

ECONOMICS, LABOR & BUSINESS*Dusting Off the Sherman Act*

"Questionable Corporate Payments Abroad: An Antitrust Approach" by Charles R. McManis, in *The Yale Law Journal* (Dec. 1976), 401-A Yale Station, New Haven, Conn. 06520.

Despite Watergate revelations of widespread "questionable" corporate payments abroad, most business leaders lack an "animated" conviction that these practices, ranging from "consultants' fees" to political contributions to outright bribes, should be stopped. (By September 1976, over 200 firms had admitted to such payments.)

According to McManis, visiting professor of law at Vanderbilt, the response of federal oversight bodies such as the Securities and Exchange Commission (SEC) has been inadequate and inconclusive. He proposes a hitherto ignored approach: Antitrust laws already on the books could put a potent legal weapon in the hands of those most willing and able to attack questionable payments.

Recent proposals by former President Ford's Task Force on Questionable Payments Abroad, by the SEC, and by several congressional committees fail to address a central issue. Payments designed to influence the business practices of foreign governments are, in fact, anticompetitive practices.

Existing antitrust laws, McManis observes, provide a solid legal basis for attacking such payments. The Sherman Act (1890) prohibits conspiracy in restraint of trade; the Clayton Act (1914) prohibits payment of brokerage fees to persons under direct or indirect control of another party in a transaction; and the Federal Trade Commission Act (1914) declares unfair methods of competition unlawful.

Liable under this approach would be corporations, subsidiaries, and individual officers and directors. Legal action could be initiated by the Justice Department, Federal Trade Commission, or SEC, by business competitors or parties threatened with economic injury, by shareholders, and even by foreign governments. The ensuing lawsuits, says McManis, would remind negligent corporate executives that questionable overseas payments are not "victimless wrongs" and threaten both U.S. foreign policy and their companies' own long-term business interests.

The Limits to No-Growth

"The Implications of Zero Economic Growth" by Lester C. Thurow, in *Challenge* (Mar.-Apr. 1977), 901 North Broadway, White Plains, N.Y. 10603.

To reduce pollution and avoid depletion of nonrenewable natural resources, some economists have proposed limiting the U.S. economy's rate of growth. Although implicit limits are already set by the rate of productivity (evidenced by an annual increase of per capita GNP over the past 30 years of only 1.8 percent), most slow-growth proponents