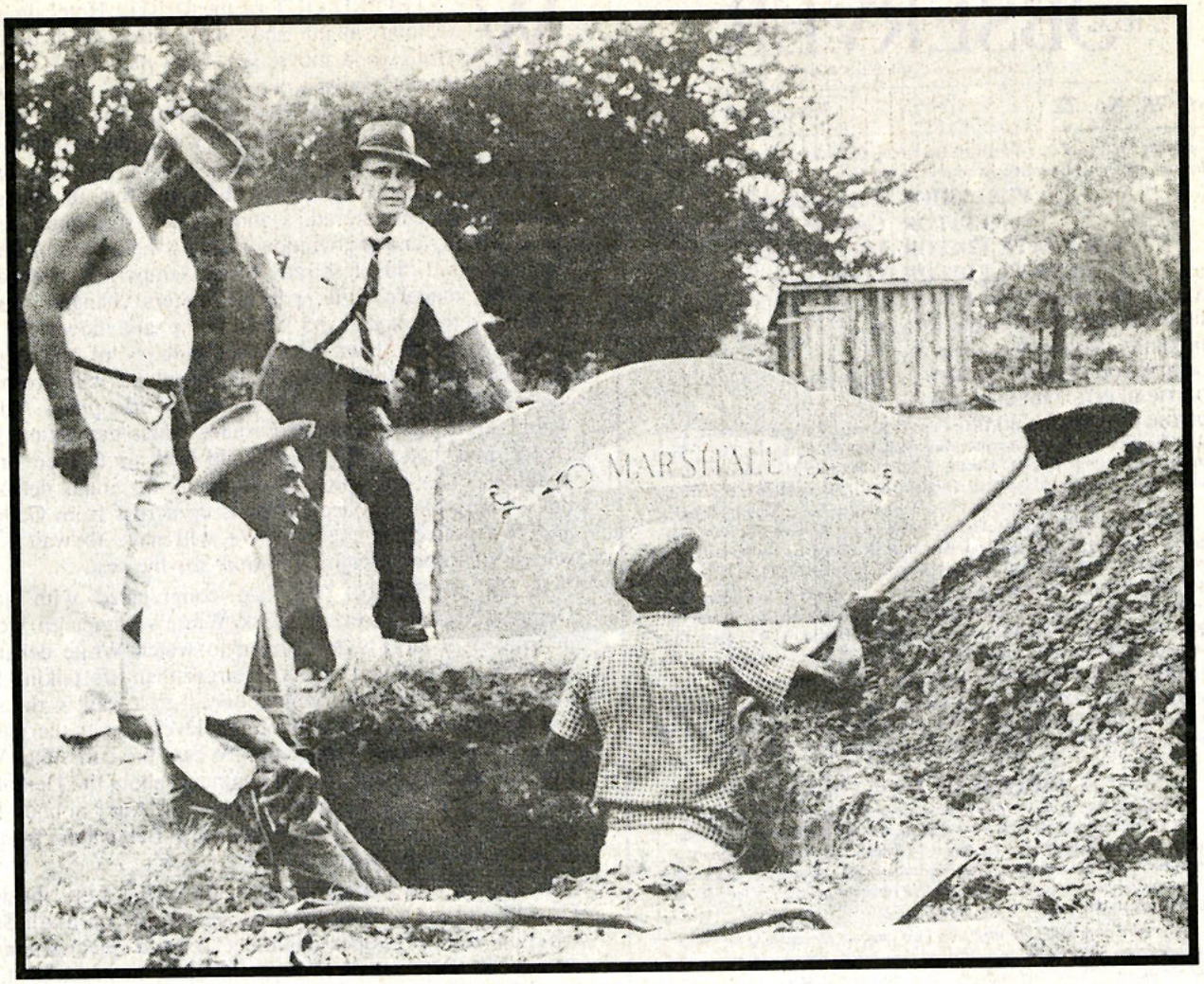
THE TEXAS OBSERVER

A Journal of Free Voices *November 7, 1986* *One Dollar*

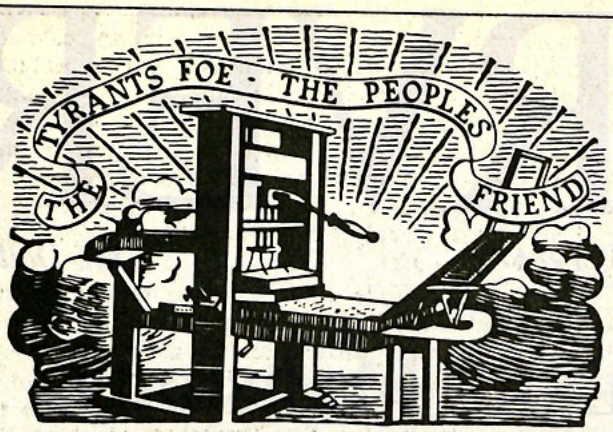
THE KILLING OF HENRY MARSHALL



Wide World

In May of 1962, Marshall's body was exhumed for an autopsy.

Twenty five years ago a federal farm official was found dead on a remote corner of his central Texas ranch. It came out that he had been investigating the cotton operations of legendary swindler Billie Sol Estes. It came out that Estes had connections high up in the Kennedy-Johnson Administration. Much later, it came out that Estes had something to do with Henry Marshall's death. But a lot of things never did come out.



THE TEXAS OBSERVER

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A journal of free voices

We will serve no group or party but will hew hard to the truth as we find it and the right as we see it. We are dedicated to the whole truth, to human values above all interests, to the rights of humankind as the foundation of democracy; we will take orders from none but our own conscience, and never will we overlook or misrepresent the truth to serve the interests of the powerful or cater to the ignoble in the human spirit.

Writers are responsible for their own work, but not for anything they have not themselves written, and in publishing them we do not necessarily imply that we agree with them because this is a journal of free voices.

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• EDITORIAL •

The Big Sleep

Austin

WE STEPPED OUT of the Driskill Hotel on a rainy October night and Sixth Street had become a Hollywood movie set. With meticulous care, two blocks of the city's most *au courant* nightlife district had been transformed into a scene from the 1950s: the old Gellman's Department Store, which only a few months ago had finally expired after 64 years in downtown Austin, had been brought back to life. The once faded block printing on the store's facade had been restored, a good-as-new sign hung out over the sidewalk, and the window displays held careful arrangements of mid-'50s fashions. Street lamps had been altered to a less modern style, parking meters changed, diagonal parking reinstituted. And cruising up and down the rainy avenue were the curvaceous automobiles of the day, the Hudsons and Pontiacs and Studebakers, all with fresh paint jobs and black-and-yellow 1954 Texas license plates. The cars would drive their appointed routes, then the action would freeze, and then all the cars would back up to their original positions. The only plot development we could detect was that a shiny black police car pulls up across from Gellman's and two policemen get out. We will have to wait for the release of Robert Benton's *Nadine* for the rest.

Inside the Driskill, we had congregated with activist Democrats and Governor Mark White's campaign workers in front of a large video screen to watch White debate the Republican Bill Clements. The larger-than-life talking heads of White and Clements seemed unreal in a way — the sound had been turned up to a booming level — yet the partisan crowd was entirely engaged. "When he calls the White House," said the huge face of Clements about the Democratic governor, "there ain't nobody home." "Ain't nobody home anyway!" jeered state Sen. Gonzalo Barrientos from the crowd, and a roar went up.

It was an odd juxtaposition — the video rally inside the Driskill and the back-to-the-'50s set outside on Sixth Street. On that rainy October night, it seemed incongruous. In retrospect, there seems to be a cinematic neatness to it. The historical flashback reminds us of something, tells us something about the present.

In an essay called "The Cycles of American Politics," the historian Arthur Schlesinger, Jr. reflects on the way certain periods of American history resemble each other. This interest in cycles he inherits from his well-known father, who wrote in 1949 that a "recession from liberalism" was due to end in 1962, give or take a year, and that a new conservative epoch would begin around 1978. The elder Schlesinger identified alternating periods of liberalism and conservativism from the earliest days of the nation, each period lasting an average of sixteen and a half years.

The theory is refined by Arthur Schlesinger, Jr., who finds the terms liberal and conservative to be imprecise. The alternations that he notes are between times of public preoccupation with social and political action, on the one hand,

and absorption with private interest on the other. Calm periods such as the 1950s were marked by an overriding interest in private life, material acquisition, a "vacation from public responsibility." Then came the 1960s. And after a period of political uproar, with all its "raising of consciousness," and its energetic commitment and concern, we now find ourselves in an Eisenhower-esque era of individualism and "privatization." "People can never be fulfilled for long either in the public or in the private sphere," explains Schlesinger. "We try one, then the other, and frustration compels a change in course."

In times such as these, public action falls into the hands of a few subgroups of unwavering citizens, dissent survives in streetcorner pamphlets and obscure magazines, and organizers look for new winds of change to blow in. But the pattern for national dialogue seems to have been set by Ronald Reagan's campaign question: "Are you better off today than you were four years ago?"

Most of the issues in this season's race for the governorship also have been framed as equations of self-interest. The televised debate amounted to little more than charges by Clements that White would impose burdensome taxes on the populace and rejoinders by White that Clements would cut government services that people depend on. Politics is always personalized to some extent — the great political machines delivered the votes by delivering the goods — but this year there seemed to be no other context for political discussion. A noisy discussion of prison issues broke out in the closing weeks of the campaign. Clements aired a commercial in which a woman who had been assaulted suggested that Gov. White bore responsibility for her assailant being out on parole. White charged that Clements paroled 19 people who are now on Death Row. Clearly the message was that the election of either candidate could have a tragic effect on your personal safety. But both candidtes pledged to reestablish domestic tranquility by building more prisons. Imagine the difference if politicians were inclined to discuss the prison issue with a wider understanding of justice, asking for example the question: What kind of society are we that locks up as many people as we do, in the kind of conditions we have? Instead, White and Clements played on the fears of the people, and said nothing of value about the roots of crime or the path to justice.

The wicked and perceptive cartoonist Mark Alan Stamaty depicts on the cover of a recent *New Republic* a politician shouting: "His commercials misrepresent my commercials' attack on his commercials." (To which his opponent responds, "That's a lie!") Such has been the tenor of political campaigns in the 1980s. It is as if the lack of substantial ideas has driven the dialogue toward a nuthouse babble, decidedly unedifying and slightly embarrassing to watch. Perhaps it is the quiescent epoch — and the maddening perception that voters aren't paying attention — that drives candidates to make such noise. Perhaps, also, the politicians' retreat from issues reinforces the kind of citizen apathy that has distinguished this year's governor's race.

But as much as our present times may resemble the listless 1950s, politics has been altered in important ways. As Schlesinger points out, historical change is less like a pendulum than a spiral, winding its way upward, allowing for the accumulation of change. Today candidates rely on polls more than instincts, honesty is demonstrated by the willingness to take a lie detector test, purity by readiness to take a drug test. And most inescapable are the effects of television. Part of the reason the TV debate between Mark White and Bill Clements was so bland is because mass marketing of politics demands blandness. Messages are calculated to appeal to wide audiences of viewers and to diminish the chance of offending any one particular interest. When the speech on the stump was more important than it is today, a politician could tailor his appeal more specifically —and change it in the next town. In those days, too, people would gather in a social setting and listen to marathon oratory. After the speech, or during it, they would talk it over. Now political appeals are made in 30 seconds and received in the privacy of the home. For most people politics is no longer a community affair, but just another Big Sell coming from politicians on (appropriately enough) the boob tube.

So this political cycle is not a rerun, for history brings not reruns but remakes. Stepping out of the Driskill Hotel, there was no mistaking Sixth Street for a 1950s street scene — it was Hollywood *remaking* a 1950s street scene. In real life, the cameras and the sound trucks and the producers were as integral to the event as the Studebakers and the women in pillbox hats. What will come out on film will be a reality reshaped and recreated. Of course the same is true of politics. And if we should come to wonder why the world of politics seems to have less and less to do with reality, it may be because we are watching too much of it on TV and participating in public life too little. **D.D.**

ABOUT THIS ISSUE

Readers may notice a distinct retrospective air about the November 7 *Observer*. Since we are going to press before election day and will be distributed to most of you after the votes are counted, we thought it would be a good time to take the long view. We bring you Bill Adler's investigative piece on the strange death of Henry Marshall, probably the most comprehensive treatment yet of this nagging historical question. In the November 21 issue we will return with our more typical post-mortems — reports and analyses of election outcomes around the state.

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Beyond Yuppification

Austin

IT'S NOT JUST nuclear weapons we have to get beyond. It's not just nuclear deterrence. We have to get beyond war, and that, Beyond War, is the name of a nonpartisan group of young professionals who started their own Yuppie Crusade Against War, one might call it, in California in 1982.

Barbara Carlson, the Texas coordinator, and her husband Jerry, an IBM site manager, were among the originating group who were galvanized into action by seeing Helen Caldicott's film, "The Last Epidemic."

"It was really a profound experience to realize, 'It's up to me,' " Barbara Carlson said one day sitting at a sidewalk cafe in Austin, having a cup of coffee. "The way it's set up in our country, we're getting what we want, in a way rightly so. It's got to come from *us*."

Alluding to Einstein's famous statement that the atomic bomb changed everything except the way we think, she continued: "We are going for the long-term solution to the problem, that the only way to change our thinking is to realize that war is obsolete. No winners. No one to bask in glory."

People still think we can survive a war, that "they" won't let it happen, and that anyway: "I can't do anything about it." Well, Ms. Carlson says, "the individual is key to the change that has to happen. All the blacks that didn't ride the bus in Birmingham — every one of them *mattered* that didn't get on the bus."

The Beyond War workers organize small meetings in private homes. Ms. Carlson, working full-time and voluntarily out of an office at her home, speaks four or five times a week. Beyond War also has three teams in San Antonio (Darby and Chris Riley, Garry and Pat Lundberg, and Judy and Steve Parish), one in Houston (Jim and Kate Conlan), and others in College Station and Wichita Falls.

To the charge of utopianism, the people in this movement point to other total shifts in paradigms — the end of slavery; at the industrial level, the replacement of bias-ply tires with radials. "If you think the way Einstein did," Ms. Carlson says, "you will come up with different solutions. Until we give up on war as an answer we're not. You have to address it from a new way of thinking — that's a profundity to me. We're trying to get people to see their personal responsibility."

The group annually presents the Beyond War Award, $10,000 and one year's possession of a leaded crystal sculpture, to a person or group making an outstanding contribution toward "a world beyond war." The first three recipients were the American Catholic Bishops, for their pastoral letter on peace; the International Physicians for the Prevention of Nuclear War; and the six leaders of Argentina, Greece, India, Mexico, Sweden, and Tanzania in the five-continent peace initiative. On Dec. 14 Beyond War's fourth award will be presented to the Contadora Group working for peace in Nicaragua. There will be four (perhaps more) satellite downlinks in Texas, in Austin, Dallas, Houston, and San Antonio, for the presentation on satellite TV.

Barbara Carlson can be reached at (512) 345-4698.

Demilitarized Zones

You have to read the out-of-the-way mimeographed newsletters of the peace movement for the real antitoxins to militarism. Cindy Breeding, co-editor (with Les Breeding) of the *Amarillo Advocate*, the journal of the Amarillo anti-Pantex peace movement, helped conduct a workshop on the "Stop War Toys Project" this fall at the Amarillo Central Library. Does the subject make you snicker (either out loud or in some suppressed part of yourself)? Well, Ms. Breeding answers such snickers in two paragraphs she penned for the *Advocate* under the heading: "Making Our Homes War Toy-Free Zones."

"Would we hand our child a scorpion? Never. . . . But we complacently allow the younger generation to spend a large amount of their time 'playing' amidst the most pernicious perpetrators of violence disguised as 'He-Man,' 'Voltron,' 'Transformers,' 'Gobots,' 'G.I. Joe,' and countless others.

"War toys are racist, classist, sexist, and they promote war. They replicate weapons used against 'jungle dwelling guerillas' of the Third World. They are inexpensive and more easily affordable by the poor who suffer most in war. They are advertised as boys' toys, reinforcing a stereotypical military mentality. Playing with war toys teaches children that violence is the acceptable way to settle conflict. They learn the glamour and adventure of war, but deny the real suffering it brings."

The *Amarillo Advocate* is published monthly from Box 1396, Amarillo, Texas 79105, for $5 a year.

Optimists' Almanac

The return of Fred Schmidt, the policy intellectual and former labor leader and college professor, to his native state (he and his wife Sonia have settled into a home four blocks' walk from downtown Fredericksburg), goads me into reflections about optimism and pessimism. Anyone inclined to cast a dour glance toward our prospects for survival, much less for social progress, had best keep clear of Schmidt. He'd as soon snap a pessimist in two as a twig.

Accordingly, optimismwise, I have been scouring the news for months, and herewith I present the Optimists' Almanac for late summer and early fall in these parts.

In August, the Environmental Protection Agency announced that it will spend $94 million to clean up the 20-acre Sikes waste dump alongside the San Jacinto River near Crosby. According to the Texas Water Commission, cancer-causing chemicals in this dump are 100,000 times higher than are considered safe. They leak, of course, into the river. Dumpers paid the landowner $2 a load starting in the 1960s. At $94,000,000, a bargain.

Although school districts in Texas with large minority populations continue to have lower average academic achievement test scores than other districts, a survey of the 63 largest school districts in our state shows that the minority districts are making rapid gains in math and reading scores. In 1980 only 13 percent of black fifth-graders statewide could distinguish between fact and opinion in reading tests. Now 85 percent can. Crackerbarrel politicians, beware.

Bad news: the Vatican publicly rebuked Archbishop Raymond Hunthausen of Seattle, an outspoken opponent of nuclear weapons, forcing him to cede certain authority to a subordinate. But good news: in September two Texas bishops, questioned on the matter by the *Dallas Times Herald*, disapproved. ". . . this was done over (Hunthausen's) head or behind his back," said Bishop John J. Fitzpatrick of Brownsville. "I find it a little disturbing," said Bishop Leroy Matthiesen of Amarillo, "that there seems to be some lack of trust on the part of some Roman authorities."

"Well, OK, but what have you got for October?" Schmidt

might growl. Lo! Atty. Gen. Jim Mattox charged that an anti-abortion clinic in Fort Worth falsely advertised itself as an abortion clinic, and on Oct. 7 a jury of five women and seven men found the clinic guilty as charged. This outfit was fined $39,000 (the verdict is on appeal).

In case these events aren't enough to prove that Schmidt is correct to be so cheerful, I cite two clinchers.

I have learned from Molly Ivins that during a farewell party for my old school chum, retiring State Senator Glenn Kothmann, Glenn, who has seldom been known to duck a cop-out, pronounced this new principle for the practice of American politics: "Those who rise above the crowd make themselves a target for fools."

If that doesn't put the quietus on the gloom-and-doomers, let's finish them off with this headline from page 20 of the *Houston Chronicle* for Oct. 10:

"No charges planned
after lion bites woman"

Jesus and the GOP

Franklin Jones, Sr., the legendary plaintiffs' lawyer in Marshall, is such a good writer of political letters, books have been made of them (by Ann and Mark Adams of Packrat Press in Oak Harbor, Washington). For a topical example, we turn to a recent copy of the *Marshall News-Messenger*. Evidently one Jimmy Daily had written the paper that Soupy Jones is such a yellow-dog Democrat, he'd even vote against Jesus on the Republican ticket. Replied Barrister Jones:

"To the editor:

The profound conclusion of Jimmy Daily that I would vote against Jesus Christ 'if He ran . . . on the Republican ticket' is eminently correct. In the first place, our Saviour would not reject the example and teachings of His life and crucifixion by aligning Himself with a political party whose spokesmen have proclaimed that the poor went 'voluntarily' to soup kitchens 'because the food is free.' Who have sought to deprive the poor and elderly citizens of legal counsel by abolishing the Legal Services Corp., and who criticize the doctrine of presumed innocence by saying that if a person is innocent of crime, that he is not a suspect. Further, who used bugging, wiretapping, burglary and infiltration against churches and church-based peace and justice groups.

These are but some of the reasons that should the Republican Party inform me that their candidate is Jesus Christ, I would vote against him in knowledge that the candidate was an imposter that the Republicans were trying to pass off as the Saviour.

Franklin Jones Sr."

Remembering

Keith Stanford died, only 47. Sarah Payne, our business manager during the second half of the fifties and early sixties, accepted him into the *Observer* family. A student in English at the University, he walked in one day and offered to help around the office, so she put him to work as a volunteer, then as a part-time worker while he was in school. When he left town to teach, he brought Sarah as his replacement Cliff Olofson, who is now our managing publisher. Through the years Keith continued to help out. He did some research for our defense against the late Brother Roloff's libel suit against us. He sold the ads that made possible our good-looking 20th anniversary issue.

Keith was that unusual kind of person who suffers a good deal personally from the sovereignty of injustice in the world. He cared so much, so genuinely. He worked in the U.S. Department of Education in Washington for some years, fairly high up in the bureaucracy, doing what he could to facilitate grants for college students, but finally the Reagan administration was too much for him and he came on back to Texas. His family had a ranch down in Beeville.

He was a good friend to me always. Once I almost died, so it seemed to me at the time, from some exotic Asiatic flu, while I was holed up in snowy Maryland trying to write a book. Keith, in Washington then, divined from phone calls that I was about gone, came out, and drove me to a doctor, who gave me life-restoring stuff.

Keith wanted to write, and had extravagant enthusiasms about certain writers; Elroy Bode was one of his mainstays. Perhaps Keith kept a journal, probably he did, but he could never bring himself on around to present the world with his thoughts on paper. He fell in love about a year ago, and was to be married. A number of us who knew him miss him and wish he had not died.

Death is deep, ensilencing, even though we say as I have just done something helpless, foolish, irrelevant. What can we do that Russell Lee has died? Nothing. All we can do is remember and try to carry on in ourselves the best of the person who is gone.

Russ was realistic, he had mordant social and political opinions, but in my experience of him he never spoke ill of a single soul. He is the only person I've known I can say this about. He was a shining person, he shone — he always seemed eager, eager to greet you, eager to help the *Observer* with his great photographs, eager to laugh, eager to teach, eager to go fishing, eager to get back to work — yet inside he was perfectly poised. He was mightily gifted, but what seems more now, he was generous, a generous person. A number of us who knew him miss him and wish he had not died.

R.D.

Revive the Unions

As Tony Mazzocchi says (*T.O.*, 8/28/86), the unions need new ideas. He's come up with some sensible innovations. For instance, sending the unemployed to college. Workers need to widen and deepen their education. They need to know more about the humanities. The time couldn't be riper to learn how to work for peace, instead of just talking about it. Historical forces and man's hopes and aspirations now intersect, encouraging bold initiatives. The theological term is *kairos*, a pregnant time. Scientists in nuclear labs and armaments plants are now questioning the nature of their work and are beginning to feel their responsibility to help prevent a nuclear holocaust. Let these labs and factories be transformed into civilian enterprises. We have far too many weapons as it is.

In my opinion, the unions of these times could not find a better model than Solidarity. According to a recent TV news item, Solidarity may not be dead. There are hints of a reconciliation between Solidarity and the Communist leadership. Who can say what will happen? The Polish workers gave their lives for the right to say what the company should or should not do. They fought for the right to vote for their foremen and superintendents. They fought for the right to criticize the company's politics and policies whenever necessary.

The workman's opinions and suggestions must always be taken seriously, never ignored. Karl Marx condemned capitalism because it alienates a man from his work. The man at the bench has no sense of belonging. Whatever he makes with his own brain and muscle always belongs to the owners, never to the sweating workers on the assembly lines. If democracy is ever to work, it must begin at the workplace.

Unions should also revive their historical concerns about what is going on in this world. During the Thirties and Forties, the unions marched down Fifth Avenue, with colorful banners and the rhythms of a brass band, denouncing Hitler and Mussolini and their gangs and calling for peace and justice. Years have passed since anything like that has cheered our spirits.

Let unions, the new and the old, toil for a new world which is struggling to be born. Yes, the kairos — the right time, the pregnant time. The old world is dying. It's no good. There must be a new, creative world or we're done for.

Herbert Meredith Orrell
Albuquerque, NM

Apocalypticism

The article, the interview, and the book review centering around Pantex in your 12 September issue prompt me to make some observations:

Apocalypticism (what A.G. Mojtabai calls "End-Time" thinking) has been with us since about 400 B.C.E. It flowers in those periods when people feel helpless, frustrated, and overwhelmed by external forces which they cannot control. It is usually popular among the poor, the dispossessed, and the powerless. I call apocalyptic writing (ala *The Late Great Planet Earth*) the "literature of hard times."

All apocalyptic writing in the past had one distinguishing characteristic: the predicted catastrophic end would be brought about solely by the intervention of God (or the gods). It was in a sense, therefore, harmless. More positively, it was a source of great hope, for example, for beleaguered Christians at the end of the first century, who were being severely persecuted by the emperor, Domitian. That, I submit, is the proper way to interpret the book of Revelation.

Comes now a new factor in the equation: mankind is now capable, by means of technology (read nuclear power), to assist in divine intervention; indeed, the technology becomes a kind of progenitor of such intervention. No longer is apocalypticism harmless, or even of any comfort (except to those who are in the right club). Now it is downright dangerous.

From the Christian point of view, modern apocalypticism is not merely "spiritual survivalism" (the Lutheran minister is too kind). It is heresy, pure and simple, because it is in direct contradiction to the heart and soul, the essence of the Christian faith, namely, the gospel.

If Winfred Moore and Royce Elms and their respective flocks choose to believe that they, and only they, are in the "right club," that's okay with me. But when such fanaticism exacerbates the already perilous course on which the Reagan administration has embarked, then this neo-apocalypticism becomes a most dangerous doctrine and one to be opposed for the absurdity that it is.

Finally, it seems to me that there are two kinds of apocalypticism that pervade our society: the first, religious apocalypticism, is well analyzed by Ms. Mojtabai; the second is a kind of secular apocalypticism which you alluded to in the last paragraph of your review. The latter breeds an existential despair and is characterized by rampant materialism, by the "I got mine" syndrome, and by a self-serving attitude hardly unmatched in history. At base it is, of course, nihilism, and the human spirit dries up like a West Texas drought.

Arthur A. Preisinger
Lutheran Institute for Religious Studies
Texas Lutheran College
Seguin

Good Sense

Enjoyed your last issue (*T.O.*, 10/10/86). Someone finally made some sense out of the special sessions. Thanks for your good work.

Alice and George Pryor
Austin

Defying Gravity

I note your October 10 issue of the *Observer* doesn't weigh as much, although having more pages.

The reason it doesn't weigh as much, your words aren't as heavy. Some are downright light, even a few fluffy.

A great improvement over the *Observer's* usual posture of saving the entire world from everyone and everything save its own overly serious self.

They always told me, "Write to please readers." Not a bad idea. Readers can take only so much hellfire, damnation, sorrow and tears.

Smiling through your tears a bit helps me sleep better.

Martin Hauan
Oklahoma City

The Killing of Henry Marshall

By Bill Adler

I. Death By Gunshot, Self-Inflicted

OSCAR GRIFFIN, the 29-year-old editor of the Pecos *Independent*, sat sipping a cup of coffee in a small West Texas cafe. It was August of 1961. He was not actually eavesdropping, but he couldn't help hearing snatches of conversation from the adjoining booth. "It's like pennies from heaven," said one farmer to another. The men were discussing deals they had made with Billie Sol Estes — deals that not only helped Estes out of a jam, but in effect gave the farmers something for nothing. Or so they thought.

Griffin first met Billie Sol while covering a rally for 2,000 Democrats at Estes's palatial home, the Sunday before the November 1960 elections. The barbecue, to which all 12,000 Pecos citizens had been invited, was held in the backyard, on Billie Sol's two tennis courts. Out front, Griffin couldn't help but admire the dazzling dyed-green lawn and the three royal palms, imported from the Rio Grande Valley. When he wandered inside the six-bedroom pink stucco house he was struck by the 52-foot living room with an indoor waterfall at one end and a spider monkey in a cage at the other.

In less than a decade living in Reeves County (about halfway between Midland and El Paso) Billie Sol had already replaced Roy Bean as the best-known name west of the Pecos. He was being hailed as a multi-millionaire financial wizard, civic leader, friend of God and Lyndon Johnson, and champion of the downtrodden. Of course a good deal of the acclaim came from Billie Sol himself, who published a pamphlet detailing his "Christian Principles for Success" and recounting his fantastic rise in the business world. The man made headlines wherever he went — to Washington in one of his private planes or to the grocery store in his chauffer-driven Caddy. And while most of the laudatory copy appeared in the Pecos *Daily News*, a paper Billie Sol started after the twice-weekly *Independent* opposed his unsuccessful candidacy for the school board, it wouldn't always be that way.

Even before he overheard the two farmers talking, Oscar Griffin had been tipped that Billie Sol had made an odd request of the Retail Merchants Association: to eliminate from their newsletter the listing of mortgages on the sale of fertilizer tanks — big ticket farm equipment that was of particular interest to Billie Sol Estes. Griffin was convinced something fishy was going on and decided to poke around the deeds office at the Reeves County Courthouse. Afterwards, he began interviewing farmers whose names had shown up on the mortgage records.

One afternoon late in September, he met with Alan Propp, the *Independent*'s general manager and co-owner. (Another owner, Dr. John P. Dunn, was president of the local John Birch Society and strongly opposed to Billie Sol's liberal views on integration.) They decided to publish a series of four articles on Griffin's findings. The first appeared on February 12, 1962. It didn't name names but listed case after case of farmers who had made certain business deals for phantom fertilizer tanks. The story noted that 15,000 tanks existed "on paper" in Reeves County but that the tanks "are not to be seen in Pecos — or Reeves County for that matter." Billie Sol Estes, who was trying to corner the market as a fertilizer supplier, had found it useful to create the illusion of a great number of storage tanks in the area — it made it easier to borrow money from finance companies. The story initially caused no great hubbub in town and went unnoticed in other Texas papers, including, of course, the Pecos *Daily News*.

But a few days later a representative of a Los Angeles finance company carrying more than $4 million worth of tank mortgages came looking for information. Soon the county was teeming with finance company investigators, chasing each other and the farmers around, trying to find out what, exactly, they had loaned their money for. In mid-March the FBI stopped in to see what all the commotion was about. Shortly before dinner on Thursday, March 29, a friend phoned Oscar Griffin to say that Billie Sol had been arrested by a couple of federal agents and would soon be arraigned. By 7:30 p.m., word had spread and a crowd gathered at the courthouse. A short time later, 37-year-old Billie Sol Estes — the self-proclaimed boy wonder of West Texas agriculture — was booked on charges of transporting the bogus tank mortgages across state lines.

The arrest set off fireworks from Pecos to the Potomac, where "Billie Sol Who?" became a popular refrain among politicians who once had been happy to scratch his back. Within weeks, subcommittees in both the Senate and House voted to open full-scale investigations into Billie Sol's other questionable business practices — his involvement with the U.S. Department of Agriculture and his schemes to increase his "cotton allotments" so that he could grow more cotton than government regulations would otherwise permit. And under way in Texas were federal and state grand jury proceedings, plus an inquiry by state Attorney General Will Wilson.

On May 7, U.S. Secretary of Agriculture Orville L. Freeman held his first press conference since Billie Sol's indictment. Toward the end of the crowded, two-hour session in his office, the questioning turned to the thorny matter of Billie Sol's cotton farming. The reason it's so difficult to get to the bottom of Estes's dealings in cotton allotments, Freeman said, is that the "key figure" in the case is "not alive."

His name was Henry H. Marshall.

HENRY HARVEY MARSHALL, like most people of his day in Robertson County, Texas, began life on the farm. Born in 1909, he grew up helping his father with the cattle, hogs, corn, and cotton on the family's 400 acres four miles north of Franklin, the present county seat.

Marshall was named valedictorian of the Franklin High School class of 1927, and, with a $500 gift from his father, went to the University of Texas at Austin where he majored in chemistry and played baseball, his passion since childhood. But in October of 1929, with times growing ever worse at home, Marshall quit school and returned to Franklin to serve as principal and

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teacher at Nesbitt Rural School. The school district relied on property taxes, but with tax revenues so sharply down, there was, after a while, no more money for Marshall's salary. Besides, many children had stopped going to school; they were needed to work their parents' farms. In May of 1932, in the depths of the Depression, Marshall was forced to shut the school's doors.

Ten months later, Franklin D. Roosevelt took office, telling the nation that all there was to fear was fear itself. In his first hundred days, he pledged to resolve first the banking crisis, and then the farm problem. No one had been hit worse by the Depression than the farmer, Roosevelt said, and few knew it better than Robertson County farmers: a pound of cotton, which had brought them 16 cents in 1920, dropped to six cents by 1932. "That's the fellow you've got to build up," the President said, "the farmer."

Help came in the form of the Agricultural Adjustment Act, signed by Roosevelt on May 12, 1933, barely two months into his first term. By then Henry Marshall was keeping books for a Franklin gin company, but he soon found himself restless, wanting to make more of his life.

Bred into Marshall was a devotion to the soil and to those who worked it. He knew first-hand of their hardships, of his own family's and his neighbors' endless struggles, struggles against economic forces beyond their control.

In August of 1934, a clerk's job created by the Agricultural Adjustment Administration opened up in the agency's Robertson County office. The job paid $900 a year, the most money Henry Marshall had ever made. For the next 27 years, until a lazy spring day in 1961, Henry Marshall was a hard-working, honorable and distinguished employee of the United States Department of Agriculture.

BILLIE SOL ESTES obviously had sufficient natural talent — a spellbinding combination of evangelical fervor (he quoted Scripture frequently and taught Sunday school at the Church of Christ), business acumen, horse sense, and the highest of moral standards (he neither drank, smoked or danced, and barred mixed swimming among unmarried youths) — to be a successful swindler almost anywhere. Plus, he just *looked* country — like an unmade bed, said one observer. He'd have been hard pressed, however, to find a spot better suited to his operations than the raw and monotonous landscape of West Texas.

Lone Star Silver & Associates

Billie Sol Estes in his home in Abilene.

Billie Sol arrived in Pecos in 1951, a tubby, near-sighted 26-year-old. He took up cotton farming, and in three years he began to make money — and borrow money — and to increase his land holdings. But, in 1954, the government's new cotton allotment program forced West Texas farmers to diversify their crops. Billie Sol reduced his cotton plantings from 1,440 acres to 400 acres, but he wasn't upset with the new regulations in the least. On the contrary. He set himself up in the fertilizer business. "There are more opportunities in every field today than ever before," he told a reporter at the time. "You have to walk out on a limb to the far end — for that's where the fruit is. If it breaks, you learn how far to go next time."

He sold it cheap, so cheap that by the end of 1958 he'd become the biggest — and nearly the only — anhydrous ammonia dealer in West Texas, and among the nation's biggest. He'd done it by driving out of business more than 80 rival distributors by slashing his price to as little as $20 a ton — $70 less than his wholesale cost. He quietly lost millions of dollars in the process but saw the losses as only a short-term inconvenience on the road to a great and glorious future. Next time, he'd know how far to go.

By then, the state's leading politicians, notably senators Lyndon B. Johnson and Ralph Yarborough, were vying for Billie Sol's attention. A May 1958 memo to Johnson from an assistant, Lloyd Hand, urged him to attend a meeting in Washington between Labor Secretary James P. Mitchell and West Texas farmers concerned about minimum wage regulations. Hand explained that Cliff Carter (Johnson's point man in Texas who had befriended Billie Sol) had called from Lubbock to warn that Yarborough would be at the meeting. He added, "Cliff's judgment is to favor the growers and users over organized labor, if necessary." Hand reported that Carter "states as an example Billie Sol Estes, *in whom we are very interested*. He has 26,000 acres of crops and stands to lose $250,000 if labor is not available for harvesting."

By the summer of 1959 it was clear to Billie Sol that his fertilizer sales were not turning a fast enough buck. He never seemed to have enough cash on hand, nor was the credit limit extended him by the two Pecos banks sufficient to meet his need. Sure, he ran some profitable sideline businesses, but none brought in the big money needed to expand the potentially lucrative enterprises. He needed a big deal, a really big deal to get him out of the tunnel. There was light up ahead; if he could just hitch a ride on someone else's credit to get there. That's when he began talking to farmers about his easy deals on fertilizer storage tanks.

His pitch was that he was short of working capital at the moment and simply wanted to use the farmer's credit to get the tanks. They'd go through the motions of buying the tanks on credit, signing mortgages on the tanks and leasing them back to him. The deal called for the lease payments to equal the mortgage payments, so it wouldn't cost the farmer a cent.

Few farmers resisted the something-for-nothing inducement, and Billie Sol soon raised $34 million on non-existent tanks. From there, Superior Manufacturing, a Lubbock firm working with

Estes, presented the faked notes as collateral to borrow another $22 million from finance companies across the country. And if Billie Sol didn't have the 34,000 tanks he said he had, well, he did have 34,000 metal serial number plates for tanks. Any time a finance company representative showed up, Billie Sol or one of his men would politely drive him up and down country roads all day, while more of his men would tow the portable tanks from site to site, and still others would switch the numbered plates around a step ahead of them. Not infrequently, finance company investigators later complained to their home offices of the dull West Texas landscape.

Still, the numbers didn't add up for Billie Sol; still, he needed his big deal. While his assets were climbing, his liabilities were growing even faster. In the fall of 1960, his house of cards teetering, in debt to his fertilizer supplier to the tune of $3.5 million and to the IRS for two years of income taxes, Billie Sol Estes took one last desperate step.

He had an idea. He wanted to grow cotton again, but he didn't have the government allotments. (Ever since the New Deal, the Agriculture Department has offered generous price supports in exchange for strict production controls — or allotments — pegged to how much land the farmer had planted in the past. The allotment can be neither sold nor transferred but has to remain attached to the original parcel of land for which it was issued. In the midst of a building boom in the late '50s, the law was amended to allow for farmers displaced by a public works project to buy another farm and transfer their old allotment to their new land.) Billie Sol dispatched a young entomologist, Glenn Blake, to go on the road in search of farmers who had allotments but no land. Blake found them in East Texas and Oklahoma, and later in Georgia. His deal was simple: the farmers buy parcels of land in Reeves and neighboring Pecos County, and Billie Sol would be willing to rent it back for $50 an acre, in advance. According to the agreements signed, if the farmers defaulted on their first payment the land would revert back to Billie Sol. This was fine with the farmers — the narrow strips of West Texas land were useless to anyone except the owner of the surrounding parcels (Billie Sol Estes). Meanwhile, the farmers kept their $50 advance payments.

Billie Sol had gotten his land back into the cotton business. And for a mere $50 an acre, significantly less than the going price of $250-300. Within two years, Glenn Blake and his crack crew had racked up sales of more than 3,200 acres of cotton allotments from 116 farmers. But there was one hitch. The deals required the approval of the Agriculture Department's Stabilization and Conservation Service (ASC) Committee. If the committees questioned an allotment transfer, they were instructed to notify the cotton acreage specialist in the state ASC office at College Station.

After 25 years with the department, Henry Marshall knew a scam when he saw one. So when an official at the Reeves County ASC office sent Marshall what he called a "suspicious" contract, Marshall immediately called the deals to the attention of his superiors in Washington. "The regulations should be strengthened to support our disapproval of every case [of allotment transfers] that is questioned," Marshall wrote on August 31, 1960.

It took several months, but by January of 1961 department officials were ready to act. At a meeting in Dallas between Washington officials and regional officials it was agreed that displaced farmers would have to appear in person before the county committee to satisfy the committee that they really were buying land, rather than selling allotments.

"Billie Sol: Just a quick note to acknowledge your fine letter . . ." — (signed) "Cliff"

Not surprisingly, Billie Sol didn't take kindly to the department's tightened regulations, scheduled to take effect February 17. He knew if farmers were forced to appear in person, they would have to confess they had no intention of actually buying land from him. He decided to act on two fronts. First, he would immediately dispatch his trusty lawyer, John P. Dennison, a former district attorney from Pecos, to meet with Henry Marshall in College Station. Second, he would be in Washington in the next few days for President Kennedy's inauguration and would try to meet with the new vice president, Lyndon B. Johnson, to discuss the matter.

The January 17 meeting with Marshall did not go well for Dennison. Marshall listened politely to the lawyer's argument that the standard Estes contract contained no illegal side agreements but minced no words when he told Dennison that his plan clearly was a "scheme or device to buy allotments, and will not be approved, and prosecution will follow if this operation is ever used," according to a sworn statement by the head of the ASC Southwest office, J. Taylor Allen, who attended the meeting.

Marshall would make the point over and over during the course of the next few months — in meetings with farmers and local ASC committees throughout the state, in memoranda and phone calls to his bosses in Washington, and in conversation with his co-workers in the state office. During these months he was, in fact, offered several times a promotion to Washington but, said his last boss, W. Lewis David, "refused these offers because he liked to live in Bryan and liked his work at College Station."

One week after Marshall met with Dennison, A.B. Foster, Jr., manager of Billie Sol Enterprises, wrote a letter to Cliff Carter in the vice president's office, saying the new regulations were "unreasonable" and inconvenient to farmers. "We would sincerely appreciate your investigating this and seeing if anything can be done. . . ." wrote Foster.

Billie Sol had good reason to direct his request to Cliff Carter. The two had been corresponding for several years. Just a month earlier, Billie Sol had written Carter recommending a Pecos friend for an Agriculture Department job. On December 27, 1960, Carter replied: "Billie Sol: Just a quick note to acknowledge your fine letter about Bill Mattox. I'll see that it gets in the proper hands." It was signed "Cliff" with a postscript: "Am moving my family to Washington this week so call on me in the vice president's office as we can serve you." Carter, who is now dead, later told reporters it was a routine note.

The day after A.B. Foster wrote Carter, Marshall traveled to Pecos County and other points in West Texas for two more days of meetings, with eleven county committees, to explain again the transfer regulations. Once more, he went over the sample contract, instructing the office managers to look out for this, that it was illegal. At the end of February, Marshall believed he had the situation under control, that Washington understood it, that the county committees had all been made aware, and that his office would be able to stop any illegal transfers. He finally could get on with the other demands of his job.

Spring turned into summer and, on the first weekend in June, Marshall looked forward to some time to himself, away from the bureaucratic pressures of unyielding paperwork from Washington

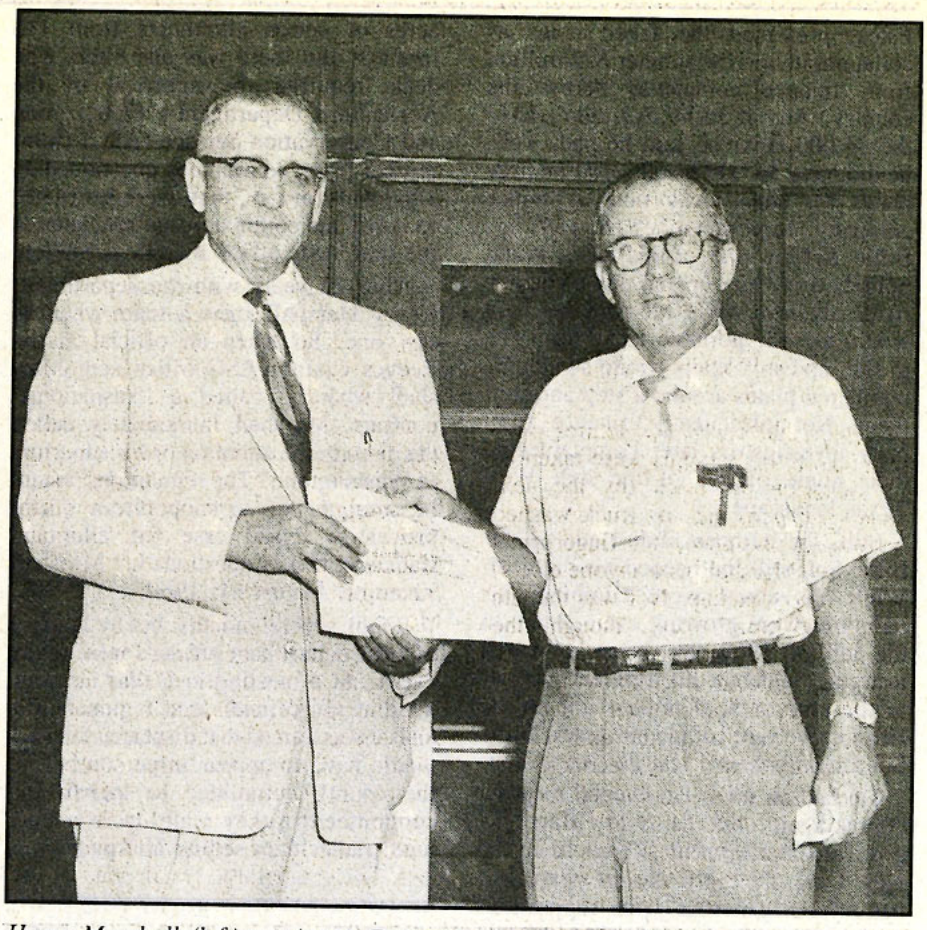
and the county offices in Texas. On Saturday, he would rise at dawn, as he always did, and head to his 1500-acre ranch, a few miles north of Franklin, in the gentle green hills of his native Robertson County. He would try to forget about the nagging cotton allotment questions and concentrate instead on doing the simple things on the land he loved so well.

HENRY MARSHALL was a big man — six feet, two inches tall, about 215 pounds —with large ears, a long, straight nose, and a kind countenance. The Texas sun had scorched his fair complexion for the whole of his 51 years, tracing leathery lines on his neck and the corners of his eyes. He moved quietly and methodically and spoke sparingly in an easygoing, direct manner; often a wry grin played at the corners of his mouth. He had graying dark hair and clear blue eyes. His shoes were custom-made, one leg being slightly shorter than the other. When he went to the ranch, he wore an old pair, too worn to wear to his job or church, but sturdy enough to correct his limp.

On this particularly Saturday, June 3, 1961, Marshall left his comfortable Bryan home for Franklin, a 30-mile drive, a bit earlier than usual because he was to drop off his ten-year-old son Donald with his wife Sybil's brother, L.M. Owens. Owens drove a Dr. Pepper truck for a Franklin bottler; he was going to take Donald along to provide the "soda water" for a family homecoming up in Bald Prairie, in the northeast corner of Robertson County.

It was around 6 a.m. when Marshall backed his 1960 Chevy Fleetside pickup out of the driveway. He drove through the silent streets and turned north on Highway 6. If this had been a weekday, he'd have turned south toward his office on the Texas A&M University campus in College Station, four miles away. Bryan and College Station are in Brazos County, divided from Robertson County by the Old San Antonio Road. Marshall turned right onto OSR and followed the county boundary to Wheelock. He took a left on Highway 42, and pursued the meandering road 11 more miles to Franklin. Two or three miles before reaching town, he picked up a hitchhiker, also on his way to Franklin.

He dropped the rider off in town. It was about 7 o'clock when Marshall reached Owens's house. He went inside for a few minutes, arranged to pick up Donald at 4 p.m., and told Owens he planned to stop on the way home in Hearne to pick up some beef from a freezer locker.



Henry Marshall (left) receives a Dept. of Agriculture certificate of merit.

Alone now, he drove north out of Franklin, along a narrow, winding paved road toward Bremond, where he stopped about 7:30 to pay an old friend named Joe Pruitt for some hay baled some weeks earlier. He found the farmer in his hay meadow, talking with two other men Marshall knew, Wylie Grace and Lewis Taylor. They visited for 20 minutes or so, about the weather, mostly, and Marshall got on with his business. He wrote out a check for $36 and climbed back in his truck. It was shortly before 8 when he drove out of the meadow toward the highway.

The Marshall boy and his uncle L.M. were back from Bald Prairie by 3 p.m. At five o'clock, Mrs. Marshall called her brother from Bryan to find out when Henry and Donald would be home. Owens told her Marshall had not yet returned, that he probably was delayed by some chore at the ranch. She was starting to worry. It wasn't like Henry to be late. He had suffered a heart attack in September of 1959 and, although he'd recovered nicely, she feared the worst. She called her brother again and asked him to drive out to the ranch and have a look around. A few minutes later Mrs. Marshall headed for Franklin.

Owens had worked the ranch for Marshall for many years, mending fences, cutting weeds, whatever needed to be done. He knew the lay of the land as well as anyone. He said he made a quick trip out there, checked the most likely places, and returned home to see if Marshall had showed up. He hadn't. So Owens went back out about 6:30 with his neighbor, Ervin Bennett. This time Owens drove in by a back road, where the two men spotted tire tracks at the gate. They followed the tracks along a trail that wound through a pasture to a small clearing amidst a stand of scrub oaks. "The first thing we saw was the pickup," Owens later told the FBI. "Then we saw him lying there. I thought it was his heart."

Henry Marshall was dead, but not from a heart attack. He was lying in the grass near the left side of his truck, with bruises on his face, hands, and arms, and five .22 bullet wounds in his left side. His rifle lay beside him. Blood was splattered on both sides and the rear of his truck, along with a fresh dent. Inside the truck, placed neatly on the seat, were the contents of Marshall's pockets: his wallet, eyeglasses and case, watch, a pencil, a half-empty box of raisins. There also was an unused, single-edge razor blade.

L.M. Owens left his neighbor at the clearing and sped back to town to tell his waiting family and Robertson County Sheriff Howard Stegall. Stegall

notified the justice of the peace, Lee Farmer, who also served as coroner, reportedly telling him: "Come on, Lee. We've got a man out in a field that killed himself." In a recent interview, Owens, now 65, insisted to the *Observer* he had not told the sheriff Marshall had taken his own life, suggesting that somehow Stegall arrived at the hasty conclusion on his own. By the time the two officials arrived on the scene, it was nearing 7:30. "It was getting kind of dark by then," Owens told the FBI. "They had to shine the light."

Perhaps that's why no pictures were taken, no blood samples were taken of the stains on the truck (by the next morning, Owens had the truck washed and waxed), no check for fingerprints was made (Marshall's or anyone else's) on the rifle or pickup. Nor was the site roped off. More likely, though, the reason a more thorough investigation was not conducted was simply because Sheriff Stegall immediately decreed Marshall's death a suicide and Justice of the Peace Farmer didn't second-guess the sheriff. What makes Stegall's opinion so remarkable is that for Marshall to have killed himself he would have had to shoot himself *five times* with a long bolt-action rifle that had to be pumped *each time* to eject a shell.

Owens told the *Observer* that when Stegall arrived at the scene, "the first words out of his mouth were, 'The sonavabitch shot himself.' " Owens himself does not rule out the possibility his brother-in-law took his own life. "Only the good Lord knows for sure," he said.

But no one else who knew Henry Marshall much believed he killed himself — certainly not his wife or his brother Bob. Together they posted a $2,000 reward for information leading to a murder conviction. The undertaker who prepared Marshall's body for burial also didn't believe it. "To me it looked like murder. I just do not believe a man could shoot himself like that," the late Manley Jones, owner of Callaway-Jones Funeral Home in Bryan, said a year after Marshall's death.

In a recent interview, Jones's son Raymond, 54, who along with his son are the third and fourth generation Joneses to run the mortuary, said he clearly remembers his father discussing the case. "Daddy said he told Judge Farmer there was no way Mr. Marshall could have killed himself. Daddy had seen suicides before. JPs depend on us and our judgment about such things. We see a lot more deaths than they do. But in this case, Daddy said, Judge Farmer told him he was going to put suicide on the death certificate because the sheriff told him to." (Farmer, like many rural peace justices, had no training as a coroner.)

Sure enough, after mulling it over a few days and thoroughly digesting Deputy Sheriff E.P. (Sonny) Elliot's 200-word CASE REPORT IN DETAIL, Lee Farmer returned a suicide verdict: "death by gunshot, self-inflicted."

Farmer, now deceased (as are Stegall and Elliot), reportedly went to his grave convinced he had ruled correctly. "When I come to the Pearly Gates," he told a reporter in 1962, "if St. Peter asks me about Henry Marshall, I'll still say it was suicide. . . . Nobody told me to write it that way, and nobody bribed me, either."

On Monday, June 5, funeral services were held for Henry Marshall at the First Methodist Church in Bryan. The pallbearers were members of his Men's Bible Class and his Agriculture Department colleagues. That afternoon, Henry Marshall's body was laid to rest in the Franklin city cemetery.

But not for long.

II. Possible Suicide, Probable Homicide

ON A DAMP and overcast Monday afternoon, May 21, 1962, at the Franklin city cemetery, a black laborer named Johnnie Mims scooped away the topsoil from the grave of Henry H. Marshall, clearing enough earth to slip a pair of straps underneath the clips at each end of the steel vault. With Manley Jones, the funeral director from Callaway-Jones, in attendance and operating under the decree of the Robertson County grand jury, the casket was swept clean of dirt and placed in a Cadillac hearse and transported to the funeral home in Bryan. There doctors, police officers, and reporters were waiting.

The grand jury had convened only that morning, in the wake of U.S. Secretary of Agriculture Orville L. Freeman's disclosure that Henry Marshall was the "key figure" in the mushrooming Billie Sol Estes scandal, the only man who could "unlock the door." Now, less than two weeks shy of the first anniversary of his death, the matter of Henry Marshall and how he died was once more on the agenda, elevated from local whisperings about whether the man could have taken his own life to the level of national news.

Several times Marshall's widow, Sybil, had tried to get authorities to change her husband's death certificate from suicide to homicide. She'd hired the legendary W.S. Barron, the preeminent Bryan attorney. Barron had distinguished himself while still a young man by serving as speaker of the Texas House of Representatives in the late 1920s.

But W.S. Barron, by then a retired judge for the district covering both Brazos and Robertson counties, could not do a thing for Sybil Marshall. Three times he traveled to Robertson County to advocate a change in the ruling on Marshall's cause of death, and three times he was told it couldn't be done. The Robertson County authorities "were definitely satisfied that the cause of death was suicide," he said at the time. So it remained for the 12 reputable citizens of the Robertson County grand jury to determine how Henry Marshall met death. The jury's first order of business was to order the body exhumed and an autopsy performed.

Until Dr. Joseph A. Jachimczyk took over as Harris County medical examiner in the mid-1950s, wrote one observer, "Houston's coroner system was so primitive as to be beyond belief" — a system similar to Robertson County's: deaths were certified by justices of the peace who were not required to possess either legal or medical training. Before Jachimczyk (Yuh-him-check), who held both legal and medical degrees, "many suspicious homicides were overlooked by ignorant justices," said the critic.

Dr. Joe (as everybody called him) began the autopsy on Henry Marshall's body at 7 o'clock on the morning of May 22, inside a Bryan funeral home swarming with FBI agents, Texas Rangers, and, especially, reporters. ("Dan Rather used the phone in my office," mortician Raymond Jones recalled recently. "Of course, he wasn't *Dan Rather* then" but a Houston TV reporter.) By day's end, delivered of his grisly task after eight hours of meticulous examination, Dr. Joe rendered his opinion. He spoke only 14 words, but they were words Sybil Marshall had been waiting what seemed an eternity to hear. "Based on my preliminary autopsy examination," Jachimczyk said, "I believe that this was not a suicide." Now all that remained to clear Marshall's name for good was for the Robertson County grand jury to complete its investigation and formally

overrule Justice of the Peace Lee Farmer's official verdict: "death by gunshot, self-inflicted."

IN ROBERTSON County in 1962, the grand jury selection process was a bit informal, as befits a rural county where most folks know each other. One grand juror told the *Observer* he remembers well how he and two fellow Agriculture Department employees were named to the panel. Ralph McKinney, now in his thirtieth year with the Agricultural Stabilization and Conservation Service, was meeting in his office on the second floor of the ornate, old yellow-stone courthouse with county agent Harry Smith and Robert A. Kennedy, a soil conservation division employee. The three were discussing civil defense plans for the county when Deputy Sheriff Sonny Elliot ran downstairs from the third floor courtroom. "He said they were having a hard time getting a grand jury together," McKinney recalled. " 'Y'all need to be up in the courtroom in three minutes because no one else is available,' " Elliot said. "So we went upstairs, and they just put us right on it." The Robertson County grand jury ended up including a utility company manager, car dealer, cleaning shop operator, feed store merchant, two housewives, three farmers, and the three Agriculture Department employees.

"So far as is known," the *Dallas News* noted during a week's respite in the middle of the five-week proceedings, "not a member of the jury has any direct personal interest in its anxiously awaited ruling. Franklin is a town where half the population is kin, but that's not expected to complicate matters." But one rumor, of a conflict-of-interest sort, did apparently surface in the press gallery, causing enough consternation for the *News* to dip its reportorial toe ever so gingerly into the investigative waters: "Reports have heard that Sheriff Howard Stegall, one of the investigators who believes in the original suicide ruling, has a cousin on the grand jury, but he says it isn't so."

At their first meeting, grand jurors elected a foreman, Goree Matthews of Calvert, district manager for Gulf States Utility Company. But there was little doubt about who dominated the proceedings: a man named Pryse Metcalfe, Jr., owner of a Franklin feed store and the staunchest defender of the suicide theory. And no, the *Dallas News* didn't catch Stegall telling a whopper; Metcalfe was not the sheriff's cousin. He was his son-in-law.

Even before the grand jury was convened, public hearings on the business practices of Billie Sol Estes had been making the news. In Texas, the state attorney general has the power to conduct "courts of inquiry," presided over by state judges, to collect information relating to the state's anti-trust laws. In the spring of 1962, several days after the FBI arrested Billie Sol Estes on fraud and conspiracy charges, Attorney General Will Wilson began a round of courts of inquiry delving into Billie Sol's attempts to corner the West Texas fertilizer market, as well as his connections in the federal government. Wilson was also running for governor. He convened the first hearing just three weeks before the May 5 Democratic gubernatorial primary. (But it didn't help his campaign; he finished fourth in the primary and John Connally went on to become governor.)

Wilson's first revelations, splashed across the nation's front pages, sent the Democratic administration scurrying for cover — and the Republicans clamoring for "an all-out congressional investigation" of the Agriculture Department. Employees of Dallas' famed Neiman-Marcus testified at an April 12 court of inquiry that Billie Sol had taken three Agriculture Department employees on shopping sprees the previous fall at the tony department store.

It seems that one department official, Emery (Red) Jacobs, the deputy administrator of the Agricultural Stabilization and Conservation Service, was in Dallas for a meeting of the regional commodity office at the same time Billie Sol happened to be in town. The two had breakfast together on the morning of October 25, 1961, in Billie Sol's suite at the Hilton. During breakfast, Jacobs later testified at a Senate hearing, he told Billie Sol he had some "errands to run, some business to take care of" before the 10 a.m. meeting. Jacobs said Billie Sol invited himself along to Neiman-Marcus, where Jacobs needed to do a little shopping.

"I needed some clothes very badly for fall and winter. I had none. I had one suit that would fit me and it was practically worn out. I had not had an opportunity, I was very busy, in travel status and otherwise, to purchase for myself some clothes that I had to have for winter and fall," Jacobs testified.

After Jacobs had selected more than $1300 worth of clothing, including two $245 suits, a $195 sport coat, and two pairs of $135 alligator shoes, Billie Sol disappeared into one of the dressing booths with him, a Neiman-Marcus salesman named Bob Watson testified before Wilson's court of inquiry. When they emerged, Watson said, Jacobs had a fistful of dollars with which he paid the entire bill himself — in cash. Not bad for a $16,500-a-year government employee.

Jacobs denied that Billie Sol bought any clothes for him. All he ever got, he told Senate investigators, was a couple of trips in Billie Sol's plane, a five-pound bag of pecans, and a box of cigars. (Jacobs died recently in El Paso.)

By 10:30 on April 12, the evening of the Neiman-Marcus disclosures, Jacobs was sitting in Secretary Freeman's Washington office, having been summoned back from a conference in Denver for an emergency damage-control meeting, during which the secretary decided it was "best to separate him from the department." The next morning, Friday the 13th, Freeman's press secretary, Rod Leonard, composed a statement of resignation for Jacobs, which he promptly signed and delivered.

THE WEEKEND was a trying one for Orville Freeman. The protege of Senator Hubert H. Humphrey of Minnesota and governor of that state from 1954 to 1960, he was a city boy who knew little about farm politics when he arrived in Washington in 1961. A lawyer, Freeman had hoped to be named attorney general, but John Kennedy thought "he'd be too vulnerable politically," since he had been beaten for re-election in Minnesota. Freeman quickly established himself as an able, aggressive administrator, a man of integrity and strong political skills.

Over the next few months, with two full-scale congressional committee investigations on the horizon, with embarrassing revelations surfacing weekly in the Texas courts of inquiry, and with the press eager to uncover the first major scandal of the Kennedy administration, Orville Freeman knew he was going to need that strength. With Red Jacobs gone, Freeman now had to worry about how to handle the other Agriculture Department officials Neiman-Marcus employees testified had benefitted in their presence from Billie Sol Estes's generosity. There wasn't much time. At the end of the week, James T. Ralph, the assistant secretary, was due in Dallas to explain to the court why some shirts, ties, and shoes billed in September 1961 to Billie Sol were sent to Ralph's suburban Washington home. Freeman needed help in assessing the political fallout of Ralph's appearance in Texas, and, shrewd operator that he was, he knew where to get it.

"Lyndon, I need some advice," Freeman said in an April 17 telephone call to the vice president. "You have

been following, I am sure, the efforts of the attorney general of Texas to get elected governor. I don't know what is behind all of it, but he is giving some of our boys trouble." Freeman outlined some of the allegations against his "boys," including Jim Ralph: "Wilson told him to come down and appear and he plans to go Friday, but frankly he is scared stiff . . . but he feels he should go." Then Freeman asked, "Lyndon, are you alone?" "Yes," Johnson said. "I need a little advice," said Freeman. "What kind of fellow is Wilson? I don't want them to go down there fully unprepared and I thought maybe you could give me some advice as to what should be done."

"I am not a lawyer," the vice president said. "I would gather that Wilson has the authority to hold these courts of inquiry, and I gather he is going to do it from now until May 5 in the hope that he can reflect any way he can on Washington, although he was the manager for the Kennedy-Johnson ticket from Los Angeles [the Democratic convention site] through the November election. . . . He ran for the Senate and a lot of people thought he would do pretty good and he had a miserable following. As a consequence, he was very bitter. He calls everybody in Washington stooges."

"Call me at any time," Johnson said at the end of the conversation. "I want you to know I appreciate very much what you and that sweet wife of yours are doing for this administration."

ON FRIDAY, April 20, Jim Ralph testified in Dallas that he'd never received any clothing from Billie Sol, though he conceded he had been measured for a suit he tried on. But several weeks later, he too was gone, fired by Freeman when the FBI discovered he had used Billie Sol's telephone credit card. Ralph's assistant, William E. Morris, was also dismissed after he refused to make himself available for questioning about his dealings with Billie Sol. It seemed Morris's wife, Alice, was on Billie Sol's payroll as "Washington columnist" for the Pecos *Daily News*. Then there were the gushing letters Morris sent Billie Sol in 1961, urging him to expand his West Texas "success" by creating a worldwide empire to sell or trade surplus grain.

In a March 27 letter, Morris suggested that Billie Sol might obtain government surplus ships to carry the surplus grain and that the first one be named, in his honor, the "S.S. Pecos Trader." And in a handwritten note, dated May 4, Morris wrote to thank Billie Sol for his self-published autobiographical pamphlet, "SUCCESS," which Morris said he would distribute to a few writers and publishers. "No one has ever come close to writing the Billie Sol Estes story that I feel so strongly must be written before your material successes completely overshadow the true beauty of your philosophy of life. . . ."

The letters were released by Will Wilson on May 1, 1962, the day after the Agriculture Department declared that its record in the Estes case was "clean."

Wrote William E. Morris of the U.S. Dept. of Agriculture: "No one has ever come close to writing the Billie Sol Estes story that I feel must be written before your [Estes's] material successes completely overshadow the true beauty of your philosophy of life . . ."

Even after Red Jacobs, Jim Ralph, and Bill Morris were removed from their jobs, the tussle between Wilson and Freeman continued to be played out in the media spotlight. Freeman denied all allegations of departmental favoritism toward Billie Sol Estes and pledged "full cooperation" with investigators. Wilson asked pointed questions about Freeman's appointment of Estes to the prestigious National Cotton Advisory Board in November of 1961 — an appointment that came two months after the department had fined him $42,000 for illegal cotton allotments and less than a month after department investigators filed a critical 175-page report on the Estes case. (The investigation was requested by I. H. Lloyd, Henry Marshall's successor, four weeks after Marshall died.)

ON FRIDAY, May 25, the government filed a motion to quash a subpoena issued by the Robertson County grand jury requiring Agriculture Department officials to turn over the 175-page report on Billie Sol's cotton allotments. The report, dated October 27, 1961, and titled simply, "Billie Sol Estes — Pecos, Texas," was known to make reference to Henry Marshall.

On Saturday morning, U.S. Attorney General Robert Kennedy announced that the government would instead offer 22 pages of excerpts — "all possible relevant parts" of the report. "In order to be of maximum possible assistance we are offering to the grand jury verbatim excerpts of each reference to Mr. Marshall, together with the complete context for each reference," the attorney general said. That afternoon, Robert J. Rosthal, an attorney in the Justice Department's criminal division, flew from Washington to Dallas with the excerpted material, which he handed over to Barefoot Sanders, the U.S. attorney for the Northern District of Texas.

After further deliberations, the state and federal lawyers reached a compromise: the judge presiding over the grand jury, John M. Barron, would be permitted to read the entire report and furnish to the jury anything he considered pertinent — provided he first clear it with Sanders. The grand jury recessed from May 30 to June 4 while Barron studied the hefty document — and the government planned its next move.

Barefoot Sanders was a close associate of Lyndon Johnson's, having known him since his days in the late forties when Sanders was president of the University of Texas student body. After directing the Kennedy-Johnson campaign in Dallas County, Sanders had been named U.S. attorney in the summer of 1961 on the recommendation of Johnson. Currently he is a federal district judge in Dallas. It was Sanders who filed the court motion to quash the grand jury's subpoena, stating: "The public interest would not be served by production of a document concerned with matters not pertinent to the purpose of the jury."

Wilson, as might be expected, had a different opinion. He said the federal government should be eager to bring before the jury every shred of evidence that might throw light on Marshall's death. "But we are in a situation where we have to drag from them the report of his activities as if we were pulling teeth."

Others were no more impressed. "Why did you not submit the whole and entire . . . file to the state grand jury?" John Lee Smith, a former Texas lieutenant governor, wrote to Bobby Kennedy on May 28. "Perhaps because of your limited courtroom experience, you did not know that a grand jury . . . conducts its investigations in the strictest secrecy, and that any irrelevant testimony would have remained under the cloak of secrecy. . . . There are some that are inclined to think that the complete file was withheld to shield certain Prominent Personages in the Kennedy Administration!"

The *Houston Press*, a close follower

of the proceedings, put it this way in a May 29 editorial: "Nothing should be left undone. No possibility of a clue should be withheld from any of the investigators and probers, especially by the government for which Mr. Marshall was working. . . . What's called for now is less mystery, not more of it."

With rumblings about Billie Sol's apparently cozy relations with Agriculture Department officials becoming louder and louder, the Administration resorted to a time-tested public relations gimmick: inside information "leaked" to the press that the Kennedys were actively trying to get to the bottom of the Estes case. On June 1, the *Dallas News* reported in a copyrighted story that "President Kennedy has taken a personal interest in the mysterious death of Henry Marshall." As a result, the story said, Bobby Kennedy "has ordered the FBI to step up its investigation of the case." What went unreported was just how personal an interest the Kennedys took in the case. Rarely an evening passed during the eleven days the grand jury was in session (over a five-week period) that Bobby Kennedy failed to telephone Judge Barron for details of the day's testimony. Sometimes he called twice, Barron told the *Observer*. "I talked to John Kennedy one time and I talked to Robert Kennedy 10 or 12 times. He [Bobby] would just ask questions — how we were getting along, what we'd found, things like that."

Barron said he also heard from the vice president's office during the proceedings. "Lyndon got into it, took a great interest in it. Cliff Carter [Johnson's political handyman in Texas] wired down and called me about it two or three times. He said Johnson wanted 'a complete investigation made.' He put on a good act," Barron said.

Although the public impression that the FBI was in hot pursuit of the truth served the Administration, the actual pursuit was somewhat more tepid. FBI files obtained by the *Observer* under the Freedom of Information Act suggest that the conviction of the local office that Marshall's death was a suicide may have come at the expense of any thorough examination of evidence to the contrary. An FBI agent based in Waco from 1952 until he retired in 1968, Tommy G. McWilliams, Jr., remains as convinced today as he was in 1962 that Henry Marshall took his own life. He said his month-long investigation uncovered no link between Marshall and Billie Sol. "As far as I knew, [they] never even heard of each other," McWilliams said in a recent interview. "They had no connection at the time Henry Marshall was living."

Composite sketch of murder suspect

While FBI Director J. Edgar Hoover scrawled on a May 21 memo: "I just can't understand how one can fire five shots at himself," McWilliams contended, "My theory was he shot himself and then realized he wasn't dead." He theorized further that Marshall tried to inhale carbon monoxide from the exhaust pipe of his truck, pulling his shirt over his head to breathe the toxic fumes. (Dr. Jachimczyk, the Houston pathologist, found a 15 percent carbon monoxide concentration in Marshall's body, which he said could have been as high as 30 percent at the time of death.)

McWilliams said that Marshall became unconscious and fell, smashing his forehead on the pipe. He then bled to death from one of the five gunshot wounds, McWilliams speculated. "You have to put two and two together, and it all points toward suicide," he said. "The only basis you have not to say suicide is that it's hard to kill yourself with a bolt-action 22."

But it's also hard to pull your shirt over your head, inhale a near-lethal dose of poisonous gas, pass out, and still have the presence of mind to tuck your shirt back in, which is what Marshall would have had to do, according to the FBI's own files: ". . . the body was still fully clothed with the shirt still tucked into the trousers," a Houston agent reported in a May 14, 1962, memo.

Dr. Jachimczyk disagreed strongly with McWilliams's theory but stopped short of ruling out suicide completely, labeling Marshall's death "possible suicide, probable homicide." But, he added, "if in fact this is a suicide, it is the most unusual one I have seen during the examination of approximately 15,000 deceased persons."

In a report to Judge Barron, Jachimczyk picked apart the suicide theory point by point. Regarding the bruise on Marshall's forehead, Jachimczyk said it could not have occurred "from a simple fall . . . it necessarily occurs from a severe blow to the head." He also disagreed with the proposition that Marshall used his shirt to make a hood over the exhaust pipe. "If this were done," he said, "soot must have necessarily been found on the shirt; no such was found." He also pointed out that Marshall, a right-hander, would have had to shoot himself with his left hand for the bullets to enter where they did.

IN WASHINGTON, the House Intergovernmental Relations subcommittee was holding hearings on Billie Sol's cotton allotments. Among those testifying was Carl J. Miller, the Agriculture Department official responsible for allowing the Estes grain storage bond to remain at $700,000 instead of raising it to $1 million. Miller said he'd been visited by Estes, who mentioned names of the politically powerful to whom he was connected.

Meanwhile, the Robertson County grand jury heard testimony from a Hearne gas station attendant named Nolan Griffin, who said that reading about the case in the newspapers had reminded him of a fellow who stopped by the station to ask directions around the time Marshall died, a year earlier. The man asked Griffin where the county seat was, and then he asked where "the Marshall place" was, Griffin told the grand jury. The following day, the man returned to the station and told Griffin, "You gave me the wrong Marshall, but that's all right. I got my deer lease."

Griffin said the man drove a 1958 or '59 Plymouth or Dodge station wagon. He said the man wore dark-rimmed glasses, had dark hair and a scarred, dark face. A Texas Ranger artist, Thadd Johnson, drew a facial sketch of the fellow, dubbed "Mr. X," which was circulated in newspapers across the state and country.

By the middle of August, the police had a lead in West Texas. On August 21, Texas Ranger Captain Clint Peoples flew with Griffin to Odessa, where a man said to resemble the composite drawing was interrogated by Peoples and positively identified by Griffin, according to a sworn statement Griffin made the following week. The lead, however, proved unfounded: the man, whose name was not released and has since been lost to time, was "checked out and completely cleared" by the Rangers after passing a polygraph test.

A few days after Griffin returned

home, he received an eerie, anonymous phone call warning him to keep an eye on his children and to watch what he said, Griffin recalled recently. Shortly after that, Griffin said, Hearne Police Chief Perkins visited him at work one morning and told him Bryan Russ, the county attorney, wanted to see him right away. Griffin waited for his boss to return and rushed over to Russ's office, where he found Russ sitting with Sheriff Howard Stegall.

"While I was talking to Howard," Griffin, now a Hearne city councilman, told the *Observer*, "he handed me a pen and Bryan shoved a paper under me and asked me to sign it. I didn't know what it was, didn't read it or anything. They were my friends and I just did what they asked me to. A minute or so later, they got up, shook my hand, and I left."

What Griffin did, he now says, was unwittingly sign an affidavit stating that he positively identified the Odessa man on August 21, 1962. This meant, of course, that the testimony he gave the grand jury was effectively discredited, giving added weight to the local authorities and to the FBI's suicide theory. "I never positively identified the man. All I did was sign my name when they shoved the thing under me." The affidavit states: "I told the Rangers on that day that this was the man and I knew it on that date and I know it now. I cannot identify any other person for I am positive that this is the man."

Bryan Russ is now in private practice in Hearne after nearly a quarter-century as county attorney. Russ said he "doesn't even remember him [Griffin] signing anything. That's 20 some odd years ago. I have no recollection at this point."

By the time Billie Sol Estes arrived in Franklin to testify on a steamy Wednesday morning in the middle of June, 1962, most of his properties were in receivership, including his airplanes. Nevertheless, he managed to satisfy even the crustiest among the throng of reporters by swooping into town in a two-car caravan of his trademark white Cadillacs. With him were two of his brothers, his father, and two attorneys, state Senator W.T. (Bill) Moore of Bryan and John Cofer of Austin, one of Texas' best legal minds and confidant of Lyndon Johnson. Moore, known as the "Bull of the Brazos," said Billie Sol's appearance "caused the biggest stir around here since the big watermelon harvest of 1948."

Billie Sol spent almost two hours before the grand jury, but he invoked the Texas version of the Fifth Amendment almost continually — refusing to answer most questions on grounds that he might incriminate himself.

Mac Wallace as a UT student.

On Monday, June 18, at 9:30 p.m., after a long but quiet day of testimony from more of Henry Marshall's Agriculture Department colleagues and FBI agent McWilliams, the grand jury reported to Judge Barron that it could not decide whether the death of Marshall was murder or suicide. The jury foreman, Goree Matthews, told the judge that after considering all known evidence, the jury considers it "inconclusive to substantiate a definite decision at this time, or to overrule any decision heretofore made."

Not all the grand jurors thought it was suicide. Ralph McKinney, the Agriculture Department employee in Franklin, and Joe Scasta, a Wheelock farmer, dissented, voting for a murder verdict. In an interview, McKinney said that Pryse Metcalfe, Jr., the sheriff's son-in-law, "attempted to exert pressure" on the other jurors to affirm the suicide verdict. "Pryse was as strong in the support of the suicide verdict as anyone I have ever seen in my life, and I think he used every influence he possibly could against the members of the grand jury to be sure it came out with a suicide verdict," McKinney said.

Metcalfe, who still runs the feed store in Franklin, declined to speak with the *Observer*. But in a 1984 interview with the *Dallas Morning News*, he denied that he tried to "lobby" other grand jurors. "I didn't consciously do that. I didn't lobby anybody. We didn't have much time to do any lobbying," he said.

IF THE PROPONENTS of the suicide theory hoped the case would then fade away, they were surely disappointed. Henry Marshall's name, inextricably linked with Billie Sol Estes, bobbed up on the front pages for the rest of the summer. (In fact, the Associated Press ranked the case one of the top ten stories of 1962 in Texas.) Just nine days after the grand jury was dismissed, Senator John McClellan, Democrat of Arkansas, convened his Senate Permanent Subcommittee on Investigations for three months of hearings on Billie Sol's wheelings and dealings with the government.

Two days after the hearings began, the riddle of Marshall's death resurfaced. It occurred during the opening testimony of Orville Freeman, when the secretary described the January, 1961, meeting between Marshall and Billie Sol's lawyer, John Dennison. He referred to Marshall as "the man who left this world under questioned circumstances."

As the hearings lurched on through the stifling Washington summer, an endless parade of witnesses spoke their piece: finance company representatives, cotton farmers, government bureaucrats, former government bureaucrats, lawyers, more lawyers — most told how they'd been bamboozled by Billie Sol. On the morning of July 12, Leonard C. Williams, a former assistant to Henry Marshall, testified that Marshall warned his staff late in 1960 about Billie Sol's illegal cotton acreage transfers. Before the hearings resumed after the lunch recess, with the committee room buzzing once again about the mystery of Henry Marshall's death, Senator McClellan posed for photographers with a .22 caliber rifle similar to Marshall's. The Senate's leading investigator stretched his arms fully and pointed the rifle at his chest to show the difficulty involved in killing oneself in this fashion. "It doesn't take many deductions to come to the irrevocable conclusion that no man committed suicide by placing this rifle in that awkward position and then [cocking] it four times more," McClellan said.

The Texas Rangers, meanwhile, continued their probe. In a July 13 letter to Col. Homer Garrison, director of the Texas Department of Public Safety, Ranger Captain Clint Peoples reported in detail his findings into Marshall's death. Peoples's conclusion: "It would have been utterly impossible for Mr. Marshall to have taken his own life." Garrison sent a summary of Peoples's report to McClellan, Judge Barron, and the FBI, notifying all that the Rangers' "continuing investigation will be based on the theory that he was murdered."

Given the startling revelation in the

AP/Wide World Photos

Senator John McClellan, D-Ark, July 12, 1962, demonstrating the difficulty of turning a .22 caliber rifle on yourself.

Senate hearings less than two weeks later, including one so compelling that even the most fervent of suicide theorists —the Robertson County authorities — could not summarily dismiss it, perhaps the Rangers were moving in the right direction. An official of the Agriculture Department's cotton division testified that an angry Billie Sol Estes, with his lawyer John Dennison at his heels, had stormed into his Washington office on October 18, 1961, to demand that the department cease investigation of his cotton allotment transfers. (The investigation started on July 5, 1961, a month after Marshall died, and was completed October 27. It led the department to withhold the allotments for 1962 and later, much later, cancel the 1961 allotments and assess a $544,000 overplanting penalty against Billie Sol, on grounds that the allotments were obtained illegally.) Nothing unusual there — Billie Sol wandering the halls of Agriculture — but this time, for the first and only time before the subject became one of national speculation, Billie Sol mentioned the death of Henry Marshall.

Wilson C. Tucker, deputy director of the cotton division, testified on August 1 that Billie Sol Estes, "without any preliminary conversation," told him he had not done anything wrong, that the reputations of his friends were at stake, and "something had to be done immediately." Tucker said that a "highly nervous" Billie Sol threatened to embarrass the Kennedy administration if the investigation were not halted. (It was in the following week that Estes took Tucker's boss, Red Jacobs, on a Neiman-Marcus shopping spree.) And then, almost as an afterthought, Tucker said: "Mr. Estes stated that this pooled cotton allotment matter had caused the death of one person and then asked me if I knew Henry Marshall" — this in October of 1961, six months before questions about Marshall's "suicide" had been raised publicly.

Senator McClellan asked whether Tucker regarded the statement as an "implied threat — that one man had already lost his life" because of the investigation. Tucker replied: "I did not at the time. It impressed me some but I didn't put any particular significance to it at the time."

McClellan suggested that a normal reaction would be to demand or at least wonder whether Billie Sol was "implying that somebody else might get killed."

"The information I had was that Mr. Marshall's death was suicide," Tucker replied. "I just didn't know what he meant."

III. Homicide By Gunshot Wounds

ONE DAY EARLY IN December of 1983, the Robertson County attorney, an affable young man named John Paschall, received a phone call from a newspaper reporter in Bryan. The reporter told him he had seen a story from Abilene come across the wire which said that Billie Sol Estes, released recently from prison, had some information about Marshall's death. "I told him, well, if the guy has information about a case, even if the murder was committed in 1961, then it's my duty and obligation to investigate," Paschall said in a conversation with the *Observer* not long ago. "And if somebody's saying, hey, I've got evidence, then it's my duty to bring him before the grand jury and let him tell the story."

It had been 22 years and two prison stretches since Billie Sol last appeared before the Robertson County grand jury. In 1964, two years after the original grand jury's decision to let stand the suicide verdict by the county justice of the peace, Senator McClellan's subcom-

mittee on investigations reported it could find no link between Marshall's death and his efforts to bring to an end Billie Sol's cotton allotment scheme. But a minority report concluded: "We believe there is sufficient evidence to show that Marshall considered the Estes transactions not to be bona fide, and that he was attempting to gather sufficient information to put a stop to them."

Then, nothing. The investigation had long since ceased, the national media had forgotten about the story, and, in 1965, Billie Sol went to prison for fraud relating to the mostly non-existent fertilizer tanks he'd put up for collateral. Paroled in 1971, he was sent back to prison in 1979 for mail fraud and non-payment of income taxes.

On Tuesday, March 20, 1984, fresh from his latest stint in a federal penitentiary, Billie Sol Estes came once more to Robertson County's massive old courthouse to voluntarily tell a grand jury his story about the death of Henry Marshall. He said he came to keep a promise he made in 1979 to Clint Peoples, who escorted him to La Tuna Federal Prison near El Paso, where he served his term. He told Peoples, by then a U.S. marshal (having retired as a Texas Ranger in 1974), that when he was released he would solve the puzzle of Henry Marshall's death. And so, on a cool March morning, Billie Sol Estes returned to Franklin to make good his promise — or so he said.

He answered many of the questions the 1962 grand jury had put to him, answers he said at that time might incriminate him. But now things were different: many of the people involved in the 1962 case were dead; others were no longer in power. And, after spending more than ten years behind bars between 1965 and 1983, there also was the matter of redemption, he said. And finally, most significantly, there was little else to lose: though Billie Sol knowingly incriminated himself with his most recent testimony, he did so under a grant of immunity from prosecution.

Once more the legions of news reporters — this time replete with minicams and satellite transmitters and lap computers — descended on Franklin (whose population has held steady over the years at just over 1,000), jamming the Pioneer Hotel and Cafe, the Cut-Rate Grocery and the Dairy Queen. A local businessman who was twelve when he took home movies of Billie Sol's first breathtaking sweep into town this time brought his children to watch a Houston television station's helicopter land on the courthouse lawn.

Billie Sol testified for four-and-a-half hours. He told the grand jury what most everyone suspected from the beginning: that Henry Marshall did not kill himself, that he was murdered for fear he would blow the whistle on Billie Sol's cotton allotment scam. But that wasn't all. Marshall was murdered, claimed Billie Sol, on orders of the newly-elected vice president of the United States, Lyndon B. Johnson, who was afraid Marshall might link him to Billie Sol's frauds through Clifton C. Carter, Johnson's long-time Texas aide. Billie Sol told the grand jury that Carter ordered Marshall to approve 138 cotton allotment transfers as a favor repaying Billie Sol for campaign contributions. On January 17, 1961, Marshall told Billie Sol's lawyer, John Dennison, the scheme was illegal, and a few days later, Billie Sol said, he, Johnson, Carter and Malcolm E. Wallace, whom Estes named as the hitman, gathered in the backyard of Johnson's Washington home to plot Marshall's murder. Billie Sol is the only one of the four still alive.

County Attorney Paschall said that even if the others were still alive, indictments could not have been returned on the strength of Billie Sol's testimony alone; rather the grand jury would have needed other evidence to support his tale.

But Billie Sol failed to provide the jury with any documentation for his allegations; indeed, the evidence comes solely from Billie Sol, a man whose credibility ran out shortly after his credit. As one congressional report stated, "The subcommittee clearly established that Billie Sol Estes habitually made false, misleading and exaggerated statements."

IF Billie Sol is lying, this story has proved more durable than his earlier tales. No reporter or investigator has yet been able to prove or disprove his claims. He has declined numerous requests for interviews in which he might be requested to provide additional details, such as methods, dates and places of alleged payoffs. The three principals Billie Sol named — Lyndon Johnson, Cliff Carter and Malcolm Wallace — did indeed have ties to each other. Beyond that, all is conjecture. Perhaps they are linked to the Henry Marshall killing only in the mind of Billie Sol Estes. Or is there something more to his testimony? "Remember," his daughter Pam told an interviewer not long after the grand jury proceedings, "even liars sometimes tell the truth."

"My brother dealt with Henry Marshall; I never saw him face-to-face," Billie Sol told the grand jury, according to a tape recording of the proceedings obtained by the *Observer*. "What I think caused Henry Marshall's death was his being an honest man and a fair man." Billie Sol, who seemed to downplay his own culpability throughout his testimony, said he suggested at the meeting at Johnson's house that Marshall be promoted out of Texas. "I said, 'well, let's transfer him, let's get him out of here. Get him a better job, make him an assistant secretary of agriculture.' I never saw a man before who wouldn't take a promotion. But he wouldn't take the promotion and so Lyndon said, 'It looks like we'll just have to get rid of him.' "

Billie Sol told the grand jury that he, Carter, and Wallace met at Billie Sol's home in Pecos after Marshall was killed. Billie Sol said that Wallace described waiting for Marshall at his ranch and how he had planned to kill him and make it appear as if Marshall committed suicide by carbon monoxide poisoning. Wallace said there had been an "awful scuffle" before he overwhelmed Marshall and put a plastic bag over his head and the exhaust pipe of Marshall's pickup truck, Billie Sol quoted Wallace as saying. Wallace was in the process of gassing him when he heard a car coming. Afraid someone would see him, Wallace panicked and shot Marshall five times at point-blank range with Marshall's .22-caliber rifle, Billie Sol said. He quoted Carter as saying Wallace "sure did botch it up."

The moment the grand jury adjourned, a chorus of Johnson insiders bitterly denounced Billie Sol's testimony as that of a "pathological liar" (Robert Hardesty, the president of Southwest Texas State University and a former Johnson speechwriter); a "congenital liar" (Orville Freeman, the former secretary of agriculture, who in 1984 was an executive with Business International in New York); as "so far-fetched it's sick" (the late Walter Jenkins, for many years Johnson's chief aide). Lady Bird Johnson had no comment, saying through a spokesperson she does not respond to "scurrilous" attacks on her late husband's character.

WHO WERE THESE men Billie Sol named as co-conspirators?

From his beginnings as a soft-drink bottler in Bryan, Clifton Crawford Carter rose to become the quintessential political operative, running Lyndon Johnson's 1948 senatorial campaign in the sixth congressional district, and working again for Johnson's re-election in 1954. In January of 1957 Carter became head of Johnson's statewide political organization, a position he held until January of 1961 when the vice-

president-elect summoned him to Washington. Carter had built up a wealth of contacts through canvassing the state for Johnson, names he carried at all times in a little address book stuffed into his coat pocket. Carter's loyalty to Johnson was unquestioned. "He was a very sharp operator," said Ralph Yarborough. "Lyndon could trust him to pick up the money and keep his mouth shut."

"Picking up the money" became an important part of Carter's job, and his contacts began to reach higher and higher. During the Johnson presidency Carter was executive director of the Democratic National Committee and chief fundraiser for the President's Club, a DNC offshoot. Carter sold $1000 memberships to the Club with a simple and powerful pitch: "Members are assured of a direct relationship with President Johnson."

Carter resigned from the DNC in 1966, after ethical questions were raised about his fundraising techniques. He died in 1971 at the age of 53. Said Edna Moelhman, Carter's long-time secretary in Bryan, "He just worked himself to death for Lyndon Johnson."

Cliff Carter was as bound up with Johnson's political fortunes as anyone in the early 1960s. That he knew Billie Sol Estes — and knew of his wheelings and dealings —is a matter of record. But who besides Billie Sol Estes can say what Carter knew about the death of Henry Marshall? No one has come forward. Nor has anyone been able to document the role of the alleged hitman, Malcolm E. Wallace, a man convicted of a 1951 murder. He is the character who at first seems to fit the bill in the murder saga as told by Billie Sol in 1984. But even Wallace's checkered past doesn't make the story clearer. Perhaps Billie Sol saw in Wallace (who died in 1971) the believable hitman, the made-to-order character to fit his plot line.

Malcolm (Mac) Wallace led a life filled with contradictions and erratic turns of events. Before his 30th birthday he had been a star football player, a Marine, the president of the University of Texas student body, and a key organizer for Homer Rainey's 1946 gubernatorial campaign. He had also distinguished himself academically, having earned a master's degree and taught college economics, before accepting a research economist's job with the U.S. Department of Agriculture.

Although classmates, colleagues, and family members describe Mac Wallace as a gifted intellectual and idealist, it is also known that he was a man of explosive temper and no stranger to physical violence: one week after his 30th birthday, Wallace walked into the clubhouse of an Austin golf course and ordered a pack of cigarettes from the attendant, Douglas Kinser. Kinser had been dating Wallace's wife, Andre, and to complicate matters, he had dated Josefa Johnson (Lyndon's sister), whom Wallace, too, had been seeing. Just before Kinser could ring up the sale, Wallace pulled out a .25-caliber pistol and pumped him with five bullets.

On February 26, 1952, a Travis County jury convicted Wallace of murder with malice but gave him only a five-year suspended sentence.

Not long after the trial, several of the jurors telephoned Doug Kinser's parents to apologize for voting for a suspended sentence, but said they did so only because threats had been made against their families, according to Al Kinser, a nephew of Kinser's who along with his father, still runs the Pitch and Putt golf course.

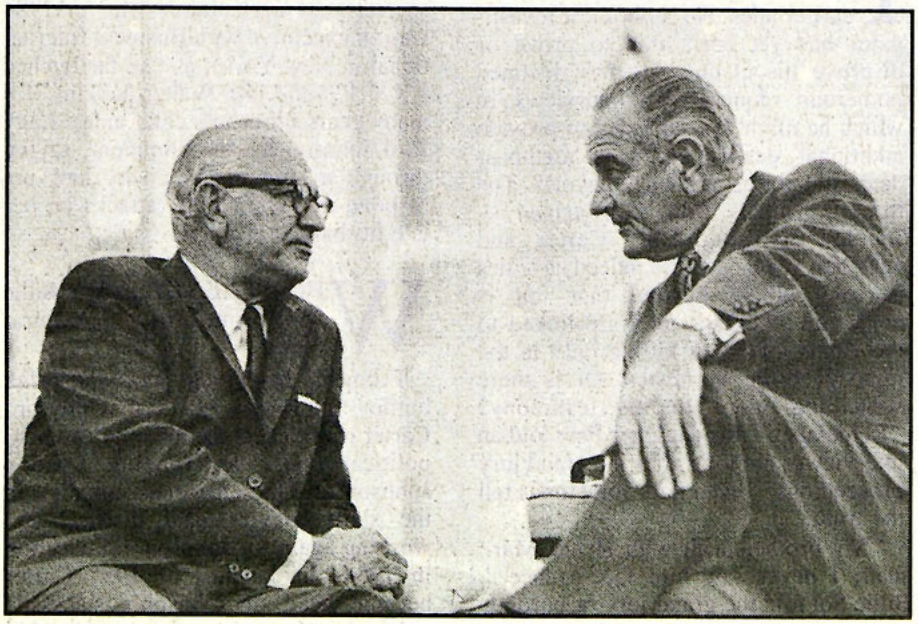
Three months after Mac Wallace walked out of the Travis County Courthouse, he went to work for Temco, Inc., in its electronics and missiles plant in Garland. Except for a short spell, he remained with the company until February of 1961. It was in January of that year, claims Billie Sol Estes, that Wallace, Billie Sol, Cliff Carter and Lyndon Johnson met at Johnson's house in Washington to discuss killing Henry Marshall. Little is known about Wallace's whereabouts that month, other than at some point he was arrested in Dallas for public drunkenness; it cannot be confirmed that Wallace was in Washington around the time of the inauguration — when the meeting supposedly took place.

But Wallace knew Cliff Carter. The two were in Washington together the previous summer, when Johnson was making a run for the 1960 presidential nomination. Wallace was seen at least three times at campaign functions, always accompanied by Cliff Carter, according to Lucianne Goldberg, who worked in the campaign press office. Goldberg recalled that Carter introduced her to Wallace in a hospitality suite at the Mayflower Hotel. "I just knew him and remember him because that was sort of what we were all about —remembering everybody you meet, because you never knew where they were going to end up," said Goldberg, who was 23 and known as Lucy Cummings back then. "We were all on the make, as young people around politicians are."

Goldberg, now a literary agent in New York, told the *Observer* she noticed Wallace "a couple of times" at Johnson campaign headquarters at the Ambassador Hotel. "I'd be sitting at my desk and there'd be a lot of people milling around and I'd see him with his thumbs hooked into his belt the way those [Texas] guys do." Goldberg could not recall any conversation she had with Wallace, "other than, 'wanna go have a drink,' that kind of thing, which I never did."

In February of 1961, four months before Henry Marshall's death, Wallace transferred from Garland to Ling Electronics in Anaheim, California, a subsidiary of Ling-Temco-Vought, where he worked as a manager in the purchasing department.

Wallace's transfer from Texas to California prompted a 1961 background check by the Office of Naval Intelligence. The investigation was to deter-



Courtesy of the LBJ Library

Clifton Carter and the President, 1968.

mine whether he qualified for a military contracting job that required a security clearance. Because he investigated the Kinser murder, Clint Peoples was interviewed about Wallace by the intelligence officer, A.J. Sullivan, in November of 1961. Peoples told Sullivan he considered Wallace "a bad security risk." Nevertheless, Wallace was issued the security clearance. Peoples said Sullivan told him that Lyndon Johnson may have played a role in Wallace's employment with Ling-Temco-Vought. "I was furious they would even consider a security clearance for Wallace with the background he had," Peoples said to the *Observer*. "I asked him how can you give a guy like this a clearance? He said, 'politics,' " Peoples said. "I asked who'd be so strong in politics to cause you to give this guy a clearance. He said, 'the vice president.' "

Sullivan said he does not recall the comment and said no one forced him to write a favorable report on Wallace. In any event, he added, he wasn't the one to decide whether to grant the security clearance. James J. Ling, Ling-Temco-Vought's founder, told the *Observer* he was friendly with Lyndon Johnson, but could not recall the name Malcolm Wallace nor whether Johnson may have recommended anyone for a job.

Wallace's four brothers and one sister, who live in Dallas, have denied Mac had any dealings with Lyndon Johnson or Billie Sol Estes. But Wallace's last wife, Virginia Ledgerwood of Anaheim, in 1984 told the *Dallas Times Herald* that Wallace had told her he knew the Johnsons. "Mac had been acquainted with the Johnsons," she said. "He told me he knew Mrs. Johnson better than Mr. Johnson."

In a conversation with the *Observer*, Ledgerwood, a schoolteacher, said, "If he knew Lyndon Johnson, it was before I ever knew him. We lived our lives in the present here in California." She said she met Wallace in the fall of 1962, married him in March 1963, and divorced him in June 1970. By then, Wallace had been laid off from the company and had moved back to Texas. He died in January of 1971 at the age of 49, when he apparently lost control of his car and ran into a bridge abutment near Pittsburg in East Texas.

THE TRUTH ABOUT Henry Marshall's death, caught up in years of noisy inquiries about a West Texan's business scandals and years of silence from people who might have been in a position to offer answers, may never be known. For every fact uncovered a new mystery accompanies

Pete Silva

Sybil Marshall

it. The puzzle is full of intriguing pieces, but their sum still does not yield a satisfactory answer to the question: who killed Henry Marshall? Twenty-five years after his death, there is the lingering suspicion that Marshall's death was a political murder, that the circumstances of his death were covered up by government officials — from the local authorities in Franklin to Washington — who seemingly were more preoccupied with their own public images, their own reputations, than they were with the baffling details of the murder of a federal employee.

The 1984 Robertson County grand jury decided unanimously to overturn the 1961 suicide ruling. "With the evidence we were presented with," said County Attorney John Paschall, "we know it not to be a suicide but a homicide. That's what it should have been all along."

What "should have been" declared a homicide back in 1961 most certainly would have been if Henry Marshall was killed by a deer poacher or cattle rustler — theories served up at one time or another by local officials and the FBI, who in their darkest moments may have begun to doubt whether anyone could commit suicide by pointing a rifle at himself, firing, turning the gun around, throwing back the bolt, and then repeating the process four times — after inhaling an incapacitating dose of carbon monoxide.

Around Henry Marshall's life swirled the gale forces of national power politics in its rawest form: greed, ambition, corruption, and cover-up. Around his death swept the winds of small-town justice — the rush to judgment, the shoddy investigation, the lack of an autopsy, the clubby grand jury procedures. The legacy of Robertson County's peculiar brand of justice in the early 1960s lived on into this decade: by overturning the suicide ruling, the 1984 grand jury scored a victory for common sense and common decency.

But still there was one piece of unfinished business.

On August 13, 1985, after 24 years of prayer and torment and struggle, Henry Marshall's family overcame a once seemingly insurmountable legal hurdle: by successfully suing the state's Bureau of Vital Statistics, Sybil Marshall and her only son, Donald, managed at last to set straight the official record of Henry Marshall's death. In ruling that the Marshalls' lawyer, Philip C. Banks of Bryan, presented "clear and convincing" evidence to prove Henry Marshall was murdered, State District Judge Peter Lowry of Austin finally, mercifully, put an end to their story by ordering the death certificate changed to "Homicide by gunshot wounds."

When Lowry issued his ruling from the bench, it stunned Sybil Marshall. She sat down on a courtroom bench and wept, her face buried in her hands. "It's been a long time," she whispered. □

Ghosts of Texas Past

Can the Committee on Higher Education Face the Future?

By Greg Moses

Austin

"Sabbatical! Good lord, son, take that ten-letter obscenity and hide it where the sun don't shine. Otherwise, it's likely to get loose among our worldling children, and shortly enough they'll be scrawling it on these hallowed halls alongside other provocatives such as 'tenure' and 'the fine arts.' Yessir, this here is the Texas Legislature, and we've got to keep our heads empty of anarchist notions and eggheaded prevarications. We know trouble when we hear it, and 'sabbatical' never did an honest day's work nohow."

With these words the clock struck one, and the ghost of Texas past spurred his horse into dusty retreat. I clutched my bedpost and awaited the three horsemen of Texas present: House Speaker Gib Lewis, Appropriations Committee Chairman Jim Rudd, and Ways and Means Chairman Stan Schlueter.

"I'll raid the education endowment bank," shouted Lewis. "Golly, Jim, I wonder why we didn't think of it earlier."

"Good idea, Gib," answered Rudd. "I'll untrack the tenure train. There's a fat payroll coming down the line."

"Yahoo fellas," cried Schlueter. "I'll sit tight and ambush all relief efforts. We're three tough hombres ain't we?"

A shot rang out. Someone shouted, "My foot!" And the clock struck two.

"Why?" A child looked up to me.

"Why?" The child repeated.

"Why?" The ghost of Texas future was tugging at my leg. But the question was unintelligible, and there was no memory, no answer, in this strange realm. I could only stare back in dumb astonishment and learn from the child my first word:

"Why?"

THREE STRIKES OF the clock and I am awake in Texas present, the daydream over, at a proceeding of the Texas Select Committee on Higher Education. Peter O'Donnell of Dallas ("in the investments business") is asking the most important question of the day. Rain taps the roofs of the Senate chamber. The afternoon light is dark gray through the high windows and the low clouds. Dr. Frank Press, president of the National Academy of Sciences is a friendly witness for the committee. Watching Press blink and shift and talk produces an interesting kind of pleasure. One imagines that he conducts one hell of a seminar. O'Donnell is more student than interrogator as he asks Press what Texas needs to do now to build a great university system in ten years. Press, as usual, is both generous and informative.

"Get good students," Press begins. Then attract faculty. You do that by making Texas an attractive place to live and work. If faculty can't take sabbaticals, or if they have to go through a complicated process to buy equipment — well, explains Press, "they don't have to put up with it." The storm outside loses patience and thunder breaks into the room. The timing of this natural outburst tickles a few members of the committee, so they laugh and exchange knowing winks. Great seminars have such moments.

Suddenly it is clear that the needs of great education have never been a mystery, but coordinating those needs with affairs of state has proved to be a problem of interminable complexity. The saga of the academy begins with the execution of Socrates, doesn't it? Can Texans be expected to behave better than Athenians?

The select committee began meeting about one year ago to study the future and make visionary recommendations for higher education. But the horizon of that vision has been closing in at such a rate since last Christmas, that by Christmas of 1986 we can expect education planners to be looking a full two weeks ahead. Once the legislature begins meeting, higher education will simply live from week to week.

Theoretically, the select committee is supposed to proceed as if some things are only temporary: falling oil prices, budget cuts, and gubernatorial politics. In preparing its recommendations for the upcoming legislature, however, these temporary problems have become overriding concerns. Consequently, as the committee looked forward to its final meetings, it appeared that there were three options: put the OPEC cartel back together, rig the elections, or respectfully submit its collective resignation. Under the circumstances, 1986 is exactly the wrong year to seek visionary recommendations for higher education in Texas.

To begin with, the select committee is constantly reminded that the future of the state of Texas belongs to an interdependent world. But interdependence, unfortunately, is a word which has lost its meaning. Oh yes, the dollar must be compared to the Yen, the Mark, and the Pound. But what else does interdependence mean to a Texan these days? As one watches the invisible hand smash farms, rob the needy, and divide collective interests, interdependence means only this: that the oil barons lately have not been interdependent enough. The resulting fall in the price of oil is the single concrete example of world interdependence shared by Texans today. And the timing of plummeting oil prices is not amusing to friends of higher education in Texas, because the actions of the recent special sessions suggest that when tough decisions have to be made in Texas, higher education is a marginal luxury.

When you hear talk of education and interdependence, be advised it means only that Texas will continue to depend on other places for truly excellent models of education. Texas will continue to be on the receiving end, dependent on the fact that other professors from faraway schools can continue to spend their sabbaticals here, then return to report that Texas is indeed a fine place to visit, if not to live and work.

And, yet, given the stacked deck they play with, select committee members have managed to draw some rather courageous hands in the name of reform. The Hackerman report, being drafted at the direction of the former Rice president, promises to make Texas a model state for research funding. Most state money for research is now under direct political control, with the merits of specific projects being debated at the capitol. Under such circumstances, alumni support and legislative clout are deciding which academic projects have the most merit. It is not difficult to imagine how such a process neglects the academic merits of competing projects.

The Hackerman report puts the alumni and political clout behind research dollars, *per se*. Then, through several programs, the money is distrib-

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uted by faculty peer groups either through competition at the campus level, or statewide. The proposal also captures half of the so-called overhead expenses now skimmed by the state and returns the money for research facilities and equipment. Most importantly, the Hackerman report is being written with the understanding that the most important function of research is to help people educate themselves.

The McCormick report on student financial aid spells out an ambitious conception. Produced by Joe McCormick, executive director of the Texas Guaranteed Student Loan Corporation, the report calls for a reversal of recent trends toward loans. Instead, McCormick is asking for more outright scholarships. He also wants to change the routing of financial aid money so that the dollars follow the students who actually need them. Much financial aid money is now given to institutions. As a result, some institutions report balances of unused financial aid money while other colleges don't have enough to go around. McCormick says the money should go to the needy students who may then select the college they want to attend.

The Hardesty report, prepared for the Coordinating Board under the direction of the president of Southwest Texas State University, calls for a statewide program of remediation in the basic skills. The report, which is being adopted in principle by the select committee, recommends the testing of all college freshmen. Those found lacking in the basic skills of reading, writing, or arithmetic will be directed into remedial programs. All students must qualify in the basic skills before they can enroll for junior-level courses. Complementing the main themes of the Hardesty report are other remedial programs suggested by the Coordinating Board and by select committee member Rep. Wilhelmina Delco of Austin. These proposals recommend extra effort and expense on behalf of minority students.

Some reforms will be pocketbook cheap, but academically risky. A consensus is developing among select committee members that the first two years of college should be somewhat standardized across the state. McCormick, using the argument that students are consumers, wants a statewide core curriculum that would allow the absolute transferrability of freshman and sophomore coursework. Other suggestions call for campus wide core curricula with a more uniform statewide method of course descriptions.

Also under the heading of cheap and risky is the suggestion by Amarillo attorney Wales Madden to grant the Coordinating Board authority to set and enforce enrollment quotas. The rationale of Madden's proposal distributes students to existing buildings rather than adjusting buildings to the needs of students. Of course, it's cheaper to move students than build buildings; otherwise, the proposal seems frought with questions.

NEXT COME the schemes which are taking shape for political reasons but are hiding under the guise of reform or austerity. Chief suspects are the various proposals to alter the governance pattern of higher education. Members of the select committee are fond of telling us that there are now 37 boards of regents vying for political and economic favor. For some reason it has come to be a foregone conclusion that Texas is not big enough for 37 separate boards. Therefore, the argument speedily concludes, we have to reduce the number. Nobody, however, is ever very clear as to why all these boards should be such a pain in the neck, although two of the more likely explanations seem to have very little to do with quality education.

Given times of tight budgets, one explanation points out how it would be politically simpler if there were fewer institutional lobbyists roaming the halls of the capitol. Let's get some of these boards together under one roof and let several campuses fight priorities among themselves. Then the work of legislators would be much easier. Well then, one might answer, given times of tight budgets, a friend of education might easily conclude that the more lobbyists the better. Schemes of consolidation sound like the coward's route to easier budget cutting.

The next explanation is more transparent. Some select committee members note that the governor would be better off making fewer appointments. This gives the governor fewer headaches and makes the positions more competitive. Competition in this context translates more or less directly into the relative size of one's campaign contribution. Isn't this reasoning, ah, perfectly clear?

A management study being conducted by consultants Coopers and Lybrand is likely to show that administrative costs are indeed eating an unhealthy portion of the state's higher education budget. And this finding will be the rationale for more efficient administrative structures, hence fewer governing boards. It's great how the logic of this process always ignores the fact that governing boards entail relatively small administrative costs and that a truly conservative approach to tight management will have to take place on individual campuses anyway. Imagine cutting administrative costs by demanding the formation of new systems!

At any rate, reorganization is a fetish with the select committee, and there are two dominant schemes under discussion. Alumni of Texas A&M and the University of Texas, however, can skip the next two paragraphs. Nobody is going to touch their sacred turf.

First, the state could be gerrymandered into educational regions with a board over each region. Houston developer and energy magnate George Mitchell favors a regional approach for Houston. Lubbock attorney Bill Parsley favors a West Texas region. Mitchell has gone so far as to call for the abolition of Prairie View A&M, TSU, and the downtown campus of the University of Houston. These "segregated" schools, says Mitchell, should be transformed into campuses of a new "integrated" system. Mitchell points quite candidly to the likely consequences of regionalization.

Or the committee could adopt a version of "the California system" wherein big universities get together under one board, junior colleges get "coordinated" under another board, and all the rest of the state's colleges get grouped into two or three intermediate tiers, each tier with its own board. This is the scheme favored by several select committee members, including East Texas industrialist Arthur Temple and high tech wizard Bobby Inman. This system sorts the future of Texas institutions according to their present status, and thus raises some problems regarding flexibility and change. There was a time, for example, when such a scheme would have relegated Texas A&M to the permanent status of cow college and military fraternity.

In passing, one can't help wondering why the select committee has not taken seriously the successful patterns of the A&M and UT systems. Instead of trying to extend the bizarre logic of these political ganglia to a truly Texan model for development, the committee seems bent on some formal neatness imported from one of the coasts. And the great lesson of Texas education remains virtually ignored: give the universities a reliable source of income, and they will return the investment with amazing results. The achievements of A&M and UT can be attributed most clearly to the fact that legislators such as the three horsemen of Texas present have been forbidden from interfering with a big

chunk of money known, of course, as the *Permanent* University Fund.

NOW WE TURN to the silent proposals: those which speak loud and clear to the blind spots of the select committee. Except for the Hackerman report there is no serious attempt to develop faculty power or morale. And even the Hackerman report slights support for the Liberal Arts and Humanities. If the committee concludes proceedings without major recommendations for faculty development, then it will have betrayed the talent which sustains higher education. Change the governance structures as you wish, the only real education begins in a free and innovative classroom.

Excellence and preeminence are getting a lot of lip service while Texas faculty are grounded by inadequate travel money and inhibited by cumbersome administration or outright neglect of tenure. The most urgent problem facing the long-term viability of Texas junior colleges is the continuing use of part-time faculty, yet in the 13 recommendations concerning quality and access at community colleges, not one of them mentions or attempts to correct this sytem of exploitation.

Is there any talk on the committee of formalizing faculty power into a network of genuine influence? Is there even a whisper of sabbatical leaves so that Texas scholars can develop their own ideas? In short, is there any strong signal from the select committee that at least this group understands the needs of professional scholarship and is willing to undertake courageous leadership on behalf of Texas scholars? Is there any indication that someone on the committee trusts scholars to know best how to spend their time? These questions await attention. Perhaps they will be addressed in Rep. Delco's upcoming report on faculty concerns.

Meanwhile, our inventory of empty words grows longer. Interdependence, excellence, and preeminence are so many ghostly shades as long as the spirit behind them lies in coma. Likewise, the catchword "diversity." The Mexican-American Task Force on Higher Education has quite correctly judged the state's major institutions absolute failures in the recruitment and retention of minority students. While some may boast of grand achievements at flagship schools they think so grand, there's a dark side that's rarely told: the spirit of lily white plans. "Now just you wait a minute, buster." I have heard the rebuttal a thousand times. "Our doors are open for anyone who is qualified." Right, and we just sit here waiting to welcome whoever comes in? Not quite.

Whenever these debates get started, it's a good idea (following the repeated example of Rep. Delco) to change the subject to football. We spend so much money on this diversion; why not get a return on our investment? No other activity displays as vividly the power of communal purpose, or teamwork if you will. There on the field are the best talents our institutions can muster. Is this where we look for the model of the open door? Do we alumni just sort of sit around and wait to see who walks through the door? If not here, then where? The fact remains that the white community is not convinced that the future of Texas in general depends upon the academic development of its minorities. Imagine regents flying around the country on urgent missions, not in search of a cash-and-carry coach, but in pursuit of outstanding minority administrators. Imagine alumni huddling together over whiskey and cigars, plotting double reverses on behalf of affirmative action. Imagine waking from your daydreams into such a Texas present.

The mood in this season of fiscal chill is inviting planners of Texas future to impress ever more firmly the imprint of Texas present. Diversity will surely lose out. Currently thriving institutions such as UT, A&M, Texas Tech, and the University of Houston are being considered for annointment to most favored status in perpetuity.

Meanwhile, South Texas, which operates at the margins of any scale of priorities, remains segregated from its northern neighbors. To his credit, Parsley is encouraging some developments in medical education for this neglected region. But his efforts represent only a baby step where a giant leap is needed. Given the committee's charge to look at the future of the huge state of Texas, its preoccupation with existing big schools and with the Texas triangle (Houston-Dallas-San Antonio) indicates a prevailing mood of retrenchment rather than advancement. "We have all the buildings we need for the next fifteen years," declares a committee member. And with that attitude, the future promises more of the same.

Texas future will, by brute historical forces, defy business as usual. The white good old boys who now divide the political turf, playing both left field and right, will slowly be thinned out in favor of more color and a more catholic border culture. The only significant question remaining for planners of Texas future is how cheated the rising minority class will feel. Spanish settlers had established seven universities in America before Harvard opened its doors. Today, young Hispanics, ignorant of their own rich traditions, are choosing to ignore the educational system which has chosen to ignore them. And in a tradition true to Texas instincts, the victims (both black and brown) are being blamed for the crime.

The Select Committee on Higher Education can help the people of Texas understand the value of interdependence, diversity, excellence, and education by writing a report which is truly visionary and courageous. Unfortunately, courage these days means closing or merging existing schools. Too bad courage doesn't mean attacking misguided and destructive bigotries that parade themselves under the banner of Texas instincts. That kind of courage would be truly uncommon.

The ghost of Texas future lives in a world where so-called Texas instincts prevail. Gone are the professors and their libraires. Tenure was abolished and professorships became political appointments subject to the shifting moods of partisan demagoguery. There was simply no time to accumulate the decades of experience and knowledge needed for mature and powerful scholarship. Sabbaticals in neighboring areas were eliminated, preventing the exchange of visiting scholars. And scholarship at home was mistrusted out of existence.

With all of education geared to the meshes of this year's job market, the poets, philosophers, and historians were neglected for their irrelevance. With specialists monitoring foreign rates of exchange there was no need for translators to capture the more frivolous intercourses of foreign lands. Production of culture was ceded to the hyperaesthetic pansies of New York and Los Angeles. All that was needed in this regard was enough cable to provide imported television signals for prime time, sports, and news.

Finally, the whole thing blew away in a big dust bowl of depression and greed. What Texas instincts cared about most still remained: air conditioned towers of silicon and steel. What got lost were several millennia of human answers to human questions. Texas instinct had always assumed that The Bible *and the* Dialogues of Plato *were recently authored in English. Drilling for oil was real work that got your hands dirty, but language, now that was something like pissing, and memory quite naturally told you all you needed to know.*

What Texas instincts quite naturally forgot was that high tech messiah Admiral Bobby Inman was a UT Liberal Arts graduate and that one hell of a lot of scholarly work makes history possible at all. □

Drugs and Civil Liberties

By Gara LaMarche

IF YOU'VE BEEN marooned on a desert island for the last few months, you may be surprised to learn that the nation has a new Number One national emergency. Forget the deficit, the trade gap, nuclear annihilation — these are yesterday's worries. Today the evils of coke, smack and weed demand your outrage. And, of course, be prepared to give up some of your constitutional freedoms when you enlist as a soldier in the "war on drugs."

The current wave of drug hysteria began to mount in mid-summer, and seems to have been stimulated by two events: the cocaine-related death of basketball star Len Bias and press reports that "crack," a particularly potent variant of cocaine, had hit the streets of our major cities. After the press re-discovered the drug problem, it didn't take long for virtually every politician in America, from Ronald Reagan to the members of the Socorro, Texas, school board, to come up with quick fixes for the drug problem.

The leading gimmick at present is the drug test. Reagan and his organized crime commission would like to test the urine of virtually every American worker; and each day's newspaper brings reports of a new drug testing program. Beaumont wants to test 10,000 students and 2,400 teachers. Denton, Austin, Pflugerville, San Angelo and other communities plan to test students engaged in extracurricular activities. Dallas, Fort Worth, and San Antonio want to test public employees. General Dynamics, LTV, American Airlines, Southwestern Bell, EDS and Texas Instruments are among the 30 percent of Fortune 500 companies that are testing their workers for drugs. In the most regrettable submission to drug hysteria, Local 450 of the International Union of Operating Engineers, based in Beaumont, became the first union in the country to require its members to submit to drug tests. (see box)

Just so you don't think only the rank-and-file are subject to the gross indignities of surrendering their bodily fluids, President Reagan and Vice-President

Gara LaMarche is Executive Director of the Texas Civil Liberties Union.

Union Backs Drug Testing

By Glenda Pettit-Spivey

Port Arthur

IN AN unprecedented move, the International Union of Operating Engineers Local 450 recently instituted a program requiring its members to consent and submit to drug testing. Local 450 is a major building and construction trades local, covering 93 counties in East and South Texas, including the areas of Houston, Beaumont, San Antonio and Austin; it has about 2,800 members.

Robert Kight, president and business manager of Local 450, was quick to say the drug testing program was not a knee-jerk reaction to the current anti-drug movement sweeping the country. He also vehemently denied the program was a "desperation-type movement" by members of the plagued Local, where membership has dropped from 5,500 in 1979 to the present 2,800 and in which unemployment among the members runs about 50 percent.

There were three reasons for instituting the drug testing, according to Kight. "First, we think the financial benefits of the program will help the competitive posture of contractors and the construction industry in general," he said. "Second, we think that by helping our employers, Local 450 will in turn improve job opportunities for our operating engineers. Third, drug use in the workplace is a national problem of critical proportions, with huge destructive consequences not only in terms of money, but also in terms of human lives and well-being."

In the simplest of terms, "any member who wants to work must consent to take a test if the employer so requests," Kight said.

The drug testing guidelines adopted by the union state, in part, that at any time following employment — regardless of the drug test history of an operator — a contractor or his authorized representative may, upon establishing probable cause, require that an operator undergo drug testing. The expense of the first drug test will be undertaken by the contractor requesting the test. In the event an operator fails the first test and wants a second one, the expense of the second test will be borne by the contractor *only* if the operator passes — otherwise the worker pays.

Three failures will result in the operator being removed from the referral list until he has undergone a union-approved counseling and rehabilitation program. In addition, post referral testing may be required if a Local 450 member "is involved in any serious accident or is reasonably suspected of being intoxicated or under the influence of narcotics," the drug testing guideline states.

Although Kight said alcohol testing will be done on "probable cause," he also conceded that if employers requested random testing for drugs or alcohol, members who refused would be dropped from the referral list. And although the guideline adopted by the union states drug testing will be done by urinalysis, Kight said the method of testing for either drugs or alcohol would be worked out with the individual contractor.

Local members were not entirely happy to adopt the drug testing program, Kight conceded. "It took two or three meetings to make them aware," he said, and at least two meetings were held in each district to discuss the topic. According to Kight, members were invited to participate in an open discussion and were then given the opportunity to vote on the issue. Of the 2,800 members, "750 or 800 of our

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Bush were among the first to volunteer to be tested. Closer to home, San Antonio Mayor Henry Cisneros and City Council member Ed Harrington followed suit; now challenging your opponent to submit to a urine test has become a popular sport in this year's elections, giving new meaning to the use of the term "pissing match" for a particularly sleazy campaign.

The legal and scientific infirmities of drug testing were inadvertently demonstrated by the President himself. While in the hospital to prove himself drug-free, he decided to take a test for a minor surgical procedure involving his urinary tract. He gave his urine sample before the procedure, because he didn't want traces of the local anesthetic to foul up his drug test results.

Of course, most drug test victims don't get that kind of red carpet treatment. The most commonly used method of urinalysis, the "EMIT kit," often confuses substances: over-the-counter cough medicine can show up as heroin; certain antibiotics as cocaine, and as many as eleven different legal substances as marijuana. The false positive rate can range from 10 to 30 percent. Most employers, public and private, will opt for the cheaper, less accurate tests, and few will retest after an initial failure. Thousands of workers could lose their jobs on the basis of faulty technology. To avoid the creation of a black market in "clean" urine, drug tests must take place under close surveillance, and many people who think drug testing is acceptable in theory are likely to find it degrading in practice.

Fortunately, the courts have to date taken a dim view of drug testing of public employees and public school students, holding in almost every challenge that the Fourth Amendment's protections for privacy have been violated. The outlook in the private sector is much less favorable. There is no law barring employers from requiring drug tests. Labor unions are one obvious source of protection, at least for the minority of workers who are covered by collective bargaining agreements, but the Local 450 action demonstrates the need for further education within unions on this key workers' rights issue. There is also the possibility of litigation in the state courts, which have been much more inclined than their increasingly Reaganized federal counterparts to recognize privacy protections for non-public employees. The best weapon against drug testing would be a protective statute, like one recently passed in San Francisco. It sharply curbs drug testing except in narrowly defined circumstances involving public safety positions, and then only where there is probable cause to believe a particular individual's job performance is impaired.

But it is doubtful, in the present climate, that we could get something like that out of a committee in the Texas Legislature. The traditional response of Texas politicians to drug frenzy has been to jump aboard the bandwagon. A few

members exercised the right to vote," Kight said. And of that number, 97 percent voted "yes" and 3 percent voted "no."

Content levels have yet to be established. That is yet one more thing to be worked out with the contractors, Kight said.

"At this time . . . we would like to see the procedures that would make [testing] non-repetitive," he said. "We're not going to go on a witch hunt," and single out members to be tested. "We will use all legal means of protecting their rights," he said.

Before the institution of the mandatory drug testing program, about 250 to 300 Local 450 members had already been required to undergo drug testing and three operators of that number failed the test, Kight said. Union members are currently working at several companies that mandate drug testing, including Dow Chemical Co. in Freeport, Monsanto Chemical and the South Texas Nuclear Plant, he said.

Endorsements for the program came from Texas AFL-CIO President Harry Hubbard and U.S. Attorney Bob Wortham of Beaumont.

Hubbard commended the local for its action and said the Texas AFL-CIO will be watching the program with a great deal of interest. "In fact, we are offering the assistance of the Texas AFL-CIO Worker's Assistance Program in providing consultation and referral services at the local's request." He also congratulated Local 450 for having the "vision and foresight for taking the initiative" in combating the drug problem in the workplace.

Wortham called the testing program the "most progressive drug program I've seen."

Another endorsement came from Ray Anthony, owner of Anthony Crane Rentals, Inc., which is one of the nation's largest heavy equipment suppliers for the construction and industrial maintenance factions. "We are enthusiastic about the program Local 450 has adopted. We feel it will benefit us a great deal financially by resulting in savings on insurance costs and lengthening the life spans of our equipment. The equipment we supply is usually extremely expensive, frequently in the millions of dollars, and we think this program will support a high level of competency among operators."

"Progressive step" was the way Jackie St. Clair, executive secretary-treasurer of the Texas Building and Construction Trades Council, described the move by Local 450. "We will be following the program with great interest to determine if a similar program can be developed for statewide use," he said.

In outlining the details of the drug testing program, Kight cited figures provided by the National Institute on Drug Abuse estimating that nearly two-thirds of the people entering the work force have used illegal drugs, and 44 percent have used drugs during the past year. Kight also said that according to the Research Triangle Institute, which is a North Carolina business-sponsored research organization, drug abuse costs the U.S. economy about $60 billion in 1983, and alcoholism cost an estimated $117 billion.

"We looked at those numbers and decided something had to be done," Kight said. "We also realized that we, in Local 450, by addressing the problem and providing the business community with a drug-free work force, could help lower the costs of doing business. That would result in an increased demand for our services."

Kight was assisted by the John Gray Institute, a privately funded economic development think-tank located in Beaumont, in laying the groundwork for the program. Merlin Breaux, President of JGI, said the drug testing program "is one more giant step in the improving relations between organized labor and management in the region. This is truly a momentous occasion, and Local 450 has truly taken on a noble cause. I applaud Robert [Kight] and especially his members." Breaux went on to call the program a "courageous and socially conscious program."

Kight, of course, agreed. "We think that the program shows that drug testing can be a positive step if the people taking the tests are in full agreement," he said. □

are always ready to exploit the issue by using it for the enactment of repressive legislation.

Look at the damage to our rights wrought by the 1981 Clements "War on Drugs." For years police and prosecutors had asked the Texas Legislature for authority to tap telephones and break and enter homes to install bugs. For years the natural reluctance of Texans to countenance such invasions of their privacy prevailed. Finally, in 1981, a massive anti-drug blitz, led by the forces of H. Ross Perot, swept into place legislation authorizing wiretaps, violating the privacy of prescriptions, and banning "headshops."

At the time it was argued that wiretaps were an essential element in the anti-drug arsenal. Five years and millions of dollars later, the taps have hardly made a dent in the state's drug problem. If they had, we'd be exempt from the current round of anti-drug frenzy. But have we learned the lesson of 1981? It doesn't seem so — two San Antonio-area state senate candidates recently called for expanding the law to give wiretap authority to all local police departments.

And Texas is not the only state with a short collective memory. A scant decade after the state's disastrous experience with the draconian "Rockefeller drug laws," New York Governor Cuomo has called for life prison terms for crack dealers. Perhaps he's trying to outdo the Houston jury that recently handed down a 40-year sentence in a crack case.

It's probably too much to ask, at the peak of the current hysteria, for some thoughtful and creative approaches to our society's drug dependency. Are more people addicted to drugs today than five or ten years ago? (Some statistics suggest not.) Which anti-drug programs work and which do not? How do the drug-related costs in life, health and productivity stack up to those brought on by legally-sanctioned drugs like alcohol and tobacco? Few people are asking those questions, and virtually no one is raising the broader issue, much-discussed in the 1960s, of whether the penal code is the best vehicle for dealing with drug addiction and dependency.

So in the meantime we fight the quick fixes, and wait for the hysteria to pass. Luckily there are a few voices saying "whoa" to measures which threaten civil liberties. As his colleagues in the House of Representatives were on an anti-drug spree a few weeks back, approving amendments to restore the federal death penalty, gut the exclusionary rule, and override a century-old ban on the use of the military to enforce civilian laws, Massachusetts member of Congress Barney Frank quipped that the drug bill was "the legislative equivalent of crack: 'It yields a short-term high, but does long-term damage to the system, and it's expensive to boot.' " □

• POLITICAL INTELLIGENCE •

✓ While endorsing Garry Mauro for reelection as Land Commissioner, the *Dallas Times Herald* wrote of Mauro that "it's a strong possibility he'll be our governor one day." The editorialists credited Mauro with turning the General Land Office into "a business-like, automated operation that has dramatically increased state revenues with prudent investments," and called him "one of the more promising political leaders in the state." Political observers say Mauro has a definite interest in running for governor in 1990. But so might Attorney General Jim Mattox. Mattox told reporters in October that a big win over Roy Barrera Nov. 4 would make him a strong candidate to become the next governor. State Treasurer Ann Richards is said to be interested in the lieutenant governor's race, should present Lt. Gov. Bill Hobby move on. Agriculture Commissioner Jim Hightower has expressed an interest in either the governor's race or a run for the U.S. Senate. Sen. Lloyd Bentsen's seat comes up in 1988, Phil Gramm's in 1990.

✓ Hightower's fundraising letter for the 1986 general election was not exactly conventional. It featured, in bold-face type at the top of the letter, this appellation for Hightower taken from a recent GOP fundraising letter targeting him for defeat: "An Ultra Liberal, Socialist Far-Out Left-Winger Who is a Bantam Ralph Nader."

✓ Republicans attuned to the pinko threat might want to ponder the following press release we received at the *Observer* office. It began: "Texas Agriculture Commissioner Jim Hightower and State Statistician Dennis Findley announced today that the Texas Crop and Livestock Reporting Service has been renamed the Texas Agricultural Statistics Service (TASS)." What next? A Press Release and Video Division at Agriculture to be known as PRAVDA?

✓ In its annual worldwide report, Amnesty International criticized Texas for executing a man who committed a crime when he was a juvenile. The London-based human rights group said that despite international agreements not to execute convicts for crimes they committed before the age of 18, Texas in September put to death Charles Rumbaugh for murdering a jeweler when he was 17 years old. It was the first execution of a juvenile offender in the United States in 21 years. Amnesty International also criticized Texas for the practice of lethal injection, which the organization says appears to cause prolonged and unnecessary suffering. When Texas executed Stephen Peter Morin in March 1985, technicians reportedly searched for more than 40 minutes before finding a suitable vein in which to insert the needle.

A representative from the Texas Attorney General's office said the Texas death penalty law "has been held constitutional. All we do is enforce the law."

✓ Of the 33 prisoners on death rows in the U.S. for crimes committed when they were 17 or younger, five are awaiting death in Texas. All committed their crimes at 17, the minimum age for the commission of crimes punishable by death in this state. They are Joseph John Cannon, Robert A. Carter, Johnny Frank Garrett, Gary Graham, and Curtis Paul Harris. On the average they have been waiting to be killed for five years. These facts emerge from a story in *Parade* Oct. 19.

✓ For a ten-page tale of "the disorderly lessons of reform" in the toughest unit in the Texas prison system, Eastham in East Texas, we commend to our readers' attention the report, "Inside America's Toughest Prison" in *Newsweek* Oct. 6.

✓ The United Auto Workers' GM department is the unlikely adversary of Ross Perot in Perot's attempts to help keep open the GM assembly plant in Arlington. According to *Business Week*, earlier this year employees at the Arlington plant enlisted the help of Perot, GM's largest stockholder, in the cause of keeping their plant open. He has helped bring together the workers and GM on ways to improve quality and productivity there. However, *BW* says, Donald F. Ephlin, director of the UAW's GM department, says that Perot "is concerned about the plant as a Texan. I am concerned about all 155 plants. I don't like people bringing undue pressure on this one or that one."

✓ Sixteen protesters demanding divestment from companies doing business in South Africa occupied University of Texas President William Cunningham's office the first thing Monday morning on October 20. After 20 minutes, UT police officers broke through a barricade of stacked desks and arrested the protesters.

Four of the arrested activists are pressing police brutality charges against officers who, they say, stepped on, kicked, and beat them during the arrests. The protesters were released on personal recognizance from the Travis County jail, where they were charged with disruptive activity, a Class B misdemeanor.

Hundreds of students and supporters rallied for divestment and in support of the "UT sixteen" that afternoon and on October 21. The rallies grew increasingly militant and protesters dipped their hands in red paint and left handprints on the south entrance to the UT Tower, as a symbol of the bloodshed in South Africa.

On October 23, President Cunningham met with 18 students for one hour to discuss apartheid and divestment. Based on a tape recording of the meeting, the *Daily Texan* reported that Cunningham was asked, "And if we can prove to you that divestment will not make you lose any money, will you endorse divestment?" To which Cunningham replied "Yes."

Last Spring there was a resurgence of student protests and civil disobedience which began on April 11, with the arrests of 42 protesters during a sit-in on the West Mall steps. The next Friday, April 18, an "unauthorized" rally culminated in the arrests of 182 students, staff, and non-students.

On April 25, the rally moved to the grassy South Mall, where students, professors, and supporters numbering at least 500 participated in a teach-in. The University did not make any arrests at the final protests and the semester ended with a black casket funeral march held on May 2, to mourn "the death of the University's conscience."

The University Regents have decided against divestment for the past six years, even when presented with alternative high-return portfolios by an investment consultant brought from Washington D.C. by the Steve Biko Committee.

The Regents will meet on December 4 and 5 in San Antonio at the UT Health Science Center. The agenda for the meeting will not be set until two weeks before the meeting but activists promise "more to come."

✓ Reports of air raids in El Salvador don't often make it into U.S. newspapers, but the Pastoral Service of Central American University in San Salvador describes all too regularly the atrocities that continue to befall that country. In its most recent newsletter, the Pastoral Service offered, among other horrors, the following account of a 55- year-old farmworker whose leg had been blown off by a military attack on July 22: "They bombed San Antonio, destroying three houses and killing two women who fled from the bombing; two children were injured by shrapnel, not seriously. This bombing lasted two hours; three days later a helicopter detected smoke coming from the three houses as well as clothes hung out to dry. When the helicopter passed nothing happened; but all of the sudden two more helicopters came and a C-47 which dropped four bombs where they had detected the smoke and the clothes. One woman ran out of the house where she was cooking after she was struck in the leg by shrapnel from a bomb dropped by a helicopter. A boy who had gone to carry a sack of grain was struck three times by shrapnel, but he recovered quickly. After the bombing the soldiers invaded the area, destroying cornfields with their machetes while the helicopters provided cover for them."

✓ Church workers, civil libertarians, and teachers recently filed a lawsuit in federal court in an effort to force President Reagan to follow the world court decision against providing aid to the contras fighting the Sandinista government of Nicaragua. "At issue is whether the United States, as a law-abiding nation, will obey the decision of the highest international court in existence," said Walter Hoffman of the World Federalist Association, the chief plaintiff in the suit. Also represented in the suit are four U.S. citizens living in Nicaragua, several humanitarian aid groups, and a Catholic nun who said she has been detained six times by the contras. The suit claims the plaintiffs face "serious, immediate and continuing danger" because of the United States' role in attacking villages and places where the plaintiffs work, including nurseries and orphanages.

✓ On the vote overriding Reagan's veto, Sen. Bentsen voted for South Africa sanctions, while Sen. Gramm led the floor fight against them. In the House, where the veto was overridden 313-83, almost a seventh of the no votes (a total of eleven) came from Texas: Archer, Armey, Bartlett, Barton, Boulter, Combest, DeLay, Fields, Loeffler, Stenholm, and Sweeney, all of them Republicans except Stenholm.

On the immigration bill, the House nearly voted to deny permanent resident status to illegal aliens who have been in the U.S. since 1982. The proposal was rejected 199-192. A tenth of the votes for the proposal came from 19 Texans, Republicans unless specified otherwise: Andrews, Archer, Armey, Bartlett, Barton, Boulter, Bryant (D), Chapman (D), Coleman (D), Combest, DeLay, Fields, Frost (D), Hall (D), Leath (D), Loeffler, Stenholm (D), Sweeney, and Wilson (D).

✓ John Silber, the San Antonian now president of Boston University, challenges the African National Congress as "dominated by leaders voicing strident Leninism." In a column in the *Houston Chronicle*, Silber quotes Winnie Mandela endorsing the use of "necklaces" (placing gasoline-soaked rubber tires around the necks of persons and setting the tires afire). He cites a statement by Moses Mabhida, member of the ANC executive council, giving full support to the Soviet intervention in Afghanistan; he reports that Mrs. Mandela has been quoted in *Pravda* as stating: " 'The Soviet Union is the torchbearer for all our hopes and aspiration. In Soviet Russia, genuine power of the people has been transformed from dreams into reality.' " Silber advocates support for black leaders like Buthelezi and Mokoena, rather than the ANC.

✓ After visiting schools in the Soviet Union during the past two years, George Allen, chairman of Reagan's advisory council on physical fitness, said that young Soviets are physically more fit than are Americans of the same age. Allen, former coach of the Washington Redskins, said young Americans watch too much television and eat too much junk food.

✓ Two members of Congress from Texas are traveling in the Sudan, Ethiopia, and Kenya this fall in a congressional delegation looking at problems of famine and American projects to combat it. They are Mickey Leland of Houston, chairman of the Select Committee on Hunger, and Solomon Ortiz of Corpus Christi.

✓ Ellen Garwood of Austin, who has recently become a prominent funder of the contra cause against the Sandinistas, signed a full-page ad in the Oct. 10 *Washington Times* (the Moonie paper) urging Reagan to deploy SDI and to extend U.S. recognition to the contras,

while withdrawing it from the Sandinista government. She argued that the latter step "may be necessary to save our Republican Senate majority" because of what she said was the risk to GOP credibility on Nicaragua otherwise. The ad was "sponsored by the National Endowment for Preservation of Liberty," for which a Washington address was listed.

✓ In a cover story on the Bass family of Fort Worth, *Business Week* credited a deal-maker named Richard Rainwater with running the Bass brothers' holdings from $50 million to between $4 billion and $6 billion. The magazine also said one of the brothers, Robert, "is becoming increasingly involved in Fort Worth and state politics and one day may even run for elective office."

✓ Will T. Boone Pickens, the corporate raider from Amarillo, become a political raider, too? Perhaps. He told reporter Steve Coll that he considered running for governor of Texas this year, but decided to back Bill Clements, instead. Next spring Houghton-Mifflin publishes his autobiography, "Boone," with a first printing of 250,000.

✓ Poor people are at higher risk of getting cancer and dying from it than are people from other economic groups, according to a report from the American Cancer Society. The report cites cigarette smoking and a tendency for cancers to be caught at later, less curable stages among the poor. For overall cancer survival, poor people are 10 to 15 percent more likely than middle class patients to die from the disease. The report said that the immune systems of the poor may be less able to fight cancer because of inadequate nutrition, and called for more research, consideration of government-provided insurance for cancer treatment, better cancer educating for the poor, and more cancer screening. □

Peace — It Can Be

By Bernard Rapoport

The following is a speech made to the Waco Peace Alliance in June 1986.

Dove or peacenik, hawk — words that categorize categorically and are mutually exclusive. I know them well. I was in the Oxford Peace Movement and then along came the Spanish Civil War and I was hawkish for the losing Loyalists. Then back to being a dove. Now Hitler and World War II — I was a totally committed hawk. Then Korea and I was half and half. And then Vietnam — I became a dove. Then comes Afghanistan and Hungary and Czechoslovakia and I sat atop the mountain and wondered what the heck I really was. I know that I was searching for a moral position and I just couldn't find it.

In this searching, I came across a book entitled *Moralism and Morality in Politics and Diplomacy* by Kenneth W. Thompson and these words helped my understanding: "Practical morality involves the reconciliation of what is morally desirable and politically possible. It offers at most a few absolutes but many practical possibilities. Prudence is the central precept in the ancient tradition of moral reasoning. It recognizes the need for the moral man in an immoral world to find his way through 'a maze of conflicting moral principles' no one of which reigns supreme." I think it perhaps began with the Greeks, probably long before them, but Plato, Aristotle and Socrates with their dialogues put us in quest of universals and we have been searching for clear, simple answers ever since. The deeper we search, the more elusive those answers become and I guess it is because, again, as Thompson said, "Morality offers at most a few absolutes but many practical possibilities." That is what I would like to discuss with you this evening — some practical possibilities.

As many of you know, I am an expert in Russian affairs. I recently spent four days there and I think that given the nuclear age in which we live and the understanding of those who seek knowledge that it can be compacted in two and a half days which is the length of time necessary to be known as an expert, so I had a day and a half to spare. I, therefore, would expect you to take what I have to share with you as expert and divine revelation. I am sure that you will.

I am for peace because there is no alternative. I returned from Russia on a visit that was much too short but of sufficient length to have some opinions that give me cause for great concern.

Having a mother and father who both came from Russia in their 20s, I was reared in a Russian culture. I went with a feeling of nostalgia to visit a place that I felt like I had visited many times and that I knew firsthand even though it was, of course, my very first visit. What I found was almost diametrically the opposite of what I had expected. Sure, I read books and I have read the papers, but I thought that much of this was propaganda. There are certain things — the Russians are nice people; they are very hospitable. Truthfully, I don't think I have ever visited people anywhere that weren't nice as long as I was nice to them. What concerned me more than anything, however, was that they were, indeed, the most propagandized people I have ever seen in my life. I have visited many countries including China and the efficiency of the Russian propaganda machine is certainly unmatched anywhere where I have been. Sure, those of us who are interested in political, academic and philosophical pursuits know that we are propagandized in our country. We certainly have a press that propagandizes, but we have one thing going for us. John Dewey once remarked that every government needs a minister of irritance and in the state of Texas, you can have a paper like the *Texas Observer*. In our nation, you can have magazines such as the *Progressive* and *Mother Jones*, *The Nation*, and *The New Republic*. You can have think tanks from the left and from the right. We have plenty of ministers of irritance in our country. In Russia, there is but one propaganda machine.

The two most salutary aspects of Russian life as I viewed the situation was full employment. Every person that wanted to work could work. And second, the care and sensitivity that they exhibited toward their children and especially toward the education of their children.

When talking with the Russians, they brought up the point of how much unemployment we have. "We read about the poor condition of your schools." At first, I was stumped for a response. But then I went back to my Marxist learning and remembered for Marxists, the ends justify the means. How they got to their full employment concerned me a great deal. It was not through the freedom of choice that we have in America. With us, process is more important than the end result. If we want freedom of the press, we are willing to pay for it even if it means putting up with insidious pornographers. In our group, for example, were some of us who would have enjoyed having a drink of vodka in the evening. But their dictator had said there would be no drinking in the evenings by government officials. I explained to them, for example, about the smoking situation. In their country, they could issue a decree that there would be no more smoking. In our country, five or six senators could prevent the passage of this through the filibuster. They could not understand this at all and I had to explain that in a democracy such as ours, it is not so much the majority having its way, but that the emphasis was rather on protecting the rights of minorities.

I was very much taken with an article by James Fallows in the July *Atlantic* entitled "The Spend-Up." He pointed out that a defense consultant during a congressional hearing refused to talk about the military buildup. He said it should be called a spent-up because this particular witness had asserted that no buildup had occurred and that the gap between the spend-up and a real buildup reflected the gamble on which the modern military policy was based. In other words, we are spending a lot more money on each particular weapon and it is becoming increasingly complex.

There are a lot of interesting statistics in Fallow's article such as the United States has recently spent 150 percent more for tanks and armored vehicles than it had during Jimmy Carter's administration, but it increased its purchases of tanks by only 30 percent. The Reagan administration bought 23 percent more ships in its first four years than the Carter administration, but it spent 48 percent more to buy them. It bought 40 percent more helicopters, but paid 150 percent more for them. The Air Force and the Navy spent 75 percent more on airplanes, but the number of airplanes purchased fell by 12 percent. This is a most interesting article and points out the folly of our armament policy and the money that is wasted. Unfortunately, while in so many instances, waste is a necessary ingredient in the striving for progress, there has been much too much as relates to the money allocated for our defense budget.

Fallows sums up most poignantly this sorry state of affairs: "More than five years ago a Pentagon analyst named Franklin Spinney said that complex, modernized weaponry had forced the military into a self-aggravating cycle of shrinking forces and decaying readiness. Generation after generation of complex machinery had cost more than predicted and turned out to be unexpectedly hard to maintain. Because costs kept rising, the machinery was bought in smaller quantities and therefore became more expensive still. As costs still kept rising, last-minute cutbacks always had to be made, and they typically came out of the readiness accounts. The result was a shrinking force with chronic readiness problems."

Want proof? Remember the Carter expedition into Iran when our sophisticated equipment failed miserably!

It brings to mind the Star Wars program. As someone once said, "The sad thing about our mistakes in history is that we are bound to repeat them."

I believe that style in this telegenic world is as important as substance. I may not like that that is the way things are, but it is very much an indisputable fact. Otherwise, we wouldn't have a cosmetic industry. And we have cosmetics not only for our individual persons, but almost for every aspect of life. For this reason, I would think that perhaps history may well record that two of the most serious errors made during the 20th century by statesmen were Chamberlain's agreement at Munich with Hitler and Reagan's approach to Salt II. Reagan's indeterminatedness vis-a-vis Salt II has probably done more to shake up the people of the world than anything that has happened in a long, long time. While perhaps the Russians have made some minor transgressions — I don't know that they have but I certainly wouldn't put it past them — they really haven't been significant. Since we are by far the stronger, we ought to do what strength allows — overlook a few little things.

Paul Warnke in an article written in *Harper's* pointed out that the Americans in previous negotiations wanted five very important concessions from the Russians. They were adamant in their refusal until Gorbachev came into power. He has, as Warnke has outlined, acceded in all of these requests. Now Mr. Warnke indicates that President Reagan says this isn't enough. Please understand that I have no patience with apologists for the Russians. I was in the company of a few Americans when we were in Russia and they were critical of America in front of some of the Russians and they thought this would endear them. My own situation was that when I left Russia, I had a much greater appreciation of America, but a much greater understanding of the Russians. From my point, my trip was a very successful one.

Having said all of this, now we come to the question, "Are the Russians ready for peace?" There is no question in my mind that they want peace. There is equally no uncertainty as relates to my assessment of their being a bully. They don't mind picking on Czechoslovakia, Afghanistan, Hungary or Poland. They are like most bullies; they know when to stop. They are not going to pick on the United States, certainly not because of any goodness on their part, but simply because they are much further behind technologically. They have millions and millions of people who don't have any place to live. They can't even build enough homes. I said to one of the Russians in our visit, "We have lots of empty homes and have some people that need the homes but don't have the means. You, perhaps, have people that have the means and there are no homes for them to move into. You have a production problem and we have a distribution problem." Our problem is much easier to correct than theirs if we would have the will. We do have the know-how. They have yet to learn to become as technologically proficient as we are.

They don't want war because they have lost over 40 million people in two World Wars during this 20th century. With the Russians, we talked about the possibility of the summit. How do we get to peace? I said jokingly, "I will tell you what I think. When I was a youngster, we used to play baseball and we would choose up sides and throw the bat and there would be two captains. One person would put their hand on the bat and the other would put his hand on top of and so on until they got to the end of the bat. The last one that could put their hand had the first pick." I said, "We are going to get President Reagan and Mr. Gorbachev together and we are going to show our good faith and let Mr. Gorbachev have the first pick. He can select any piece of our military equipment — battleship, airplane, whatever it is that he wants to select — and we will invite the whole world to a particular place that is mutually agreed upon and we will destroy Gorbachev's selection. Mr. Reagan will get to pick a piece of the Russian military machine that he wants destroyed and the process will be repeated about 25 times and by the end of this experience, we will have decimated a lot of the military hardware and once and for all, the world will have an opportunity to see that the two major superpowers are determined to make an effort for peace — something physically demonstrable instead of just a bunch of words."

They thought that was a pretty good idea. They liked that and I liked that and I hope you like that. Maybe that is a start. I shall therefore conclude this great idea with this wisdom from William James which really says it all: "Yet the fact remains that war is a school of strenuous life and heroism; and, being in the line of aboriginal instinct, is the only school that as yet is universally available. . . . What we now need to discover in the social realm is the moral equivalent of war; something heroic that will speak to men as universally as war does, and yet will be as compatible with their spiritual selves as war has proved itself to be incompatible."

• SOCIAL CAUSE CALENDAR •

CASA MARIANELLA BANQUET

The second annual Casa Marianella banquet will be **November 13**, Fellowship Hall, St. Martin's Evangelical Lutheran Church, 606 West 15th St., Austin. The banquet will help to keep the Casa going and support justice for Central Americans; banquet organizers aim to raise $25,000 in one night. For information or to volunteer call (512) 385-5571.

STAND UP FOR YOUR RIGHTS

The Austin Lesbian/Gay Political Caucus will sponsor a benefit, "Stand Up For Your Rights" on Tuesday, **November 18**, from 5-7:30 p.m., at the Caswell House, 1404 West Ave., Austin. Tickets are $10, though nobody will be turned away for lack of money. Sponsorships are available for those who wish to contribute more to the Caucus. For more information contact Steve Davis at (512) 452-6043.

HOUSTON ACLU GALA

The Greater Houston Chapter ACLU will hold its 15th Annual ACLU Liberty Gala on Saturday, **November 15**, beginning at 7 p.m. at the home of Theresa and Edward Mallett, 305 Glenwood, Houston. Introductions will be made by Houston Sen. Craig Washington and the guest speaker will be cartoonist Michael Fry, creator of *Scotty* and *Cheeverwood*. The minimum donation is $20; tickets represent a pledge for the year and non-members are welcome.

OBSERVANCES

November 10, 1924 — First U.S. gay rights organization, the Society for Human Rights, founded in Chicago.

November 12, 1971 — Berkeley City Council votes to provide symbolic sanctuary for draft resisters.

November 13, 1972 — Karen Silkwood dies in auto crash en route to meet a *New York Times* reporter.

November 14, 1983 — First U.S. cruise missile arrives at Greenham Commons, England.

November 17, 1973 — President Nixon says, "I am not a crook."

November 18, 1972 — Susan B. Anthony arrested for voting.

November 21, 1966 — National Organization for Women founded.

ROSIE THE RIVETER

The Houston Area Chapter of the National Organization for Women will present *Rosie the Riveter* — an acclaimed film about the women who worked in factories during World War II in jobs previously held exclusively by men, and who, when the war was over and the men came home, were "encouraged" to leave — **November 13, #4** Chelsea Place, 6 p.m., $5. Call (713) 522-6673 for details.

CHICANO POLITICS

Chicano Politics will be the theme of a forum sponsored by the Texas Union Chicano Culture Committee at the U.T. Texas Union, **November 13-14**. The Chicano Culture Committee hopes to draw community attention to issues facing Mexican Americans in Texas by centering on political involvement, immigration, voter registration, community organizing, education, and economic issues. Speakers include State Senator Gonzalo Barrientos, State Representative Lena Guerrero, Ruben Bonilla (Mexican American Democrats), Willie Velasquez (Southwest Voter Registration Project), Rebecca Harrington (United Farm Workers), Jose Angel Gutierrez (founder, Raza Unida), and Norma Cantu (Mexican American Legal Defense). Call Mike Ramirez, (512) 471-5651, for more information.

CHARITY AND TAXES

The Live Oak Fund has invited Stanley Weithorn, a nationally renowned expert on tax planning, to give a seminar on the Tax Reform Act of 1986 as it affects charitable contributions. The seminar will take place on Thursday, **November 20** at the Allen Parkway Inn in Houston beginning at 11:30 a.m. The $25 registration fee should be sent to the Live Oak Fund, P.O. Box 4601, Austin, 78765. Registration must be received no later than November 18. For further information, call the Live Oak Fund at (512) 476-5714.

PEACE AND JUSTICE FAIR

The second annual Houston Peace and Justice Fair will be **November 22**, 9 a.m.-4 p.m., with booths, food, music, forums, and a keynote address by former CIA agent, John Stockwell. Forums will include topics such as terrorism, peace strategies, South Africa, the role of the churches, Middle East, views of the USSR, and Central America. For details and location call (713) 688-1294; $2 donation.

Into the Night, Abruptly

By Alvin B. Lebar

DALLAS WAS TWO hours away but not many made the trip. As evening shadows settled over the dusty camp grounds, a steady stream of black and tan buses shuttled the youthful, sunbaked soldiers to nearby Mineral Wells, a small town that exploded nightly with wall-to-wall servicemen and nameless saloons.

In July of 1943, Camp Wolters, Texas, a World War II army basic training center was "home" to 25,000 draftees. They passed through, enroute overseas, in four months.

I received shipping orders backstage at the post auditorium. They were pressed into my pocket at the final offering of the camp musical where I performed a comedy monologue.

We'd ship out in two days.

Hardbitten army cadre, remaining behind to instruct new recruits, sternly kept their distance so there weren't many people inclined to say good-bye.

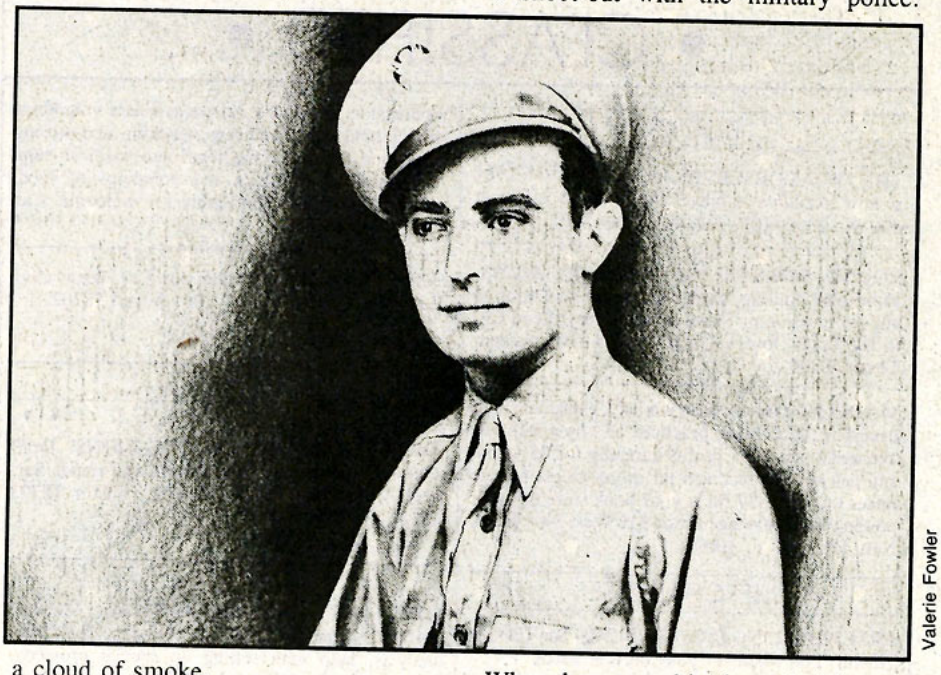
For me, thankfully, there was Corporal Reuben Likes. A soft-spoken Texan and homespun philosopher, he was camp librarian and the only one at the post in whom I confided. I sought him out for a warm farewell but he wasn't at the library.

From the porch of the gray frame library building, a battered station wagon was visible near the auditorium. Harry Kane and Patsy Dwyer were about to depart for Tulsa. Old-time vaudevillians returning from retirement, they had appeared in our revue.

Harry, a gravel-voiced, rotund Chicagoan in his sixties, would walk on stage and talk idly about army life for a few minutes. Suddenly, he'd be interrupted from the audience by his partner, Patsy. A midget and remarkably spry, playing the traditional "heckler," Patsy would dart about the hall in a funny hat chased by a spotlight. Their burlesque-style banter was well-honed — they bounced off each other like precisely played ping pong balls.

For them, however, there was drama after the show. As the curtain fell, Harry — by then pale and exhausted — would grope for a chair, gasping for breath. His diminutive partner, shooing us aside, would vigorously rub his arms and shoulders and continue the ministrations until the big man was able to stand and make his way.

Hoping to see them off, I sprinted across the hardened field but as I reached the old car, it pulled away in a cloud of smoke.



Valerie Fowler

There would be a lot to tell Reuben if I could find him but no one had seen him. He wasn't at the PX, the recreation room or the Chapel. I returned to the library but his assistant, shelving books in the back, didn't know where Reuben was, or so he said.

At the mess hall, the camp cook was methodically stirring a big pot of steaming soup with a wooden pole. A Japanese-American, he too confided in Reuben. As I walked through the empty hall, he flicked his head sideways but continued stirring rhythmically. I broke the silence:

"Where's Reuben, Sarge?"

"Don't you know?" he said quietly, still stirring.

"No, I don't. I was in the show."

"Oh, yeah, so I heard."

"He's nowhere around."

Releasing the pole, he finally looked up: "Well, Reuben's gone."

"What do you mean, 'gone'?"

"Like I said."

"Gone where?"

He tossed a handfull of dried ingredients into the soup and ladled some into a glass, tasting the contents.

"Gone *where*?"

Turning away from the big pot, he walked slowly to the window and broke the news.

After a strange night in Fort Worth, Reuben went AWOL with a girl he picked up. The following day in Texarkana he was, bewilderingly, involved in a shoot-out with the military police. When they moved in, he turned the gun on himself. It jammed.

Late the next afternoon, hours before shipping out, I managed to obtain a pass to visit Corporal Reuben Likes at a detention center in Dallas. Time was short but we would still exchange goodbyes.

But when the bus arrived, I let it go by. As with the private hurt of the vaudevillian, Harry Kane, it seemed best to . . . turn away.

I spent the remaining moments numbly toasting farewells to an increasingly grim barmaid in Mineral Wells. As I turned to leave she suddenly leaned over and . . . kissed me good-bye. □

Alvin B. Lebar is a lawyer who lives in Metuchen, New Jersey.

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