

Tony Boyle and ITT: Two Examples of . . .

Equal Liability Under the Law?

Post 4/2/72 By Eugene L. Meyer

EQUAL LIABILITY under the law—like equal opportunity—is a sometime thing, as witness the enforcement, in this presidential year, of the corrupt practices act; this is the law which bars contributions by unions as well as corporations to political campaigns for federal office.

Two cases illustrate the point, one involving W. A. (Tony) Boyle, the United Mine-workers president, and the other being the matter of ITT's gift to the Republican convention in San Diego this summer.

A U.S. District court has just convicted Boyle (two high-ranking union associates were acquitted) for violating section 610 of the 1925 law, which was made applicable to unions by the 1947 Taft-Hartley Act but has rarely been enforced. Boyle faces up to 32 years in jail, \$120,000 in fines and the end of his nine-year reign as UMW president, a fate that many in his union would find cause for rejoicing. Meanwhile, almost nobody is seriously suggesting that ITT should be fined and its officials go to jail for proposing to do something that would seem to be little different from what Tony Boyle did.

The law under which Boyle was prosecuted says in part: "It is unlawful . . . for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice-Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person to accept or receive any contribution . . ." (emphasis added).

The maximum penalties are stiff: \$5,000 for the donor organization; \$1,000 and a year in jail for whomever approves or accepts the contribution, \$10,000 and two years in jail if the violation was "willful."

As everyone within satellite reception now knows, ITT has pledged \$200,000, or is it \$400,000 (or \$800,000?) to the Republican national convention in San Diego this summer.



UMW's W. A. (TONY) BOYLE

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Even though the law would seem to forbid the kind of contribution that ITT concedes it is making—leaving aside the allegation by columnist Jack Anderson that this was done in return for a favorable anti-trust settlement—ITT has so far encountered some embarrassing publicity, but no criminal charges. Almost all the attention so far has focused on the alleged anti-trust deal—although columnist Anderson has asserted that ITT's convention pledge "is a crime" and California's Democratic Secretary of State, Pat Brown Jr., has seconded that. But none of the Democratic presidential contenders has focused on whether ITT and Republican officials violated the corrupt practices law—ITT by pledging funds to the convention or the Republicans by agreeing to accept the money.

Why the Democratic silence? Part of the answer may be suggested by a remark in court by Alfred Scanlon, lawyer for James Kmetz, the UMW's chief lobbyist (and one of the defendants with Boyle), who argued that "if what Mr. Kmetz did was wrong, the evidence will show the recipients violated the law of the United States." And who were the beneficiaries? In the case of Boyle et al, the largest beneficiary of alleged union largesse was none other than Sen. Hubert H. Humphrey (D-Minn.), who received \$30,000 in 1968 through the Democratic National Committee. Who is the recipient of the ITT gift? Is it Republican National Chairman Robert Dole, who would like to distract us from ITT by calling our attention to the AT&T and the Democrats? He has charged AT&T with violating the corrupt practices act with an indirect contribution to the Democratic convention by allegedly "forgetting and forgiving" a \$15 million back debt and extending an \$80,000 credit on phone service this July. Or is the recipient campaign manager and former attorney general John N. Mitchell? Or the President himself? Whatever the case no recipients are being prosecuted. Nor are they likely to be; the only prosecutor in sight, after all, would have to be Acting Attorney General Richard Kleindienst.

As for Mr. Boyle, without commenting on his merits or demerits as a union leader, it seems fair to observe that a Republican administration has prosecuted a case embarrassing to the Democrats in a political year.

At the same time, this Republican administration is, in effect, at the receiving end of what might seem to be an illegal contribution from a corporation which it is not prosecuting.

If all this sounds a little confusing, here's Sen. Roman Hruska (R-Neb.) to straighten everything out: Hruska produced a curious Justice Department memorandum, prepared at the request of San Diego officials, saying that corporate gifts to a political convention do not violate the law. The man who, it will be recalled, was also the chief Senate advocate of "mediocrity" on the Supreme Court, further proclaimed, "Conventions all over America are bought all the time by business committees."

To say the least, there is something deeply



ITT'S HAROLD GENEEN

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troubling about all this, especially when candidates who offer clear choices are forced to drop out of the electoral process for lack of funds because they refused to court the vested interests. Sen. Fred Harris (D-Okla.) was one. His Populist Manifesto radically challenged Big Business, and they weren't about to bankroll their own demise. Nicholas Johnson, the gadfly Federal Communications Commissioner, is another one. He was going to run for the Senate from his home state of Iowa but refused to "sell bits and pieces of my integrity to raise the money."

It takes Big Money to run a campaign, and Big Money comes either from Big Business or Big Labor. Since campaign financing flows from a bipartisan faucet, it is not surprising that the number of prosecutions under Section 610 of the corrupt practices act has been a mere handful.

National Bohemian Beer pleaded no contest a few years ago to charges that it contributed to a Pierre Salinger campaign. Last year in Ohio, a federal judge threw out an indictment against four banks that lent Gov. Gilligan's father money which promptly found its way into his son's campaign chest. Currently, the Missouri Pipefitters' Local Union 562 is seeking to overturn its conviction and that of its officers under the act. The case is before the Supreme Court, and a decision is expected soon.

In a friend-of-the-court brief, the American Civil Liberties Union has argued that the statute is an unconstitutional abridgment of free expression by unions and corporations. That is a little like saying that vested interests have as much right to purchase stock in political parties as to buy and sell companies on the open market. Meanwhile, the recent Federal Elections Campaign Act, effective Feb. 7, seeks to strengthen the corrupt practices law by adding the phrase "direct or indirect" to the kind of contributions unions and corporations aren't supposed to make. In the meantime, even if the corrupt practices act passes its current Supreme Court test, don't expect ITT to be prosecuted before November. It would be unrealistic, if not downright silly, to expect the party in power to prosecute its benefactors, and 1972 is not an entirely silly year.