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More Equal Protection

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IN THE NATION

Not many Americans, skeptical of politicians anyway and tending to believe that where there's smoke there must be fire, are likely to be persuaded by the belated contention of I. T. T. and Mrs. Dita Beard that she did not, after all, write that damaging memo about its Sheraton subsidiary and the Republican National Convention.

If not, why didn't she and the company say so right away? Why shred all those other documents? Is it seriously contended that columnist Jack Anderson forged the memo, and if so, why and how? Would the F. B. I., a part of the same Justice Department under fire for the I. T. T. merger settlement and a great friend of former Attorney General John Mitchell and his chosen heir, Richard Kleindienst, be likely to say it could not prove the document a forgery if there was any likelihood that it was?

It seems far more sensible for I. T. T. and Justice Department officials to contend, as at first they seemed to do, that whatever Mrs. Beard might have written, the Sheraton contribution to the San Diego convention had nothing to do with the settlement of the I. T. T. merger case. Indeed, as a matter of direct quid pro quo, maybe it didn't—although probably not too many of those skeptical Americans are likely to believe that either.

Here, for instance, is one way things might have happened — based on ample Washington precedent:

At the time the contribution was being made, nothing need have been said about the antitrust case—only a certain emphasis need have been put on Sheraton's subsidiary relationship to I. T. T. That would have been sufficient whether the contribution was volunteered or solicited; either way, word of the contribution would soon have reached higher political levels in the White House.

From there, not much more than an inquiry about the status of and plans for the I. T. T. case, from the right Presidential assistant to Mr. Kleindienst, would have been required to register a high degree of White House interest in the matter. In such circumstances, Mr. Kleindienst could be factually correct in stating that he knew nothing of the Sheraton contribution when he took an I. T. T. representative to see Richard McLaren, then the head of the Antitrust Division. But Mr. Kleindienst's obvious interest, plus the fact that a special study of the case had been arranged by Peter Flanigan, a very special assistant to the President, would have been more than enough to tell Mr. McLaren that the Administration had a deep interest in the I. T. T. matter. It would have been not only unnecessary but foolish for anyone to mention the Sheraton contribution to a man of Mr. McLaren's reputation for probity, even if the contribution was known to the upper levels of the Justice Department.

Nevertheless, the antitrust chief, knowing he had a difficult case at best and seeing clearly that he would get no Administration support in pressing it — quite the opposite — could easily have reasoned that a reasonably good settlement was the better part of valor. And all down the line, officials could claim with literal honesty, if not in every case the fullest spirit of truth, that the Sheraton contribution was not the cause of the I. T. T. settlement.

That, of course, is hypothesis, but not one whose plausibility any Washington veteran is likely to dispute; if anything, the more experienced Washington observer is likely to consider it naive rather than cynical. In fact, however, the most significant part of the I. T. T. merger settlement is not the Sheraton contribution, whether or not it was in the nature of a payoff and no matter how directly or indirectly it may have been made.

What is really important is the ease with which I. T. T., the ninth-largest American corporation, and an international giant as well, penetrated to the highest levels of the Nixon Administration in order to state its case. Lawyers ruling on complex antitrust questions and technical experts assaying the validity of the Beard memo are not needed to make it clear that here is an outrageous case of money and power being able to claim privileges, whisper into ears and open doors not available to the rest of us.

With assistance at the highest level, "theoretical" discussions about merger law by the head of I. T. T. with the Attorney General, the personal escort of the Deputy Attorney General for the I. T. T. representative, that representative's consequent ability to argue his case directly to the head of the Antitrust Division—the truth of the matter is that, while the Sheraton contribution may have helped somewhere along the line, I. T. T. got such preferred treatment because in this country we have equal protection of the laws—and the bigger, richer and more powerful you are, the more equal your protection.