

THE WHITE HOUSE

WASHINGTON

April 10, 1972

Dear Mr. Chairman:

On Friday afternoon, April 7, 1972, Mr. John Holloman of your staff telephoned Mr. Peter Flanigan, Assistant to the President, to invite him to appear and testify before your Committee on April 12, 1972, at 10:30 AM, in connection with the Committee's hearings relating to the confirmation of Mr. Richard G. Kleindienst as Attorney General. This letter is in response to the Committee's invitation.

Mr. Flanigan is one of the Assistants to the President provided for in Sections 105 and 106 of Title 3 of the United States Code. Under the doctrine of separation of powers, and long established historical precedents, the principle that members of the President's immediate staff not appear and testify before congressional committees with respect to the performance of their duties is firmly established. Accordingly, by reason of this long established and fundamental principle of our federal system, Mr. Flanigan cannot accept the Committee's invitation to appear on April 12, 1972.

Mr. Flanigan's name has been brought into the discussion during the present hearings in connection with the efforts of former Assistant Attorney General McLaren to obtain independent financial expertise to assist in evaluating financial aspects of the ITT antitrust suits. After reviewing the transcripts of your hearings to date with Mr. Flanigan, I can and do certify to you and your Committee that Mr. Flanigan's involvement in this matter was as stated by Judge McLaren in his sworn testimony. Mr. Flanigan merely responded to Mr. McLaren's request to assist him in obtaining such expertise. I might also add that Mr. Flanigan did not directly or indirectly contribute to the findings and conclusions of the independent expert.

Respectfully yours,

John W. Dean, III
Counsel to the President

Honorable James O. Eastland
Chairman
Committee on the Judiciary
United States Senate
Washington, D. C.

cc: MacGregor, Haldeman, Ehrlichman, Flanigan, Ziegler