtown facility.

Open to negotiation; no firm offer.

Extremely limited; probably have to house in other states.

Probably adequate but untested.

-- New convention city
- Helps with southern and border states votes
-- Republican Governor (election this year and two
  Senators (Cook 4 Cooper)
-- Small town heartland America
-- Kentucky bourbon
-- Housing and transportation limited -- "Why Louisville?" -- Nothing for delegates -- The Site Committee feels Louisville is not sincere in its bid, which was instigated by Col. Sanders of chicken fame and a group of aggressive Jaycees who are part of the Democratic Mayors best supporters.

Not enough pluses to offset liabilities.
SAN FRANCISCO

AVAILABILITY:

HALL:

BID:

HOTELS:

SECURITY:

ARGUMENTS:

CONCLUSION:

Undetermined

Cow Palace seats 14 000 but

No offer made -> Felt could raise $300,000. ~

Tourist season. Hard to commit.

Not-- Good. Center of dissent and unrest.

No body considers San Francisco a possibility in light of above and other factors.

Absolutely out of question!
MEMORANDUM FOR: Mr. William Timmons

June 30,-
197L

Office of Congressional Liaison

SUBJECT: Security and Civil Disorder Capability of the Six Cities Bidding for the Republican National Convention

After a review of the security and civil disorder capability of the six cities which have submitted bids for the holding of the Republican National Convention, we herewith submit our conclusions. A detailed breakdown of the capability of each city in those areas which we consider most important is attached. The cities were evaluated on the basis of these criteria. The six cities, together with our summary observations, are listed in order of preference as follows:

1. San Diego, California

Command and control elements of the city for civil disorders is considered excellent. Recent incidents in the nature of civil disorders indicate that the police department is well
organized and well deployed. Arrangements exist for curfews and the imposition of restrictions such as the closing of bars and gasoline stations. The city has developed excellent mass arrest procedures. San Diego has approximately 950 uniformed sworn personnel and approximately 260 reserves. The city has achieved an excellent level of training in riot control and has engaged in some joint command post exercises for civil disturbances. The police department has two SEADOC attendees. Their intelligence system is excellent.

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The city has a very small EOC, but is capable of expansion with considerable reorganization. It has no mobile command posts. The existing master civil disorder plan is considered excellent and is tested each year. They have excellent special organizational arrangements for large scale security and large scale civil disorders situations. They have sniper suppression teams, but only limited capability in explosive clearance and arson suppression. The city relies on the active military service for ordinance disposal.

Mobile booking teams are available and mass arrests procedures have been developed. They have special protective equipment such as flack vests and face shields but would need supplemental equipment in the case of a large civil disturbance. A limited communications ability exists.

Mutual aid arrangements are in existence with local cities (approximately 500); regional areas (approximately 2,000); and state police (approximately 2,500). On street national guard strength can be anticipated at 15,000. The state of training of these forces can be considered good at the county and regional level and excellent at the state level.

There is excellent ingress and egress to the municipal convention center which is located in the center of town and across the street from the county jail. The San Diego Sports Arena is located approximately five miles west of the city in a semi-industrial area. There are no parks or other open areas in the immediate area.
vicinity. Heliport facility could be arranged.
Adequate parking facilities do exist.

Relationship between the judiciary and the police is excellent.

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Chicago, Illinois

This city has a good police command and control element which has operated successfully in the past. The number of uniformed police is adequate for most anticipated situations. They are well trained in CD operations. Their intelligence system is excellent.

The city has an expandable well-equipped EOC. They have a present capability in the area of Special Operations to include ordinance disposal, sniper and arson suppression, mobile booking, mass arrest and detention. Police force is well equipped with protective gear and chemicals. Good communications equipment is available with trained operators.

The major facilities afford adequate ingress and egress. Heliport facilities can be arranged in the immediate location, and adequate security can be provided.

Excellent relations exist between police and judiciary.

Police superintendent is not a political activist.

3.

Houston, Texas

There are established policies and procedures for the control of civil disorders in Houston. The city has approximately 1,800 uniformed sworn police officers. They are considered to have an operational capability in controlling riots.

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They have an excellent master civil disorder plan. Existing mutual aid arrangements with surrounding counties can provide 50 sheriffs and 500 reserves as well as a state highway patrol of 700 equipped officers and approximately 11,000 on street national guard forces.

The top leadership of the police department is considered to be excellent.

4.

Miami Beach, Florida

Command and control element of the Miami Beach Police Department is considered to be good. The police department has performed in minor civil disturbances in an adequate manner. They have made local curfew arrangements and have a capability for mass arrests. The number of uniformed sworn policemen is 231. All members of the police department have had some special riot control training, but none have attended SEADOC.

The city has an excellent master riot control plan and an excellent working relationship with the fire services and public utilities. They have a capability for special operations in the area or ordinance disposal, sniper suppression teams, and mobile booking teams. They have a regional mutual aid arrangement providing 60 sheriffs, 285 policemen. The highway patrol augmentation capability is 872 uniformed personnel. The National Guard could provide an on street strength of 4,800. The police have a good working relationship with the judicial
establishment. The **competence of the top leadership of the department** is considered good.
Louisville,
Kentucky

This city has good command and control for civil disorders. There are 563 uniformed sworn policemen. The general status of riot control training among uniformed personnel is considered good. However, none of the police department has had any SEADOC training. Louisville has an excellent master riot control and civil disorder plan. The police have an explosive ordinance disposal team and sniper suppression teams as well as a mobile booking team. The force is equipped with protective 

helmets and gas masks and has some chemical ordinance. --

There are 638 state police available to the city in an emergency and an on street national guard capability of 3,000 men. The police have a good relationship with the judicial establishment and the top leadership of the police department is considered good.

San Francisco,
California

The command and control element for civil disorders in this city is considered to be excellent. Recent experiences in civil disorders in San Francisco over the past few months show that the police department is well organized and well prepared. There are curfew arrangements and authority to impose restrictions such as the closing of liquor stores and gasoline stations. City has provided for mass arrests. The number of
personnel is 1,761 with a reserve force of 240. The status of riot control training for the uniform police officers is considered to be excellent. They have had two SEADOC attendees. The city is

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considered to have a good intelligence gathering network.

San Francisco has an adequate emergency - operation center and several mobile field command posts. EOC is capable of expansion. Police department has sniper suppression teams with limited capability in the area of arson suppression and explosive clearance. Mobile booking teams are available. The police - have special protective equipment and some chemical ordinance. Police department has a very limited communications capability. Mutual aid arrangements are in effect with local cities, counties, and regional areas and the state police. They are capable of supplementing the police force by 1,500 (local cities); 500 counties; 1,000 (regional area); and 1,500 (state) The national guard has the capability of putting 15,000 men on the street. The police department has responded well in recent civil disorders.

The relationship between the police and the judicial establishment is excellent.

The command structure of this police department has been subject of criticism in recent years, because it is not considered to be responsive to the Chief of Police. The Chief was appointed approximately one year ago by Mayor Allioto, replacing the past Chief, T. Cahill, due to
Cahill allegedly being too law and order oriented and conflicts arising between the Chief and the Mayor.
subject: Security Preparations for the 1972 Convention

As you know, the 1968 Democratic convention was the scene of considerable controversy and violence, giving rise to security problems of major proportions. The Republican convention in Miami Beach was relatively free of such disturbances, but the fact that the Republicans now constitute the party in power in addition to the involvement of the President increases the importance of security at the 1972 convention site.

Early planning in regard to the Federal role is already underway in the Secret Service. However, a comprehensive effort involving coordinated Federal and local enforcement efforts cannot be mounted until the site is known. If the convention site identified at an early date, the local law enforcement agencies can start the necessary preparations, their efforts can be supplemented by possible funding through an LEAA grant. Law enforcement officials from potential convention sites already visited LEAA requesting consideration of supplemental grants. However, both LEAA and OMB agree that such a step cannot be considered until the particular site is selected.

Taking into account security alone, it is desirable to have the site selected as early as possible. I recognize that other considerations are relevant and may be determinant, but I thought that it would be desirable to bring this matter to your attention early in the game.

/5/Arnold 2. Weber
Associate Director

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10. In response to a question at the Senate Select Committee,

congering Dita Beard's disappearance on the eve of the Kleindienst

hearings, E. Howard Hunt stated that he was not aware of any role

Gordon Liddy played in Mrs. Dita Beard's departure from Washington.
Third, when the attache case of Mr. McCord was opened for my
view at the time of discovery, I noticed that the group of surgical gloves, m-which I had last seen in the attache case, was in my safe at the AT&TO Elstree. IIll those gloves there missing from the attache case and were not otherwise emblazoned in the ins extort subsequently provided by the FBI.

As of course, there have been many other things. I did not maintain all the index of the contents of my safe.

Senator Is--O--E. And my final question is, Mr. Hunt: In response to my one of my questions, you said that you event to Denver, Colo., some place to meet with Sirs. Dita Pseard to determine her reasons for leaving L'Ambassador. Were you aware at that time that Air. G. Gordon had escorted Dita out of Washinghion.

Air. Hunt. No, I was not aware then, and I am not to this day aware.

Senator Is--o--E. Did Mrs. Beard tell you how she got out of "

Air. Hunt. She did not.

Senator Is--o--E. Did she tell you why she left Washington?

Air. Hunt. She alluded to it in response to my question.

Senator Is--o--E. What was her response sir?

Air. Hunt. She said in effect, and again let me stress that she seemed to be under sedation and was from time to time in need of oxVwen, she put it that there was nobody she could trust, that she felt the only thing she could do was to run away from what she interpreted to be hostile environment. I don't know if any memorandum stated it ill those terms.

Air. Lenzer, do you have a copy of that memo?

Air. Leslie. Of the memo on Dita Beard?

Air. Hunt. Eight-page memo. Did I see you referring to it?

Air. Lenzer. No; this isn't it. If you are referring to the memo on Dita Beard, we have made a request to Mr. Cox's office for that. I have not received it.

Air. Hunt. Again, I hate to go into details of an incident that took place a long time ago when there is hard evidence, a document that I myself wrote just hours after I returned from Denver.

Senator Is--o--E. In questioning Sirs. Beard, you indicated that you met with her from 11 o'clock to about 5:30 of the morning.


Senator Is--o--E. How did you convince the doctor that it was important for you to meet Atls. Beard?

Air. Hot. I believe those representations had been made before I embarked on my trip by her daughter.

Senator Is--o--E. Thank you very much. sir.

Thank You, Mr.
Chairman.
J. Senator F. R. Senator Balker.
Senator B. A. Senator, thank you very much.
Sir. Hunt and Alr. Chairman. I apologize for being absent during much of the afternoon but as I indicated to the chairman earlier, the

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lla New York Times article, dated June 20, and carried in its June 22, newspaper 156

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12. On April 4, 1972, the President met with H. R. Haldeman and Attorney General Mitchell in the Oval Office from 4:13 p.m. to 4:50 p.m. during which time the ITT matter was mentioned.

12a Transcription of recorded conversation of above described meeting; 1, 4-6, 8, 10, *15. (A transcription was previously furnished to the House Judiciary Committee). -158

(157)
Well John, I hope you had some time off -- that they didn't bother you to death, with ITT and all that.

No. It was simply wonderful.

Good (unintelligible).

We always enjoy it, Mr. President. Oh, Bebe turned that thing up according to your formula and

( Laughter ).

I tell you, it was just great.

I told these people around here, I said (unintelligible) call Mitchell, I said don't you Bob, and.

Of course, I suppose they had to (unintelligible) one or two.

Well some of them did.

We didn't bother you too much?

No, not you fellows.

I said in the campaign -- I said to hell with the damn campaign. Did you do any golfing? No?

Hell, I didn't even care to.

Did you fish?
We fished, and we went out in the boat with Bebe a couple of times and had dinner with him two or three times.
P  I'd like a little consomme. Want some consomme?

M  I'd love some. So it was just absolutely great. We had
some of the people down from the Committee where we
could spend a couple of days, you know, with quiet and so

P  Yeah (unintelligible) sort of busy these days. Try and get
the weather, damn it, if any of you know any prayers, say
them (unintelligible) weather. Let's get that weather cleared
up. The bastards have never been bombed like they're going
to be bombed this time, but you've got to have weather.

M  Is the weather still bad?

P  Huh! It isn't bad. The Air Force isn't worth a I mean,
they won't fly. Oh, they fly, but they won't -- you see our
Air Force is not . . .

H  It's the strangest thing -- in World War II they flew those:
bombing runs all the time and they couldn't see a thing.

P  I know.

M  But they were doing a different type of bombing then.

P  strategic bombing and all that -- nevertheless it's a
miserable business.

M  Are the Navy pilots as bad?
P  Oh they're better, but they're all under this one command.
   It's all screwed up. We just aren't going to talk about it.
   The weather will clear up. It's bound to. When they do,
   . they'll hit something -- and, they're a lot of brave guys -

I  : you've got to say. After all that POW (unintelligible) that poor who got shot down. They're over there
   starving on that damned rice. It's all right, we'll give 'em hell, 0Well the ah,

what are your reflections on the present thing. Why don't we
   ' start with what I told the staff to get the hell off of the ITT 0
   and then get on to'--politics' which is' more interesting', ' not

that that'isn't--

M  But that's politics -- pure and simple politics, but hopefully
   we'll get this thing.' 0'; 0 -

P  Well, I don't know if we'll ever get out of it -- I mean -- I

... think what we have

to face is that it will be investigated by'

(unintelligible)
election as you get closer to the election of

I think that -- I think you might adopt

course it's extremely,

you might consider adopting the practice

the practice -- I think

Democratic Convention the Republicans will

that after the

boycott all
investigating committees on the grounds that they are politically motivated. How would that be?

(160)
I would think I would go beyond investigative committees. I'd go to some of the others where you have a facade.

Harassing.

Of substance, but

(.? unintelligible). It's a good idea.

Yeah -- we're going to boycott anything that we think is politically motivated.

These people are disgracing (unintelligible).

And ah, Republicans just walk off and say it's just politically motivated. Well, at least ITT got 'em confused.

I would say it's quite confusing. Some of the more enlightened newspaper people are beginning to write to the effect that the Democrats got to come up with something more than they've come up with or the monkey's going to be on their back.

Manolo, who do you think (unintelligible).

I don't think so, sir.

Not much Manolo.

What they do is (unintelligible).

You happen to be right, Manolo. I was just telling --

(Material unrelated to Presidential actions deleted)
You know this little girl -- this Lichtman -- the secretary?

You know where she had her press conference don't you -- did

you notice that? Down in the law office of the Democrat

Chairman for the District

She's a Democrat?

Yeah, but the press conference was held in the law office of

this (unintelligible) District, Democrat Chairman, and yet

there wasn't anything in the newspapers about it or why it

just so happened.

Most of the"shakers"are, that's for sure.

What is your view about the convention -- about all the scares

and cries I hear about the 250,000 naked kids that are going

to be coming?

Well, Bob and I have just gone over this and I've had a meeting

this morning with

Kleindienst told us about it.
And so forth, ah, it seems to me there are three factors --

number one was screaming kids -- if you call them kids;

number two -- the ITT Sheraton business with the television
on the hotel all through the Convention; and thirdly, and
equally, if not more important, is the fact that the site
selection committee and the people that went out there to
look at that thing did a God damned poor job. It's come to
the point where it's going to cost between 2.4 and 2.5 million
to put that thing together. In addition to that, there's

That's if we just get the convention hall apparently? En ff, I

No, no, this is the whole thing, this is the whole thing.

I see, all the hotels and stuff involved.

Yeah everything in addition to that there has to be nine

hundred odd thousand dollars of insulation in that arena out
there, and in addition to that there's a

Who, (unintelligible) this, Wilson (unintelligible).

No, I think a lot of our people closer to us than that were at

fault in not recognizing the limitations of these facilities.

All right.

In addition to that you have your building trades labor contract

coming up on June 1, out there for negotiations, and they can

put the pressure on your pay board or the rest of it. So, in

view of that we have thought of the potential of changing the site.

We can get out of there -
P  What ground would you use for changing it?

M  The cost and the uncertainty of the availability or the facilities.

H  There's a real question as to whether they can do the construction on

M  That's correct, and the arena out there is owned by two

Canadians, and they're just acting tougher than hell.

P  All Canadians are tough.

M  And, there's no contract with them that covers some of these

things; -- ah, so that you're not walking away from the city

of San Diego, you're walking away.

H  You can make a very good case.

P  How about San Diegians -- how do they feel?

M  I don't know, frankly, I believe it would be mixed emotions.

H  It's mixed, but with all the talk of the demonstrators

P  Lot of people don't want them there

H  I think a lot of San Diegians would be very happy to have them

go away.

M  I would think that that would be the case.

(Overlapping conversation)

H  Hotels anyway --

(164)
(Unintelligible) you build the fact that the arena is in trouble, in other words, you've got to find the cause. This subject came up before, you know, you raised it, Bob, and said, well, our people are so stupid on public relations that I'm sure the way it would come out is we went because we didn't want to stay at the Sheraton where somebody I understand agreed I was to stay.

H No.

P I'm not even going to stay any place in San Diego -- I'm staying in San Clemente, but be that as it may that was apparently some story that they had. Well anyway, whatever it was, the question is whether or not at this point we could start the talk. It's a wful hot incidentally, terribly hot.

H I can see that

M Well, we've started this

P Put it on the basis that the arena can't be finished. Can we do that?

M Yes, as a matter of fact, I was going to say we're starting this, programming this, by sending people out to continue, and I say continue the negotiations with these Canadians because they don't want to give us a place for lead time in order to get in there to do the improvements, etc., etc.
Then we could start the cost thing and then

(Overlapping conversation).

I'd just say that the arena would not be finished.

Well, the cost factor goes in with the negotiations because if you don't get into the arena to do the reconstruction by a certain date your cost factors multiply and multiply and multiply - so you just (unintelligible) the same factor. In the meantime, I talked to Bebe this morning and a Miami Beach of course is the logical place.

Sure.

(Unintelligible).

Well, if it's all set up -- safe -- television -- that's the major consideration. At least it's all there. Go to the stupid damned place again, and I got a place to stay this time I wouldn't have to stay in a hotel. '

So Bebe has got this fellow Myers.

Hank Myers.

Hank Myers, who has the contacts and so forth, quietly canvassing to see if the arena and the hotel rooms Will be available.

This time of year?

Oh hell, they run a lot of conventions.
They run a lot of conventions but they'll clear them out by that
time. It isn't really, I've been there in June and August -- we
all have -- and they do run conventions, but generally speaking,
it's still more open in the summer and the rates are lower.

Of course

It's still ridiculous though.

So, if the only negative factors that I see in the change

Is the admission of guilt in ITT, right?

Well, I think that that will go by the boards.

Maybe that's better than just having the damned story rehashed
again.

I would rather have the -- if they can sell it as an admission
of guilt now than I would have the television cameras on the
Sheraton Hotel all through the Convention.

That's right. That's right.

I don't know

My theory is - It's the old story you know that a good poker player --
cut your losses -- get out of the bad box and get out of it fast.

I don't know how our friend the Governor would take this. He
might be damned glad to get the problems out of the way. I
don't know, but we would do --

(167)
MEETING

Can't we -- could we have a situation where we have a break

with the Canadians. You see what I mean? Create a conflict

with them.

That's what we're

And then go out and announce it, but it's got -- if for once we

could do the PE right -- if for once -- just one single solitary

time -- and keep it out of Bob Wilson's hands -- and do it

right -- but the problem is that the convention

(unintelligible) that is the arena won't be ready, the cost is

too great, or . . .

M That's the way we would program it.

P Think it would work?

H Sure. I think it would. You're bound to get some bumps on the

other side? So what? You got a base a story -- just stick with

it -- couldn't get the arena done -- made a mistake in surveying

it. It's all fallen apart.

P You've got to establish that immediately though. This is April,

and the Convention is only five months away, and so everybody

is going, as you know, now that's going to be ready -

M You see these negotiations are going on and what we were

proposing to do is to send a big architect and a builder or

somebody else up to have a confrontation with the Canadians

in Vancouver.

(168)
Well let's do it.

Well, we want to make sure we can go to Florida before we break this pick.

I'd just soon not have a convention, but we can't get away with it.

Have an absentee ballot -- that's what I'd prefer.

The Ripon Society is suing us for improper selection of delegates or something.

We have something where you state that (unintelligible) to the President gets eight additional delegates or something and the Ripon people have gone to court and some judge has upheld them on the first round.

Is that right? Well that's been done -- been done from the beginning -- I don't know whether it means anything.

I don't think it does. They don't seem to worry about that anymore.

The fact of the matter is that there are a few rules that a political party has control of it's Convention and in the past they have ignored even the state laws that require people to be pledged for so many ballots and so forth. They've just ignored them.
P Let me ask you this. Do you think the possibilities of major
demonstrations are less ill Florida? It doesn't make a hell of
a lot of difference anyway. I'd rather have a demonstration in
Florida than I would in California anyway. California is a state
we have to go for for other reasons.

H Well, I think they are infinitely less.

M Infinitely less.

H You've got much better physical (unintelligible).

M And in addition to that you have all the Democrats in co)-ntrol in
Florida from the Governor on down -- where in California you
have all the Republicans in control.

(Unintelligible) have d emon s tr ation s (unint elli gible ) .

One story John, whenever you're asked about a (unintelligible).

You know, I'm the only one in the whole outfit that
didn't want to go to California. I was against it all the time.

M You wanted to go to Chicago. I didn't want you to.

P I did. That's right, but I (unintelligible).

M No qu e stion about it.

P How about Chicago now?
M

P

Daley wouldn't let you in there, I bet.

Oh

(170)
Can't start from scratch from anyway now, I don't think.

You I ve g o t

Be very very difficult.

It would.

And we have a month between the Conventions -- more than
a month in which

Clean things up

To change things enough to make it look like -- assuming that

(Unintelligible )

(Unintelligible) platform in.

The facilities for crowd control are so much better in Miami

Beach there.

And of course the cost is

And we save money LEAA money, we don't have to

Save police money.

The other point is the Democrats really fouled up, and the

police and the rest will feel that they have a responsibility to be

a little bit more restrained when we're there. Well, I hope you
can do it. My idea is -- I'd wait. Obviously we have to get ready -
when it's ready -- I'd say in about 30 days from now.
M I think we could move in on it before then
M Because we're at the point where

(171)
(Unintelligible.) no way you could do it though without being charged because of ITT

Well Herman came out with a statement today which shows that ITT's contribution is down to $25,000. I just think that the cost of it, the labor problem, the possibility that you'll never get that place in shape

Ye ah

Ah, added on top -

Also, we don't -- there's very little that we could do to screw up Florida as a state that we might win. California is a toss ows anyway you figure it. It's a to carry and there's a nasty incident that could hurt us.

Yep.

That's the point. On the other hand, I don't think Reagan's attitude is supportive. He wants to carry the state. On the other hand, you got to figure whether or not -- these clowns that want to go there say -- oh it would help so much -- and all that business.

(Unintelligible).

Well -- you've a double edged sword there -- if everything went off nice and peaceful and you had all those 10,000 college kids we were going to have out there marching with their banners and everything was beautiful -- that'd be great.

Yeah.
M But if you have one of these confrontations with a Republican

Governor and a Republican Mayor and Pete Pitchess

is sending in his storm-troopers -- why

P Yep.

M Well that's where the police are going to come from, you

know they don't have enough in San Diego to handle it.

P (Unintelligible) send Pete Pitchess down - Sheriff's posse.

Those old farts riding their horses. Well, I like it, but I

would say that if you just start getting the word out awful fast

about the (unintelligible) problem you are having with the

Canadians. Is that being done, I haven't seen anything?

M Well, it's all local out there. It's known locally.

P The main point is to get it out nationally. Well.

H Local too.

P Who would say that? -- the Mayor would say it or the Convention

Committee -- that we regret that we cannot handle it -- that we

cannot have the hall ready.

M Well this is the Republican Convention and they wouldn't be

saying it because they would, of course, have to bring that site

selection committee back and they'd have to put out another call

and things like that; so it would be the Republican National

Committee that's the party of interest.
P Ok. -- Well leaving that subject -- what else is -- I guess
today is Wisconsin isn't it?

M It certainly is -- ought to be an interesting go -- ah -- I told
those fellows over there tonight with Dale and -- Dole and
so

primary

forth -- to get out two thoughts in connection with this

indication

because of the proliferation that the Democrats did
not have a

viable national candidate when you look at who won in New

Hampshire and who won in Florida and who won here and the

next place and secondly, if there was any winner at all it was
Teddy Kennedy. Now Teddy's been getting a free ride, but not
being drawn into this, and if you have Dole, Dale and whoever
else bring this up that -

P Why wouldn't you say that Teddy is going to be the nominee.

AM Yeah, Teddy's getting

P Rather than he's a winner -- I'd simply say that McGovern's
a stomping horse for Kennedy and Lucey is the Kennedy man and

it looks like Kennedy is going to be the winner of the nomination.

Looks like Kennedy. None of the others have got the horses to

win it. Smoke him out a little.

M That's right and then, what I would hope would come out of it --

is what the Republican National Chairman and so forth are saying
M  is that the reporters will be going to these other candidates

and say "what do you think about what they are saying about

Kennedy" and let's get them posturing themselves against Kennedy

so that he doesn't get this free ride.

P  It's clear, it's clear that this is a -- Mel Laird is saying that

the reason Muskie has been really poleaxed there among other

is that Lucey and the Kennedy Democrats have ganged up on him.

They got behind McGovern, not for the purposes of supporting

McGovern, but to kick the hell out of

M  Muskie

P  Muskie, and also, he said they did it for another reason: they

didn't figure Hubert had a chance before Florida and didn't have

time to change their course until then or they'd all been for

Hubert, but then anybody but Kennedy. Their purpose was to stop

Muskie. But they've done that-- now- Hubert, of course, has

come in.

H  They can't stop Hubert! (Laughter)

P  They can't stop him if he wins this time.

P  I think he will. I think he'd be first -- McGovern second -- and if

Wallace is third, I think Muskie then would be fourth, but that's

just a guess.

(175)
M: I don't know how the

P: Maybe Muskie will be -- Muskie will be second.

M: Well, I doubt that very much.

P: He's up there though. He had a big telethon push which I

(unintelligible).

M: I don't think Muskie is going to have that drawing power up there.

P: You know the thing that occurred to me is that -- it seems to

me that as you look around the states -- the big states -

New York is one that I don't think you could (unintelligible) -

you really have to be personally in charge out there, and

anybody else I let in there, you know what I mean, because

you've to play the game and Rockefeller's got to carry it for

us hasn't he? Have to get off his ass, but you've got to play

the game with those conservatives, right? And so there the

problem.

H: Incidentally, did you see Bill Buckley's -- you see that letter

he sent out?

P: No. What's he done now?

H: He sent out a letter to the - - I don't know whose the real's a

circulation building letter or something to the publication people

or whatever it is - but anyway, the whole 'pitch is -- 'I've been

asked about this coming election or something, and I will say

proudly I will vote for Richard Nixon for President. I consider

(176)
any one of the Democratic possibilities would be a disaster for this country. " He said that "Nixon will be a problem too but that he has the job" -- no, he insists that "he has the job now of doing just what the conservatives want of pulling together a sufficiently broad coalition in order to be elected to govern. " He said "I would not vote for Nixon as editor of a conservative journal. "

That's very good.

And he said "I don't feel that we should abandon our principles but when we get to the election we must vote (unintelligible).

Then he sort of sticks it to Ashbrook?

Well, Bill's written

He said he was going to do that

A couple of column's you know that go in this

How does he, well how does he deal with Ashbrook. I mean does he want him to get a good vote anyway?

Yeah, because that's forcing you

That's the signal

To take a conservative position.
I mean I watched Ashbrook closely.

H: You watch Ashbrook closely and get your guidance from

(unintelligible)

(177)
What I was going to say is -- in Pennsylvania, who do we have there that you would say -- you also will handle New Jersey won't you? I don't think (unintelligible) or were you using Sears or others

Yeah, Sears.

What about the list of the big states? We got New York and New Jersey. What would you say about Pennsylvania?

(Unintelligible). Or do you just divide the state up?

Oh, do you mean who do we have in Pennsylvania?

The boss, I mean it's a (unintelligible). Who would you consider to be the top man?

That's really divided into regions but Arlen Specter is -- well Specter is our general Well he's our campaign director. Scott and Schweiker are the co-chairmen, and Arlen -

Specter is the statewide chairman?

Yes.

Good.

Well he's really going to work.

Well he's good.

And a

And he wants to be governor doesn't he?

That's correct.
Whether he wants to be (unintelligible), he's good don't you think with the Jews and with the Blacks and (unintelligible)?

Also he's with us.

Yes, and also he's -- we're deciding whether Rizzo's campaign manager should go to work for Arlen Specter now or wait and a

How's his relationship with the Pittsburgh crowd, all right?

They're good, because we've got other lines

But Specter -- that's the guy -- in other words you wouldn't be in direct -- you wouldn't need anybody here to watch (unintelligible) ?

We're going to have to have people to do that, but what I've done

(Unintelligible) you ought to handle that

Well let me.

On a real tough job, I would not let them out of your hands.

I don't know whether you can do them all but

No, I've already decided that in California, Illinois, Ohio, Pennsylvania, New York and New Jersey, that I am going to have a direct line through to the people. The other states we will have these surrogates

Surrogates.
Regional people. Now, what I want is what we've talked about before, it's -- well, use the example of California: If we can get Cap Weinberger, if he's not SO far "Hatched" that he can't do it, Cap could be a state desk man or auditor, or whatever you want to call it, somebody with the expertise of politics in California -- can go in and see what's going on up in the Valley under Monagan or what Packard is doing and his people and San Francisco, or what they're doing here there and the next place. I expect to have somebody like that for each of these big states. But I think

I'm afraid he is "Hatched," but a

' IS he?

'M

(Unitelligible)

Cap is a pretty bright able guy and he's been immersed in politics out there as state chairman

Wonder if we should pull him out of the Budget?

' He gets along with everybody.

Well, he doesn't want to stay in the Budget.

I know he doesn't want to stay there. Can we pull him out and put him in an agency. He might be just as good a man as you could find around California.
M Can he take a leave?

H Just resign.

P Let Carlucci or somebody else be Budget Director if he resigns, and

H After you get a Budget Director.

P I'd have him as full time. George could find somebody

H You've George on top of it.

P George Shultz can run the Budget, (unintelligible). I really think the thing for Cap -- so important that you want him. (unintelligible). Illinois?

M Well, we've got, of course, Tom Houser is a good operator and I haven't got anybody yet.

P Pretty good, yeah

M Tom Houser.

P He's Percy's man, you know.

M No.

P No, I meant he was.

M He was.

P I mean his
He broke with Percy you know when Percy went back on his commitment to vote for you -- or to me to vote for you at the Convention.
Well he helps its in the area we needed him (unintelligible)

and so forth, and Texas?

And we have

How does Texas stand?

We have Al -- we have John Connally.

(Unintelligible).

We have Al Topper (phonetically) downstate.

Oh, good.

Who is, you know

(Unintelligible).

'And so -- plus a lot of good regional people -- even a top flight
guy in the city of Chicago which is a real good politician. In

Texas, I've been talking to John Connally about it.

Have you? Good.

John's feeling is that by the time they get to the Democratic
Convention he is not even sure that Bentsen or the Lt. Governor

P Barnes --

M Ben Barnes or these people should even go to that Convention.

I guess it's his line. What he is angling for in effect, is keep

your options open. Don't get tied in with an organization now,

because you may want to bring

P Texans for Nixon, I know, I know (unintelligible).

(182)
Well, on the other side of the coin, of course, our Republican friends are getting itchy and I keep telling them to go out and write you some more Republicans -- but they say well, we're going to lose good people to the gubernatorial campaign, etc., etc.

P: Let 'em go.

H: So what?

P: Let them go. They don't -- that doesn't make any difference. Hold it firm. We need Texas Democrats. We don't win Texas -

we haven't won it yet -- but you don't win it with Republicans.

We never have. And let's just face it, that's the way the score is.

Tower has won it once or twice but -- accidents, pure accidents.

(Unintelligible) any Democrat, believe me, by any Democrat (unintelligible) committee of that sort is better. Rather than that fellow who is finance chairman down there. What's his name?

H: Al Fay

P: Al Fay

M: You mean Peter O'Donnell? Peter's left.

H: He's left?

M: Peter quit. He's (unintelligible) national committee (unintelligible).

H: I'll be darned.

M: Agnitch is the new national committeeman.
Yeah.

O'Donnell was such a horrible whiner.

Ohio!

Ohio we still have the Bliss.

Bliss is still.

Situation.

I think going for the old timer there is a bad idea. What do you think Bob?

I think it is a good idea.

Well, we have to, Mr. President -- almost have to -- to keep the Taft forces and the Rhodes forces and the rest of them.

Well, we've got to go for the young too and the rest, but I guess Bliss is

Well, Bliss is going to come back to work for me, you see, he wants the recognition.

Great.

He's not going to be the guy to come and do the nuts and bolts, but he wants the identification with you and back here to reestablish his
Let me ask you this. We have these curious reports, which, 

you've seen these of course, (unintelligible) out of Michigan 

showing we have a chance in Michigan. Do you think we ought 

to take a whirl at it or not?

(184)
We're going to take a whirl at it. We're going to take a whirl at all of them.

P Well (unintelligible) even Minnesota?

WI Well, I mean a whirl at them to the point where we're going to organize to the teeth and then when it comes to where you're going to spend the money on your media, your mail, your telephone, and things like that, we'll make the judgment a little further down the line.

P Michigan judgment could be very interesting because if it gets really heated up on busing, if it could, and we're on the one side and they're on the other side, you might win the state on that issue. You agree Bob?

H Sure.

M In addition to that, look what you've done for the automobile industry.

H That was a year ago.

P Well, still

M It still can be sold

P Sold lots of cars

And, Milliken is all aboard and he's working hard, and we've got a good chairman out there.
I'd even run -- I'd even have some sort of a campaign on that.

I'd even do something in Massachusetts. Do you know why?

Solely because I think it isn't good to let any one area just go completely.

No, you can't, because of its rub off on Vermont.

We've got an added starter there who wants to be the chairman to get out and work and that's the Governor.

He does?

Sargeant?

Why not? He gets on the tube.

(Uintelligible).

Well, he's a good liberal fellow.

He really wants to get in?

Yep -- and I think we can get it cleared with Brooke and Volpe and all the rest of them.

I think there's a great deal to be said to go for every state.

You know the line I took with these people -- the governors which they all like to hear -- but you take, I was telling Bob the other day that in terms of our own plan, of course, we've got to look at everything you can without killing ourselves or without being over exposed. But, I feel very strongly that
Won't hurt us!
Wallace in or out, we ought to hit of the southern states that
I ought to get to Georgia, Alabama, Louisiana, and Mississippi,
because I think if we can sweep that South and of course Texas
is the big question mark (unintelligible).

Did I tell you about Connally's poll that Barnes ran down there?
Shows the President did very well -- quite different from our
polls.

In Texas?
Yep.

Our poll shows five points behind.

With Muskie, yeah.

Of course that would be
That was awhile back.

Quite awhile back. Yeah. But John Connally's impression is
that you're in good shape in Texas with or without Wallace.

Well, that's hard to say (unintelligible).

Well we don't have that liquor thing down there this year that
we had in '68. That was what really did us in.

Unintelligible).

You know Unintelligible) really kicked Muskie in
(unintelligible) that Harris Poll showed him slipping in the
trial heats. Apparently (unintelligible) something similar
(unintelligible) .
Well, this has a hell of an impact because the press picks it up and drums it day in and day out.

Especially because he had been (unintelligible). (Unintelligible) Gallup (Unintelligible) even, even in February and now (unintelligible).

When is this coming out?

I've got to see the Ambassador -- he's leaving -- he's leaving.

Oh, is he?

Going home.


French Ambassador's name is Kosciusko. Figure that one out.

For your -- I can't tell you too strongly now with regard to the San Diego thing -- got something to do, do it! Cut our losses and get out. But I do think that from a PR standpoint, Bob, at this time we really ought to.

(Unintelligible) ahead of time.

To build (unintelligible). start a fight, right now. Play hard (unintelligible) no question.

As soon as we see any light through it at all.

I'd start right now.
M Give them the guidelines and put them right on it and let them

stay right on it. (Unintelligible).

P John, I would start the fight right now. (voices fade away).

P Well, Mr. Ambassador, (The French Ambassador and

Dr. Henry Kissinger enter)

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13. During the days following the publication of the "Dita Beard" memorandum on February 29, 1973, several of the top White House aides were involved in investigating the allegations contained in that memo random.

The actual settlement of the ITT cases as a quid pro quo for an ITT commitment to the Republican National Convention was as the focal point of the Kleindienst Confirmation Hearings which began on March 2, 1972. Peter Flanigan, a White House aide, was the object of considerable attention from the Senate Judiciary committee and press during the coverage of these hearings.

Page


13b Statement of Richard G. Kleindienst, dated 10-31-7

13c Testimony of Richard G. Kleindienst, 2 KCH 95-96

13d Memorandum of March 13, 1972, to John Dean from Charles Poision

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191.

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13e The Washington Post April 27, 1972; and The Boston Globe, April 13, 1972; and The Washington Post, March_.

(189)
Mr. PICKLE. If you: sent him, to Denver! C.,.10., what was: s the purpose of t71e
interlie--N.?  

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Mr. PICKLE. Is it trlle, Wt. Hunt avent to Denver ? 

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Mr. COLSON. I did not asls ts\l.F., I asltetl clid l le t o tlhere and [ro in discuise ? 

Mr. Cor.so------. I have ilacl tllat reportecl tllat lle dicl tl|lt I clo not ltnoav for a fact he (lid. 

Mr. J)TC'ILLE. rOU l-lon't di(\vecl it since it llas not 7aeen denied ? 

Mr. COLSON. I aa~--3 10 reason to cloi~5t it. 

Mr. PICETE. WN-711V did he put a disfTIlisc on if yGGu.--z-ere prollerly coneel necl al: out 
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had written it, and if it avas as.
April 19th, 1981, Dr. Ehrlichman: On Monday, April 19th, 1981, Dr. Ehrlichman quoted on C.E.S news: "I was not directed to the President."

The President did not direct me to tile the responsibilities as the heeiazeg I Attorney General in these cases, I was not interested. The White House. I was not interested. I was not pressured and the President should not have been called for.

"In the discharge of my responsibilities as the heeiazeg I Attorney General in these cases, I was not interested and the President should not have been called for."
The committee met, pursuant to notice, at 10:40 a.m., in room 228, New Senate Office Building, Senator Thomas, chairman, presiding.


Also present: Francis C. Posenbelge,-r, Peter M. Stoclegt, Tom Halt, Hite, LLea.n, Thombs B. Collins, ~rad Rol)ert 1.: Yountr, of the committee staff, and various assistant.s to Senators.

The chairman stated The committee will be in order.

Mr. Eleindienst, hold up your hand.

Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. EAEINDIE,NST. I do.

Mr. SIE.~r~. I dz3.

The CHAIR3TAN. This hearing was called at the request of Mr. Eleindienst.

Nosstr, the zvay the Chair thiss the proper procedure lvould IJe is to hear Atr. Eleindienst, Mr. A:lcLaren, andl the other gentlernen, and then throw the ma tter open for questions by whoever on the committee M ants to ask them.

L'oxv, ?Mr. Ftleilldienst, you may proceed.

Mr. ELEIDEDIENS Thank ;you, Mr. Ch3irman, and Jnember3 of the committee.

Frist I nvant to express my personal appreciation to the committee for pronding me this opportunity at the estrliest possible moment to proside the committee the information that I havt respect to some of the charges that have been made in tis public press in the last several days.

13C. RICHARD ilEIWDIEGST TESTIMONY, MARX Bj 1972, 2 KCH 95-96
The reason for this hearing is that I have been made to believe that influence of the (osnJJll.tee is l-eal]se char):es have been made that I influence in settling the litigation for political reasons. I believe these are serious charges and the Court, that I was involved in settling antitrust litigation for political reasons. In the minds of any of the Senate, I have not availed to make it clear that t]ere has been an intentional disclosure to the Senate that there is cloud over me. Therefore, I want the Senate to act up on these charges and that the State of the U.S. Senate is before the U.S. Senate, I want them to tell me what they did. I have involved, not to mention the change in the U.S. Senate or the consideration of my noninvolvement in the Attorney General's role in the Senate.

I am here to tell the Senate and its antitrust matters before the Department of Justice to tell them what I did. And I have here with me this morning the Assistant Attorney General, the Federal District Judge of the Northern District of Illinois, and Mr. Felix Rohatyn, who is sitting here to my left, identified himself as a member of the board of directors of I.T. & T. The reason for his involvement is that his firm has performed legal services for subsidiaries of I.T. & T. and therefore left from the standpoint of proper conduct that he should not be involved in any matter or consideration or decision that would involve me in any way.

At the recommendation of the Assistant Attorney General EJC.Laren in the Antitrust Division I was called as the Attorney General in these cases and as required by law, I authorized the filing of complaints against the acquisition of or proposed acquisition by I.T. & T. in connection with three corporations and the Connecticut Corp. the Grinnell Corp. and the Hartford Corp. These complaints and the nature of these actions will be discussed in more detail by Judge ANC.Laren this morning.

But in any event all three of these complaints seek to prevent t]he Government to prevent them in the antitrust laws of the U.S..Consumer

Ap.) proximately on December 20 I received a call from Mr. Felix Rollett. He told me that he had identified himself to me as a member of the board of directors of I.T. & T., and that he thought I could not come to my office to discuss some of the legal consequences of the issue of the Department of Justice to require I.T. & T. to divestiture of the Hartford Insurance Co. As a result of our discussion on this, I spoke to him.

AJR. Rohatyn came to me on October 20 I received a call from Mr. F. C. S. To the Department of Justice to require it to divestiture of the Hartford Insurance Co. As a result of our discussion on this, I spoke to him.
MEMORANDUM

MARCH 13, 1972

MEMORANDUM FOR: JOHN

FROM:

One of our great problems in the

DEAN

CHARLES COLSON

TTT fiasco has been our inability to present directly and succinctly some obvious strong facts on our side. The attached is an attempt to summarize the three Key points that need to be made over and over and over. I thought this might be useful to you.

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There has been so much innuendo, so much political rhetoric and so many smear charges in connection with the ITT case that I don't wonder that people may be confused about it. A few facts need to be put in perspective:

1. **In two** weeks of hearings before *the* Senate Judiciary Committee **there has not** been one scintilla of evidence of any wrong doing, not one scintilla of evidence that there was any connection between the anti-trust decree in the ITT case and ITT's offer to a civic committee in San Diego to help San Die,go make a bid to obtain the Republican National Convention. 2. The press continually reports "ITT's contributions to the GOP". The simple fact is that Sheraton Hotels, a subsidiary of ITT, made a pledge to the civic interests in San Diego to help guarantee the financing necessary for the city to obtain the convention in c Diego. Whether San Diego got the convention or Chicago or Miami, could be of little financial concern x the Republican National Committee and the financing of this year's political campaign. In short, it was not the Republican Party to whom any pledge of financial assistance was offered.
3. Perhaps most importantly the government did not, as has been charged, "drop" the ITT case. It forced upon ITT a tough, hard settlement requiring ITT to divest itself of 6 major corporations and to agree not to engage in any further acquisitions for 10 years without Department of Justice approval. It is perhaps fair to note that this decree one of the toughest anti-trust decisions in history and the

1a-.r; gest was achieved by this Administration even though the prior Administration had decided not to pursue anti-trust litigation against this same corporation. It is important also to note that this Administration has a record second to none in vigorous anti-trust enforcement. Most lawyers and, indeed most businessmen, to their own displea-.e-.e, agree chat we have been the most vigorous enforcers of the anti-trust laws in this country. Finally the Solicitor General of the United States and former Dean of the Harvard Law School, Erwin Griswold, appointed incidentally to this position by our predecessor Democratic Administration, testified under oath last week not only that this was a very tough settlement imposed on ITT but that; | had the government not obtained this settlement it probably couldn't have sustained the burden of its case in the Supreme Court. Jean Griswold was one of the primary officials whose judgment was considered in reaching the ITT settlement.

What the American public has been subjected to in the past two weeks ha

been a campaign of smear and innuendo by one of the most disreputable
columnists in America, Jack Anderson has tried to slander decent
government officials all the way from Dean Griswold to President Nixon,
with half truths and fourth-removed hearsay evidence. The simple
facts don't support his charges; indeed, the facts are quite to
although they have been largely overlooked in all of the political harangue
that has been so widely reported.

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14. The President left for an official visit: to the People's Republic of China on February 17, 1972; he returned on February 28, 1972. He spent the weekend following his return at Key Biscayne, Florida. On May 20, 1972, the President went to Moscow, returning on June 1, 1972.
Executive Order 11640. February 16, 1972

By virtue of the authority vested in me by section 6103 (a) of the Internal Revenue Code of 1954, as amended (26 U.S.C. 6103(a)), it is hereby ordered that returns made in respect of the taxes imposed by chapters 1, 2, 3, 5X, 61, 11, 12, and 42X, subchapters B and C of chapter 33, subchapter B of chapter 37, and chapter 41 of such Code shall be open to inspection by certain classes of persons and State and Federal Government establishments in accordance and upon compliance with the rules and regulations prescribed by the Secretary of the Treasury in Treasury Decision 6543, relating to inspection and use of returns by such classes of persons and State and Federal Government establishments, approved by the President on January 17, 1967, the amendments thereto approved by the President on April 4, 1963, and March 18, 1965, and the amendment thereto approved by me this date.

RICHARD NIXON

The White House
February 16, 1972

[Filed with the Office of the Federal Register, 2:58 p.m., February 16, 1972]

Red Cross Month, March 1972

Proclamation 4110. February 16, 1972

By the President of the United States of America

a Proclamation

Born in war and raised in adversity, the American Red Cross has evolved many traditions in its universal quest to ease human suffering, but none have served it so durably—[as its tradition of flexibility.]

since well before the turn of the 20th century, through the 1970s, meeting the challenges of each era with unfailing resourcefulness, zeal and compassion. Red Cross programs and services we have long [taken for granted—from disaster relief and blood banks to nurse training and aid to military personnel—greet our] if its pioneering approach in meeting generations of unprecedented crises.

This tradition has carried forward into the 1970s with undiminished vigor, and the Red Cross emblem may be found on banners flying over inner-city child care centers and drug abuse clinics. It is stamped on publications and continuing education materials dealing with ecological concerns, race relations, the advancement of the arts, a city rural development.

And as a member of the global society, the Red Cross continues to fulfill its international enterprise of mercy again with a flexibility that makes its mission as vital, and viable as at anytime in its history.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America and Honorary Chairman of the American National Red Cross, do hereby designate March, 1972, as Red Cross Month, a month when citizen IS asked to join, serve, and contribute in the same example of unselfish spirit that has characterized the Red Cross since its founding.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of February, in the year of our Lord nineteen hundred seventy-two, and of the independence of the United States of America the one hundred ninety-third year.

RICHARD NIXON

[Filed with the Office of the Federal Register, 11:54 a.m., February 17, 1972]
Mr. President, Mr. Speaker, Members of the Congress, and Members of the Cabinet:

I want to express my very deep appreciation to all of you who have come here to send us off on this historic mission, and I particularly want to express appreciation to the bipartisan leadership of the House and Senate echo are here.
14A. PRESIDENT FIXON TRAVELS, 8 PRESIDENTIAL DOCUMENTS 443-44,
9 PRESIDENTIAL DOCUMENTS 482

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e orld of peace \Nill bc infinitely greater.

I rould simply say in conclusion that if there is a postscript that I
llope migllt be ssrrittc,n asr regard to tljis tripl, it x--ould be ttle words
011 tlc plaque whilll --ias left on the nlooll by our first astrollauts w]len
they lanced there. "X-~te came in peace for all manl;ind."

Thank you and good by.

B'OTE: The President spoke at 10:10 a.m. 011 ttle Soull Lav. -n at the \0thile lTouse
Following his rem;larclcs, the President, the Filtl Lady. and membrhs vl thc official party
Tzoaded the helicopter for thc flight to Andrexrs A.r Force Base. The ceremony was
bl oadcast live on radio and tele--ision.

The XWhite Hou.e had announced earlier, at Key Biscayne, Fla., on February 12,
that the official party would include the follo~sing:

1. THE PRESIDENT
2. MRS. NDCON
3. SECRETARY OF STATE OWILLABi P. ROGERS
4. HEIN'RY A, KISSINGER; Assistant to the President for NationEI Security Affairs
5. H. R. HALDENfAN', Assistant to the President
6. RONALD L. zILCLER, Press Secretary to the President
7. MARSHALL GREEN, Assistant Secretary of State for East Asian and Pacific Affairs
8. JOE;N A. SCAI.I, Special Consultant to the President
9. PATRIC ];. BUCEXANAN, SpeCial ASSiStant t0 the PreSident
10. ROSE --(ARY 0/ODDS, Pelsonal Secretary to the President
11. ALFRED Li. S. JENXI:9S, DirCCTOr For ASSiStant AffairS, BUReaU Of
12. EaSt ASian
13. Winston LORD, SpeC;al ASSiStant t0 fIr) Jr. K;SSingCr

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14. PRESIDENT NIXON TRAVELS, 8 PRESIDENTIAL DOCUMENTS 443-44

Our communique indicates, as it should, some areas of difference. It also indicates some areas of agreement. To mention only one: it is particularly appropriate here in Shanghai, that this great city, once the past, has on many occasions been the victim of foreign aggression and foreign occupation. And we join the Chinese people, we the American people, in our dedication to this principle: That never again shall foreign domination, foreign occupation, be visited upon this city or any part of China or any independent country in this world.

Mr. Prime Minister, our two peoples tonight hold the future of the world in our hands. As we think of that future, we are dedicated to the principle that we can build a new world, a world of peace, a world of justice, a world of independence for all nations.

If we succeed in working together where we can find common ground, if we can find common ground on which we can both stand, where we can build the bridge between us and build a new world, generations in the years ahead will look back and thank us for this meeting that we have held in this past week. Let the Chinese people and the great American people be worthy of the hopes and ideals of the world, for peace and justice and progress for all.

In that spirit, I ask all of you to join in a toast to the health of Chairman Mao, of Prime Minister Chou En-lai, and to all of our Chinese friends here tonight, and our American friends, and to that friendship between our two peoples to which Chairman Chang has referred so eloquently.

NOTE: The Chairman spoke at 8.25 p.m., local time, in the Shanghai Exhibition Hall. He spoke in Chinese and the President in English; their toasts were translated by an interpreter.

As printed above, this item follows the text of the White House press release.

RETURN TO WASHINGTON

Remarks of the President and the vice President Following the President's Arrival at Andrews Air Force Base. February 28, 1972

TEXE VICE PRESIDENT. Mr. President, Mrs. Nixon, distinguished guests, ladies and gentlemen:

For more than a week we have witnessed through the miracle of satellite television, the sights and sounds of a society that has been closed to Americans for over two decades. We have been made aware of many new things in that society through this visit, Mr. President. We have witnessed much of what you have done with feelings of pride and pleasure and an immense curiosity that has certainly not been diminished by the amount of attention paid by the media to this visit.

I must confess that we have been surprised to some extent by your facility with chopsticks, Mr. President, and by the equal facility of the Chinese orchestra which rendered 'America the Beautiful.'

But I will say that the week's undertakings were intensively covered— I think that is the understatement of this week. Mr. President—and we enjoyed every minute of it as we watched with pride and approval the way you and the members of your party and our gracious First Lady conducted yourselves.

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The President and Mrs. Nixon boarded the Spirit of '76 at Andrews Airforce Base for the flight to Salzburg, S Austria. (For the President's remarks at the departure ceremony, see page 911 of this issue of the Weekly Compilation of Presidential Documents.)

Arriving at Salzburg Airport at 10:30 p.m., they were greeted by Chancellor Bruno Kreisky of the Federal Republic of Austria.

The President and Mrs. Nixon entertained Mrs. Kreisky at tea at Schloss Lehen.

The President and Mrs. Nixon were then guests of the Chancellor and Mrs. Kreisky at luncheon at the Kohenzl Hotel (see page 914).

Adronday, May 22

After departure ceremonies at Salzburg Airport, the President and Mrs. Nixon flew to Moscow, where they were greeted at Vnukovo II Airport by President Kosygin, Premier Kosygin, Foreign Minister Gromyko, and Ambassador Dobrynin.

In the afternoon, the President met for more than 2 hours with General Secretary Brezhnev.

In the evening, the President and Mrs. Nixon were guests of honor at a dinner hosted by the President of the Supreme Soviet of the U.S.S.R. and the Government of the U.S.S.R. in Grand Kremlin Palace. (See pages 915, 916.)

Tuesday, May 23

The President and members of the United States party met with Soviet officials in a plenary session in Catherine Hall in the Grand Kremlin Palace.

In ceremonies in St. Vladimir Hall, the President and President Podgorny signed an agreement on extraterritorial protection (see page 917). Secretary Rogers and

St. Health Minister Petrovsky then signed an agreement on medical science and public health (see page 919).

The President and General Secretary Brezhnev met for 2 hours of discussion before the ceremony and for 3 additional hours later in the evening.

During the day, Sirs. Nixon visited a secondary school, toured the Moscow 22nd metro, and had tea with Iairs. Brezhnev, Pirs. Podgorny, and wives of other Soviet officials in the Imperial Living Quarters in the Grand Kremlin Palace.

Wednesday, May 24

In the morning, the President went to the Aleksandros Gardens to lay a wreath at the Tomb of the Unknown Soldier. He returned to the Grand Kremlin Palace for further discussions with Soviet leaders.

In ceremonies in St. Vladimir Hall, the President and Premier Kosygin signed the space cooperation agreement (see page 920) and secretariat. Rogers and committee Chairman Kirillin signed the science and technology agreement (see page 971).

The First Lady visited the Moscow State University and the GUNS department store. In the evenings she attended a performance at the New Circus.
Thursday, May 25

The President met for 2 hours with Soviet leaders and a maritime agreement on
the prevention of incidents at sea was signed by Navy Secretary Vance and Admiral
Gorshkov (see page 922).

Mrs. Nixon visited the Bolshoi School of Choreography and the All-Union
Fashion House for a showing of men’s and women’s clothing by Soviet designers.

In the evening, the President and the First Lady attended a performance of the
“Swan Lake” ballet at the Bolshoi Theater.

Friday, May 26

After discussions on trade matters, a communique was issued on an agreement
between Soviet leaders and President Nixon to establish a U.S.-U.S.S.R.
Commercial Commission (see page 924).

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that end the two sides decided to create a joint Polish-American Trade
Commission.

3. The two sides will encourage and support contacts and coopera-
tion between economic organizations and enterprises of both countries.

4. The two sides expressed their satisfaction with the expanding
program of scientific and technical cooperation and appraised positively
its mutually advantageous results. Last year's exchange of visits at the
cabinet level, which gave attention to the development of scientific and
technical cooperation, confirmed the desirability of continuing coopera-
tion in this field.

The two sides expressed their interest in the conclusion of an inter
governmental agreement on comprehensive cooperation in science,
technology and culture. Appropriate institutional arrangements will be
established to promote uncork in these fields.

5. The two sides agreed that the increase of mutual economic and
personal contacts, including tourism, justifies further development of
transportation links between Poland and the United States by sea as well
as by air. The two sides expect to sign in the near future an air transport
agreement and to establish mutual and regular air connections.

6. The two sides expressed their interest in commemorating the five
hundredth anniversary of the birth of Nicholas Copernicus and discussed
ways of celebrating it.

7. Both sides welcomed the signing of the Consular Convention by
Secretary of State William P. Rogers and Minister of Foreign Affairs
Stefan Olszows; and the conclusion of an agreement on the simultaneous
establishment on December 1, 1972 of new Consulates—in New York
and Ilfracombe, respectively. Both parties welcome these steps as concrete
evidence of expanding relations between the two states.

a. The two sides emphasized the positive influence exerted on their
mutual relations by the traditions of history, sentiment and friendship
between the Polish and American peoples. A prominent part is played
in this respect by many United States citizens of Polish extraction who
maintain an interest in the country of their ancestors. The two sides
recognize that this interest and contacts resulting from it constitute a
valuable contribution to the development of bilateral relations.

Signed in Warsaw, June 1, 1972.

REPORT TO THE CONGRESS

The President's Address to a Joint Session of the Congress at the Conclusion of
His Trip to Austria, the Soviet Union, Iran, and Poland. June 1, 1972

Mr. Speaker, Mr. President, Members of the Congress, our distin-
guished guests, my fellow Americans:

Your welcome in this great chamber tonight has a very special mean-
ing to Mrs. Nixon and to me. We feel very fortunate to have traveled
abroad so often representing the United States of America. But we both
agree after each journey that the best part of any trip abroad is coming
home to America again.

During the past 13 days we have flown more than 16,000 miles and
we visited four countries. Everywhere we went—to Austria, the Soviet

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To