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NEW ORLEANS STATES-ITEM

The Senate flirts with injustice in delaying Kleindeinst's Okay

I found myself saying, when asked about it before a college audience a week ago, that the safest thing to do was to assume a little venality all the way around in the ITT affair, but that one should be very careful not to come to the conclusion that the transaction was in any sense different from the kind of thing that would be considered routine in a Democratic administration.But as the facts settled down, I am drawn to the judgment that the Senate, in holding back its confirmation of Richard Kleindeinst, is flirting with injustice.

Consider. The legend was that ITT had pledged $400,000 to the Republican Party in return for a favorable decision by the Justice Department. Finally it transpired that $100,000 had been paid over, and another $100,000 had been pledged, not directly to the GOP but to the San Diego Convention Bureau, and that the second $100,000 was contingent on the Republican Party's use of the three San Diego Sheraton Hotels. The grand total involved turns out to be less than was spent on promoting the opening of the Sheraton's Waikiki Hotel.

ON THE OTHER hand, the hypothesis that a colossus like ITT would risk so much in public disfavor by entering into the kind of deal described by Mrs. Beard is simply implausible. Even as it is implausible that a U.S. attorney general would risk the reputation of a political administration by consummating a deal during a five-minute cocktail conversation at the Kentucky Deby when all he stood to get out of it was financing for a national convention which financing was readily available in the first place. The point is that implausibilities are the principal enemies of the case for conspiracy.

The disparities between what is publicly accepted as true and what actually is true continue. The assetion was that the Justice Depatment had dropped three anti-trust suits against ITT. In fact, ITT won two of three suits. And we have the word of the Solicitor-General E Erwin Griswold, former dean of the Harvard Law School, that the concessions wrested by the Justice Department from ITT were greater than anything Justice was likely to get from litigation. Bear this in mind, that antimonopoly legislation does not traditionally prevent a giant company from acquiring businesses in fields unrelated to its principal activity — and for good reason. An economy is more competitive with 200 diversified giants competing with one another in 1,000 markets than it would be with 1,000 smaller non-conglomerates, each one monopolizing a single product.

IT MAY HAVE proved to be sound public policy for the ITT to have relinquished control of its two small insurance companies when it acquired the Hartford Company, but as a matter of law, insurance, an unconcentrated industry, is exempt from anti-trust. There is no law against the big company — only against monopolies.

The final surprise comes from the general indignation at the efforts of the president of ITT to try to defend his company in his dealings with government officials who dallied with the temptation of breaking the company up. What else is a president of a company supposed to do, if not defend his company's policies? And then it is held to be wrong that ITT should have (allegedly) concerned itself to frustrate attempts to confiscate its properties in Chile. Or that ITT officials should sell stock in anticipation of an unfavorable agreement . . . very confusing.

Sections marked in red not included in SFexaminer version of column (25 Apr 72).