

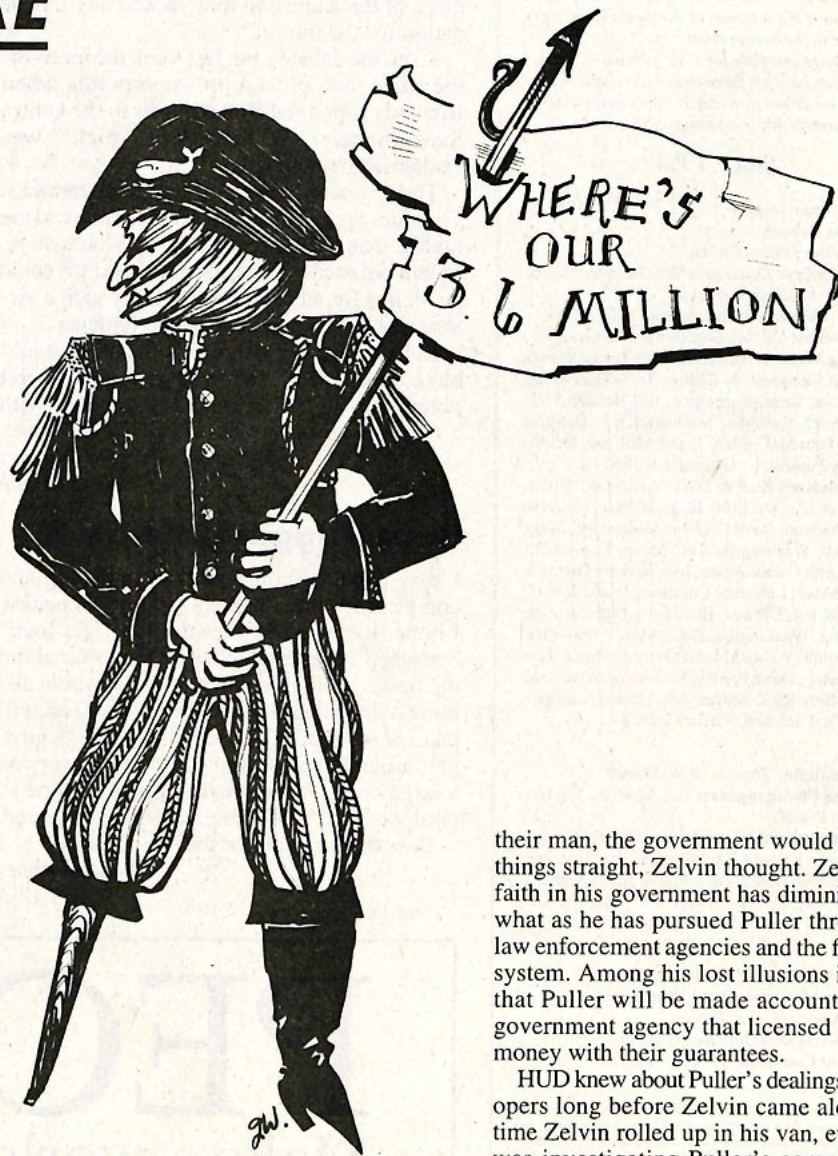
IN THE WAKE

OF A HUD

MORTGAGE

AGENT

BY PETER CASSIDY



STEVE ZELVIN DROVE like Captain Ahab chasing after his nemesis, white-knuckling a mini-bus from San Antonio to Washington, D.C. in two days. A banner draped under the windows of the van screamed: "HUD! WHERE'S OUR \$3.6 MILLION?" The builder was on a crusade to convince officials at the U.S. Department of Housing and Urban Development (HUD) that the agency's own mortgage agent, an Indianapolis businessman named Ken Puller, had illegally appropriated millions in construction money and bankrupted Zelvin's real estate project, a retirement community in San Antonio.

The mini-bus, borrowed by Zelvin from the grounds of the Independence Hill seniors' community, was stuffed with Zelvin's proof: four trunks and four file cabinets filled with financial documents related to the construction of the San Antonio retirement community. Zelvin parked in front of HUD's Washington offices on March 13, 1990, and he phoned the HUD Inspector General's office. An auditor came down and inspected the stuff for two days and

Zelvin left, confident that the IG would put a leash on Puller and return control of the moribund development — which was in loan default at the time — to him.

After all, Puller made his money working for the federal government as a so-called "co-insurance lender"; Puller's business, arranging construction loans for housing projects using HUD's loan payment guarantees in return for commissions, wouldn't exist without the government. Certainly, knowing the facts about

their man, the government would move to set things straight, Zelvin thought. Zelvin's naive faith in his government has diminished somewhat as he has pursued Puller through HUD, law enforcement agencies and the federal court system. Among his lost illusions is the belief that Puller will be made accountable by the government agency that licensed him to lend money with their guarantees.

HUD knew about Puller's dealings with developers long before Zelvin came along. By the time Zelvin rolled up in his van, even the FBI was investigating Puller's company, Puller Mortgage Associates. Yet Puller, one of a number of HUD deputy mortgage writers whose negligent lending practices scandalized the agency during the 1980s, somehow managed to avoid the disciplining hand of HUD, even after a Denver court found that his company had defrauded a development group.

Puller, a former HUD employee whose political associations included U.S. Senator Richard

Continued on page 6



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 human-kind 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.

SINCE 1954

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SUBSCRIPTIONS: One year \$32, two years \$59, three years \$84. Full-time students \$18 per year. Back issues \$3 prepaid. Airmail, foreign, group, and bulk rates on request. Microfilm editions available from University Microfilms Intl., 300 N. Zeeb Road, Ann Arbor, MI 48106. Any current subscriber who finds the price a burden should say so at renewal time; no one need forgo reading the Observer simply because of the cost.

INDEXES: The Texas Observer is indexed in *Access: The Supplementary Index to Periodicals*; *Texas Index* and, for the years 1954 through 1981, *The Texas Observer Index*.

THE TEXAS OBSERVER (ISSN 0040-4519/USPS 541300), entire contents copyrighted, © 1992, is published biweekly except for a three-week interval between issues in January and July (25 issues per year) by the Texas Observer Publishing Co., 307 West 7th Street, Austin, Texas 78701. Telephone: (512) 477-0746. Second-class postage paid at Austin, Texas.

POSTMASTER: Send address changes to THE TEXAS OBSERVER, 307 West 7th Street, Austin, Texas 78701.

DIALOG

No Doubt on Krueger

In our house plenty of debates occur about Bill Clinton and Ann Richards. One side asserts, "Give them a chance! They have to be practical. If the kind of people you wanted were appointed by Clinton and Richards they (the president-elect and governor) would be lucky to get any progressive passed. So many legislators and special interests would be upset." The other side asserts, "their appointments are mainly more of the same and they lacked any imagination for the future."

So go the debates, but last week the more-of-the same side picked up some points when Richards appointed Bob Krueger to the United States Senate. "What a terrible pick!" was exclaimed by both sides.

There were no benefit-of-the-doubt remarks. The sides agreed that Krueger is far more to the middle than Richards or Clinton. What's more, he will not excite voters come May, which could result in a Republican win (not that such a victory would be much worse than Krueger.)

Finally, the sides said that Richard should have picked Jim Mattox, who is able to get votes from all of Texas, and is someone with a vision of a different Texas and United States.

*E. Novogrodsky, R. Wagner
Brownsville*

Keep Digging, Henry B.

I have especially enjoyed the reporting and complete speeches of Rep. [Henry] Gonzalez. I hope this episode does not just "get lost," because I believe what we know so far about the fiasco is only a small part of the whole dishonest and illegal story. Probably God will take care of Clark Clifford before the U.S. govt. gets around to prosecuting him for thievery on a large scale. Altman will probably not be so pardoned and should be further investigated.

Best wishes to all for the New Year.

*Rosalie Roper
Port Isabel*

Tribute to Tedium

I would much rather have seen Geoff Rips ("Good John Cage," TO 12/11/92) mark John Cage's passing with a blank page. It would have been just as appropriate and a lot less tedious and time-wasting than the article.

On the other hand, since Cage's music, if it can be called that, was uniformly tedious and time-wasting, maybe Rips' piece was the ultimate tribute.

*Charles Reinken
Fayetteville, North Carolina*

Mr. Rips Responds

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EDITORIALS

New Texas Blues

"So how do you like your New Texas now?" read a note left on my desk the morning after Gov. Ann Richards appointed Railroad Commissioner Bob Krueger to the U.S. Senate. The appointment, the end of an almost comic search for a suitable candidate who would accept, gives Krueger an advantage in the May special election for the U.S. Senate seat.

It also demonstrates how Texas politics just makes people crazy. Consider my friend, the political consultant who asked about my take on Richards' New Texas. Here is a progressive Democrat who, since Richards announced her intent to run for Governor, has been an obsessed and impassioned critic of the campaign tactics of former Attorney General Jim Mattox, now left with little choice but to embrace Mattox. Let me get in line to do the same.

The larger issue, however, has little to do with Jim Mattox. Despite his suggestion — offered up while the Governor's office considered Bill Hobby, Henry Cisneros and Comptroller John Sharp — that Richards appoint him, it seemed unlikely that she would appoint someone who had so vilified her in the Democratic primary two-and-a-half years ago.

The larger issue is the Governor's limiting her possible choices to only moderate to very conservative Democrats. Mattox, by virtue of his 1991 primary campaign, eliminated himself. But why didn't the Governor consider John Bryant or Martin Frost, both veteran members of Congress from Dallas. Or Supreme Court Justice Lloyd Doggett, who, like Krueger, put together a successful statewide campaign after losing a U.S. Senate race? Or Secretary of State John Hannah?

We might begin to understand the Governor's appointment process by considering the question a member of the capitol press corps asked Mattox on the day Richards announced her Senate appointment: "Isn't he [Krueger] the ideological heir of Lloyd Bentsen?" A look at Krueger's Congressional record (see page 4) answers that question. But there is more. Not only was Krueger the apparent heir-apparent, he was the designated heir-apparent, anointed by Bentsen before he was appointed by Richards.

Three sources, two in Washington and one in Austin, say that Bentsen drew up two lists: One of candidates he considered acceptable and one of candidates he could not accept to replace him in the U.S. Senate. The first list, and it can be assumed it was drawn up after the Governor's office had been turned down by Cisneros, Sharp and perhaps Hobby,

included Houston Rep. Mike Andrews, Sulphur Springs Rep. Jim Chapman, Fort Worth Rep. and former Bentsen aide Pete Geren and Railroad Commissioner Bob Krueger. The second list included Lloyd Doggett, John Bryant and Martin Frost, and John Hannah. Mattox, it can be assumed, did not make the second list, perhaps because Bentsen could safely assume that Richards would be loath to select anyone who had so unfairly and unnecessarily attacked her character during the 1991 Democratic primary campaign.

At press time, the Governor's office had not responded to questions about the existence of lists drawn up by Bentsen. But a spokesperson for Bentsen's office confirmed that the Senator was "very involved and very interested" in the selection of his replacement. "The Senator had several conversations with Governor Richards," Michelle Smith, of Bentsen's Washington office, said. Smith characterized the talks as "private conversations between two friends."

Asked if Bentsen had drawn up two specific lists, Smith said she had no knowledge of any such lists, but she could not categorically deny they existed.

At least three of the four names said to be on Bentsen's list of acceptable choices were given serious consideration by the Governor's office. Houston Congressman Mike Andrews was opposed by labor, whose leadership quickly closed ranks behind Krueger once the appointment was made. Jim Chapman was opposed by the gay and lesbian communities, and Austin Democratic State Rep. Glenn Maxey, who has worked on behalf of Richards in the past, worked both publicly and privately against the appointment. And when former Democrat Congresswoman Barbara Jordan, angered by Chapman's voting record on rights of the disabled, weighed in against Chapman, he was muscled out of the race, according to several Austin insiders who watched the process.

That left Krueger, of whom "the ideological heir of Lloyd Bentsen" characterization might be a bit unfair — to Bentsen. A *Congressional Quarterly* analysis of House votes on which Jimmy Carter took a position in 1977 had Krueger supporting his own President only 43 percent of the time, compared to 63 percent for Bentsen and 40 percent for the late Republican Senator John Tower.

Many good people in Austin and across the state are working for Krueger, some with genuine enthusiasm and others resigned to the Governor's choice, calling it pragmatic and describing Krueger as "better than Kay Bailey

THE TEXAS Observer

JANUARY 29, 1993

VOLUME 85, No. 2

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Hutchison," who is the most enlightened of the Republican's three serious contenders. But the Governor's collaboration with Senator Bentsen has had a stultifying effect on public life in Texas. It creates a yet more circumscribed circle in which we must now do politics, limits choices, forecloses on future options and rewards prudence over political courage.

So how do I like my New Texas now? The Old Texas, not the Old Texas of Bob Krueger, but the Old Texas of Jim Mattox (and State Treasurer Ann Richards), somehow seems more appealing.

— L.D.

Krueger's Record Revisited

"HE'S NEITHER A MODERATE, as he claims, nor really even a Democrat," said a Carter White House staffer discussing Bob Krueger with *The Observer* in 1978. The best and fairest assessment of Krueger — and unfortunately the best predictor of how he will vote in the U.S. Senate — is an examination of his record in the U.S. House, where he served from 1975, when *Congressional Quarterly* named him as the eighth-most conservative freshman in the 94th Congress, until 1979, when he lost in a bid to unseat Texas Senator John Tower.

Krueger's voting record as a member of Congress is more germane to a Senate campaign than is his record on the Railroad Commission, where he has served for the past two years. Unfortunately, that House record hasn't changed since 1984, when, as part of the editorial coverage of the Senate primary contest that Krueger lost to Lloyd Doggett, it was thoroughly discussed in *The Observer*. A number of the issues *The Observer* considered in the Doggett-Krueger race were also issues central to the Clinton-Gore campaign. What follows are excerpts of the *Observer* of January 27, 1984:

When the forerunner of the Reagan economic package emerged in a 1976 substitute amendment to the House resolution setting budget targets for fiscal year 1977, Krueger supported it. The amendment, introduced by Rep. Delbert Latta, an Ohio Republican, proposed \$10.9 billion in tax cuts and spending cuts in domestic programs. The amendment was rejected by a 145-320 vote. Krueger was among the 35 Democrats voting for the amendment. Krueger also voted in favor of amendments to the budget bill which would have eliminated \$50 million for a full employment measure and \$50 million for a national health insurance bill. These amendments were defeated by solid Democratic blocks from which Krueger had strayed. ...

In similar votes the year before, Krueger had voted with 30 Democrats to cut \$259,380,000 from appropriations for fiscal year 1975 for programs of the Department of Health, Education and Welfare. ... Krueger also voted against a bill the following year to establish a conservation corps and to employ young adults. The bill passed 291-70, with only 30 Democrats, including Krueger, opposed.

But why should Krueger be concerned about a conservation corps if he votes against tighter clean air controls? Krueger voted against a 1976 clean air resolution (H.R. 10489) setting auto emission standards and air pollution regulations. The bill passed, 324-68, with Krueger among the 30 Democrats opposed. But Krueger did support an amendment to the bill, which passed, that delayed final auto emission control standards from 1978 to 1982. The following year, Krueger voted against H.R. 6161, regulating "stationary and mobile sources of pollution," which passed 326-49. He again supported suc-

cessful amendments that weakened the bill. ...

In 1975, he voted against H.R. 7575, proposed to create a federal Consumer Protection Agency. The bill passed, 208-199, but was never signed. In 1978, Krueger voted against a Carter-supported Office of Consumer Representation, which was defeated 189-227....

When President Carter introduced his hospital cost control plan in 1977, setting a 9 percent annual limit on hospital revenue increases, Krueger played a significant role in defeating it. Krueger was a member of the House Commerce Committee that, in a 22-21 vote in 1978, substituted a bill by Republican James Broyhill of North Carolina for Carter's initiative. The Broyhill bill called for a voluntary hospital effort



FILE PHOTO

An earlier Bob Krueger

to cut back costs 2 percent per year, deleting all mandatory federal regulation of hospital revenue. ... According to *Congressional Quarterly* of July 22, 1978: "The president of the Texas hospital association sat in on every markup session, committee sources said. (Two Texas Democrats on the committee, Robert 'Bob' Krueger and Bob Gammage [now associate justice on the Texas Supreme Court], were consistently on the opposite side from the administration.)"

Krueger's voting record does not show evidence of a commitment to educational opportunity that one might expect from an educator. In 1975, he voted against a bill authorizing a substantial increase in the federal money to educate handicapped children. The bill passed, 375-44, with eight Democrats, including Krueger, opposed. When the conference report on the bill was presented to the House, Krueger was one of only three Democrats opposed. It passed 404-7, with even [Republican Senator John] Tower voting for the conference report in

the Senate. The following year, Krueger was one of 24 Democrats voting against an amendment to an appropriations bill, adding \$60 million for education for the handicapped and \$315 million for Basic Education Opportunity Grants. The amendment passed, 318-68.

In 1975, Krueger joined three other Democrats in voting against an action to override President Ford's veto of an extension of school-lunch and child-nutrition programs. The veto was defeated handily with 397 votes in favor of overriding and 18 votes opposed. ...

In the area of foreign affairs, Krueger has shown a marked lack of concern for human rights. In 1975, he voted against the [then-U.S. Rep. Tom] Harkin amendment to the foreign aid bill, which denied aid to countries whose governments consistently violated the human rights of their citizens. The amendment passed, 238-164. In 1976, and 1977, Krueger voted in favor of continuing military aid to Chile, Argentina and Somoza's Nicaragua. In 1976, Rep. Michael Harrington introduced an amendment to the foreign military aid bill which would cut off the provision of \$122 million in military sales to Chile. The amendment was defeated, 139-266, with Krueger voting against it. In 1977, Krueger paired for an amendment to the 1978 foreign aid bill restoring \$3.1 million in military assistance to the Somoza government in Nicaragua....

And there's more. Krueger voted for a food stamp reduction, for termination of veteran's education benefits, and against an appropriation for a national women's conference. He voted against appropriations for the Consumer Products Safety Commission, against the common-site picketing bill, for a limitation of nuclear industry liability in the event of a nuclear accident, and against the indexing of the minimum wage.

In 1993, the standard apologia for that record begins with a reminder that Krueger represented a conservative district, which included San Antonio suburbanites, Hill Country farmers, West Texas ranchers, Rio Grande farmers, more cattle than people, and so on. And, that as a U.S. Senator, Bob Krueger will vote as a representative of a broader and more diverse constituency. It is the same argument once made by the managers of Jack Hightower's campaign for the Texas Supreme Court, and Hightower's record on the court remains consistent with the voting patterns he established as a West Texas Democratic Congressman.

"Let the people decide, stupid," reads the sign on the chalkboard hanging in the headquarters of what is thus far the "pre-campaign" of former Attorney General Jim Mattox. Granted, it doesn't resonate quite like Bill Clinton's "The economy, stupid." But Bob Krueger is anything but a people's candidate for the Senate and all the name-recognition polls conducted by the Bentsen-Richards wing of the Democratic party could never make him one.

— L.D.

South Plains Cincinnatus

Will James E. "Pete" Laney become the Cincinnatus of the South Plains? Laney, a Hale Center farmer and conservative Democrat, was elected Speaker of the House of Representatives by acclamation on the opening day of the 73rd Legislature, but he surprised some of his colleagues a few days later when he embraced sweeping House reform proposals that would reduce his power.

In his acceptance speech, Laney, 49, emphasized that he would stress ethics and openness. "There is no issue more important to me than earning the trust, the respect and the support of the people of Texas for the House of Representatives and the work it does," he said.

The 20-year House veteran had little to distinguish himself as a reformer. As State Affairs Committee chairman he was considered a dependable lieutenant of previous House Speaker Gib Lewis and Laney notably waited until the closing days of the 72nd Legislature before he moved the ethics bill for action.

But Laney had impressed enough young lawmakers with his fairness on State Affairs that he methodically picked up support when it came to replacing Lewis, the Fort Worth conservative Democrat. Under pressure from Travis County District Attorney Ronnie Earle for misdemeanor ethics violations, Lewis stepped down after a record five terms as Speaker.

Laney reportedly assured lawmakers he would not seek more than two terms as Speaker; he appeared to back off from that commitment after his election, saying that House members would decide on whether to limit his terms. But he delivered on rules reforms designed to open up the legislative process and said the proposed rules offer "much-needed and dramatic changes," which set the stage for what could be the first reform session in 20 years.

In the past, more than half of the bills were passed by the House in the last three days of the 140-day regular sessions, due to parliamentary rules which gave key lawmakers and lobbyists more control over the flow of bills. Under the proposed rules, the deadlines would start kicking in 17 days before the end of the session, which at least would reduce the crush of bills.

The rules also would require the Calendars Committee, into which bills all too often disappeared in the past, to vote publicly on each bill within 30 days of receiving it.

The Speaker would appoint only half of the members of the Appropriations Committee, with the rest determined by seniority. He also would be prohibited from removing committee chairs after they are appointed.

In the closing days, non-local bills would need final House approval 17 days before the end of the session; final passage of Senate bills would be needed six days before the end of the session. Only conference committee reports and amendments would be considered on the

fifth and fourth days before the end of a session; on the third and second days before the session's end, the House would limit itself to conference committee reports.

Laney has proposed streamlining the House committee system, reducing the number of committees from 36 to 31.

Good-government lobbyists said Laney's support appeared to clinch the long-sought reforms. "For the first time in at least 10 years the Calendars Committee is going to have to work in public," said Suzy Woodford of Common Cause. "And there will be layout rules, so that we won't have ethics bills passed at a minute to midnight of the last day of the session with nobody knowing what's in the bill," she said.

Among the leaders in the House reform workgroup were progressive Democrats John Hirschi of Wichita Falls, Libby Linebarger of Manchaca, who helped convince the reform group that Laney was open to reform, Sherri Greenberg, Elliott Naishtat and Glenn Maxey, all of Austin, Republicans Talmadge Heflin and Bill Carter of Houston and Kevin Brady of The Woodlands and conservative Democrats Warren Chisum of Pampa and Billy Clemons of Lufkin, who was among the first to press for rules reforms when, as a Calendars Committee member he blew the lid off its secretiveness. He also was a key to getting the liberal Democrats and Republicans together, despite his initial mistrust of the Laney supporters, Woodford said, and there was some hope that the working relationships created by the rules-reform coalition might carry over to school finance reform and other issues in the coming session. Well, it's still early enough in the session to dream.

Laney said he hoped to resolve the state's school finance deadlock within 30 days. In the meantime, he was holding off on committee assignments, although he denied the two were connected. At least, he said, "Not at this time," although the perception persists that lawmakers who stall a school equity plan this time around will end up on the taxi squad.

Lt. Gov. Bob Bullock, on the other hand, named 12 committees, including three Republican chairmen in a nod to the New Reality: Bill Ratliff of Mount Pleasant takes over Education, Ike Harris of Dallas heads State Affairs and Don Henderson of Houston heads Jurisprudence. The other chairs are Democrats, including Administration, Bill Haley of Center; Criminal Justice, John Whitmire of Houston; Economic Development, Carl Parker of Port Arthur, who sought a move after five sessions as Education chair; Finance, John Montford of Lubbock; Health and Human Services, Judith Zaffirini of Laredo; Intergovernmental Relations, Ken Armbrister of Victoria; International Relations, Trade & Technology, Carlos Truan of Corpus Christi; Natural Resources, Bill Sims of San Angelo; and Nominations, Gonzalo

Barrientos of Austin. Steve Carricker of Roby will chair the Committee of the Whole on Redistricting, Ethics and Elections.

The budget news is grim; even with the lottery contributing to a 5.2 percent increase in the state's estimated revenues, Comptroller John Sharp said the state will fall \$3.2 billion short of keeping services at the current level. State District Judge Scott McCown of Austin warned that he will enforce the Texas Supreme Court's order to cut off state funding for public schools if the Legislature does not adopt an equitable school finance plan by June 1, but lawmakers have halved the amount of new money earmarked for public schools, with prisons — the other end of the school spectrum — getting the bulk of any windfall.

The two-year spending proposal drawn up by the Legislative Budget Board as a starting point for lawmakers, a budget that contemplates cuts in monthly Aid to Families with Dependent Children, Medicaid, family planning, AIDS/HIV services and prevention funding for child abuse and neglect, "is inhumane, shortsighted and without redeeming social value," said Phil Strickland, chairman of the CARE Coalition of Texas, a coalition of 49 human services organizations. "If Texas had a strategic plan for mediocrity, this would be an excellent first step," said Strickland, also with the Baptist General Convention of Texas.

Oh, that Texas would aspire to mediocrity! The Lone Star State's traditional stinginess on AFDC payments already places it 47th among the 50 states; the proposed cut from the current \$57 a month to \$45 a month "guarantees Texas the trophy for being the leading grinch in the nation," Strickland said. He added: "Governor Richards, you care about humans who hurt. Lead us to do more, not less, to meet their needs." But Richards told her Health Policy Task Force the state does not have \$2 billion to pay for health care for pregnant women and children, as the task force recommended, although she supported the appropriation of \$50 million for immunization of children. In the days leading up to President Bill Clinton's inauguration, the tax-conscious governor was lobbying Congress to relieve the states of health-care obligations. "Paying for health care is killing us," she said. "In the short term, we hope there will be relief from some of the federal mandates."

Senate finance officials reportedly are pinning their hopes for making up a \$1.6 billion annual shortfall in health and human services on a "shell game" that would attract four federal dollars for every dollar the state spends on Medicaid. But there is some concern that the new deficit-conscious Congress will put a stop to the program that awards extra money to hospitals that serve a disproportionate share of low-income patients.

If that happens, guess who loses. —J.C.

IN THE WAKE OF A HUD MORTGAGE AGENT

Lugar and HUD executives such as former HUD Secretary Thomas Demery, lives comfortably in exclusive Carmel, Indiana, while more than a dozen foreclosed projects he underwrote during the 1980s decay around the country, costing taxpayers potentially more than the \$236 million in foreclosed mortgages on them.

For two years, Zelvin has been in U.S. District Court in San Antonio, alleging in a lawsuit that Puller fraudulently took loan monies and forced Independence Hill into foreclosure. Congressmen have asked where the \$3.6 million has gone; HUD Inspector General auditors have questioned Puller's accounting; yet HUD's only remedy has been to foreclose on the development in 1990 and, this October, to auction Independence Hill.

Even the Justice Department has kept evidence about Puller Mortgage's handling of the Independence Hill project out of court. *The Observer* has obtained documentation which makes it clear that the Justice Department is withholding information establishing that the proceeds of the loan never made it to the project.

To anyone, including new HUD Secretary Henry Cisneros, who thinks that the HUD scandals of the 1980s are over, Independence Hill in San Antonio is worth inspecting. For all the commissions Puller earned for arranging the financing of the project's construction, and for all the expense government agencies went to in their investigations of Puller Mortgage, San Antonio is still only richer by one partially-filled retirement community.

Independence Hill was designed as a decidedly upscale village for seniors. With its own swimming pool, a view of a golf course and other amenities, the project is located on a hillside in Stone Oak, an emerging white-flight northern neighborhood of San Antonio. Independence Hill, two main buildings surrounded by townhouses, offers daily meals, health care and golf course membership.

Zelvin's romance with construction began years ago when he worked on his father's projects. A Connecticut Yankee, Zelvin went into engineering research back east after his graduation from Rice University before coming back to Texas to return to building.

In 1986, Puller and Zelvin cut a deal that would finance the construction of the 292-unit Independence Hill retirement village. Bexar County sold \$14.7 million in tax-free bonds — the proceeds of which were used as the construction loan. Puller, as HUD's officially deputized coinsurance agent, arranged mortgage insurance for the project. The insurance meant if Zelvin failed to keep up payments on the

construction loan, HUD would repay the bond holders' money plus the interest they expected to receive — a guarantee that lowered considerably the risk to lenders.

Zelvin's ZI Investment Builders, Inc. posted \$2.07 million for operating expenses and deposited a \$1.5 million letter of credit with Puller Mortgage. These monies to guarantee operation of the project after completion usually are required of developers to ensure there is money to market their projects so that they can generate a profit and the developers can repay the loans on them.

The year construction of Independence Hill began, 1986, Puller Mortgage made *Inc.*'s list of fastest-growing companies. Puller began his professional career as a HUD regional underwriter in Indianapolis in the 1960s. During the 1970s he worked as a private developer, usually working in some capacity with HUD funds or programs. His experience with HUD programs started to pay off in the 1980s — after Puller was licensed as a coinsurance agent. (In the first eight months of 1988 alone, Puller Mortgage was able to make a shareholder distribution of \$544,300 to Puller, the sole shareholder, according to Puller Mortgage's 1988 annual report.)

Puller, a native of Terre Haute, was well-liked by members of his staff, whom he would sometimes invite out for double-entree lunches, and he seemed to be well on his way to realizing the dream that had driven him since his college days: To be a millionaire before his 40th birthday. His enterprise, however, was also beginning to fray. Some developers Puller had crossed filed a civil suit against him in Denver in 1986, charging that Puller Mortgage and the Federal National Mortgage Association (FNMA) had colluded to ruin a project for their own profit. The development group filed suit after pursuing every possible avenue of redress at HUD and talking "to anyone who would listen," according to Denver developer John Musick.

A state court later would find that the developers had been defrauded and although the Colorado court determined that Puller Mortgage committed fraud, HUD, examining the same material the court had ruled on, was inexplicably slow in disciplining Puller's company. A timely disciplining of HUD's agent might have saved Zelvin's project, Bexar County bond dollars and even something for taxpayers who, in the end, will bail out Zelvin's retirement community. But a prompt response might have been too much to ask of HUD administrators, many of whom are Puller's political associates.

Zelvin's problems with Puller started almost as soon as ground was broken on the project. Monthly "draws" on the \$14.7 million construction loan were always late and it was tough to pay bills, Zelvin alleges. ZI completed phase one of the project in June 1987 and opened it to its first residents, hoping to fill it quickly. But Puller, the suit alleges, refused to disburse the escrowed money set aside to market the new apartments.

Work on the project continued, consuming

more of ZI's own capital and in January 1988, according to allegations in Zelvin's suit, the project's architects declared the project ready for occupancy. Yet Puller refused to endorse the project as "substantially complete," an official milestone that would release escrowed money to help market the community and operate it into the black, the suit alleges. Puller's rationale was that he couldn't approve the project's management, the suit alleges. "I was a bull with a rake through my nose. Puller knew at final endorsement he was going to have to release back to me in excess of a million dollars and I would turn around and use it to sue him for all the wrong he done to me through the years on my project," Zelvin said.

Zelvin, in response, offered two management alternatives: An outfit from St. Louis and later that year, Classic Residences by Hyatt, the hotel people. Puller rejected both options, the suit alleges. Puller posted the project in default in August of 1988 and froze all funds, including operating funds to maintain the residence for 50 tenants, the suit alleges.

Contacted in Indianapolis, Puller dismissed the lawsuit's allegations and contends that, in fact, Zelvin has absconded with money that was not his to take. "The plaintiff is probably going to be the defendant before this is all over with," Puller said.

One of Puller's more notorious earlier business associates was Arthur "Abba" Goldberg, a former high-flying vice president of the bond firm Matthews & Wright. Puller and Goldberg got acquainted while Goldberg was engineering a bond fraud in Guam in 1985. Goldberg had sold Guam's non-profit developers on "tax-free" bond issues that Goldberg knew had tax liabilities — meaning the unfortunate buyers would actually have to pay taxes on the bonds' interest. Goldberg ended up pleading guilty to three counts of mail fraud in 1989 and was sentenced to 18 months in jail.

Kimbley Lujan, an officer at the Guam Economic Development Authority (GEDA), said Puller was along for the "whole dog and pony show." GEDA's suit against Goldberg and George Benoit, another Matthews & Wright executive, alleged "Matthews & Wright, Inc. represented to GEDA that [HUD] mortgage insurance ... would be available to developers seeking loans from the bond proceeds." Puller showed up at a press conference on December 12, 1985 in Agana, Guam, where he explained his role as HUD's insurance agent and proclaimed, "I came, I saw and I liked." In an interview this summer, Puller said of the Guam deal. "Oh, we did a program with them, started work on a program. It cost us a lot of money ... I think Arthur Goldberg went to jail for something else."

It was Goldberg who apparently increased Puller's appreciation of so-called "gray-box" bond financing, controversial tax-exempt bond deals that arguably skirt some IRS regulations.

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Puller talked Zelvin into one such gray-box deal with Greystone & Co. of Atlanta, operated by Steven Rosenberg, a former assistant vice president at Matthews & Wright whose boss at the firm was Benoit. The bond re-financing deal would pay off the Bexar County bonds and refund the project. Puller agreed to approve final endorsement, endorse the Hyatt management contract and release the escrows after refinancing, the suit alleges. In December, Greystone forwarded \$1.3 million in proceeds to Puller, the suit alleges. Around that time, according to allegations in the Zelvin's lawsuit, Puller Mortgage also withdrew the last \$778,000 from the original mortgage account at Citibank. Puller, the suit alleges, then reversed promises that he'd made prior to the bond re-funding.

ZI was forced into bankruptcy in January of 1989 and a Bankruptcy Court judge ordered escrows released to Puller to pay the subcontractors and bring the project to final endorsement. Although Puller received the funds, subcontractors remained unpaid and final endorsement was not issued.

San Antonio-based FBI Special Agent Claude Martin interviewed Zelvin in February, Zelvin said, and Martin told him the scope of the investigation of Puller Mortgage included alleged securities fraud and mortgage fraud involving projects financed through HUD's coinsurance lending system. (Asked about the investigation, Martin explained to *The Observer* the procedural constraints that prohibited him from discussing the investigation and referred the call to the Indianapolis FBI office.)

A HUD report on Independence Hill indicates that the HUD Inspector General's office had been cooperating with the FBI's investigation of Puller Mortgage as late as April 1990. Bexar County Criminal District Attorney's computer records show that office also turned over its file on Puller Mortgage to the FBI in December 1990.

Puller, however, says he knows nothing about an FBI investigation. He told *The Observer*, "I haven't had any interviews with the FBI. If they have something going, how come I haven't heard about it?"

Ken Puller had always been able to get HUD coinsurance licenses before his competitors did, a fact he liked to flaunt in the trade press and at industry exhibitions. "We're the instigators of coinsurance. We're the one that lobbied for it and put it together. . . We helped write the rules and regulations, in other words," Puller said in a sworn deposition in a suit filed against him by a Phoenix developer. "He is one of the pioneers of the coinsurance program," Silvio deBartolomeis, a former acting Assistant Secretary of HUD, told an Indianapolis reporter writing a 1986 feature about Puller.

The coinsurance lending system issued its first licenses to deputized lenders about 10 years ago. The rationale for using deputized agents was that this system would allow HUD to fund projects without having to maintain and staff permanent offices around the country.

Until the scandals broke in 1989, HUD deputized some 50 coinsurance lenders, who were

granted the power to arrange loans guaranteed by federal government. In theory, these deputized HUD agents carried some 20 per cent of the risk but, in reality, any mortgages that involved government-backed bonds — like those at Independence Hill — were insured 100 percent by the government.

The system's fatal flaw was that coinsurance agents were paid on commissions and, since they could hire their own appraisers, it was profitable for coinsurance agents to inflate valuations to maximize their commissions. One HUD auditor told *The Observer* that half of the \$8 million in mortgages written under the coinsurance system will end in foreclosures paid for by the taxpayer.

When the coinsurance lending licenses were being handed out between 1983 and 1989, Puller was first in line for each building program inaugurated under the coinsurance lending system, according to court records in a suit Puller has brought against some business associates: When coinsurance for substantial rehabilitation of existing housing was inaugurated, Puller Mortgage got the very first license. When HUD launched a coinsurance program for new construction of multifamily housing in 1985, Puller

again got the very first license to participate. HUD started a coinsurance lending program for nursing homes in 1989 and Puller Mortgage received the very first license for that program.

Puller, however, contradicted earlier claims about Puller Mortgage's coinsurance licenses. During a telephone interview, Puller said his mortgage company was issued a coinsurance license for substantial rehab simultaneously with two other companies. Puller Mortgage "may have been one of the first" issued a new construction coinsurance lenders license and it may have been first or second accepted for nursing home construction.

"We had good people. That's all. We concentrated on it," Puller said. His track record, however, indicates he is not above mixing politics and business. Senator Richard Lugar of Indiana wrote a letter recommending him for a coinsurance license, a fact confirmed by Lugar's former press liaison David Shapiro, and Puller had also made substantial campaign contributions to the senator. During the '80s Puller and his family directly donated \$8,000 to Lugar's campaigns and \$11,625 to the National Republican Senatorial Committee, indirectly supporting Lugar. Puller, according to a former

Colonial House in Houston: Defaulting with Distinction

TEXAS, WHICH IN THE 1980s became known as a center for taxpayer-supported financial fraud, has the distinction of holding within its borders the most inflated mortgage ever written under the coinsurance lending system: A \$47 million note on a failed swingers apartment complex in a decaying Houston neighborhood.

Colonial House Apartments, one of the biggest apartment complexes in Houston, was auctioned at a foreclosure in a 1989 sale by HUD for \$8.9 million after its owner defaulted on the insured mortgage. The taxpayer ate a \$42 million dollar loss from the underwriting practices of DRG Funding Inc., the politically savvy Washington mortgage company and coinsurance lender that cut HUD's mortgage on Colonial House.

Landmark Management, a partnership of New York apartment syndicators, had bought Colonial House in 1983 and hired a California promoter named Michael Pollack to market the sagging apartment block as a roost for upscale singles. Pollack ran ads on television starring himself and "babelicious," taunting women at one of the complex's pools.

DRG wrote the mortgage in the mid-1980s for the rehabilitation of Colonial House, a complex of 48 buildings on 49 acres of land in scruffy southwest Houston, despite the fact that only 6 percent of the apartments in the 1,818-unit complex were occupied. DRG's appraisers wrote that Colonial House had a value of \$60 million.

The mortgage officially went into default in 1988. DRG was disbarred as a coinsurance lender in 1989 with a portfolio of more than \$1 billion. At that time, \$70 million of its loans were dead and many more were comatose. HUD's appraisers set the value of the distressed property at \$12 million.

The cost to taxpayer might have been far less if Carla Hills, former HUD Secretary under Bush, and later a U.S. Trade Representative for the Bush Administration, hadn't intervened when the HUD staff was trying to stop DRG's underwriting practices.

After DRG dealt the Colonial House mortgage, HUD staff limited the company's independence in underwriting and declared that projects would have to be cleared by HUD staff people. DRG, in the meantime, had hired Hills after her term as HUD secretary. Hills first approached HUD staff to get the restrictions lifted and then, unsatisfied, met with then-HUD Secretary Samuel Pierce in 1985. Pierce later lifted the restrictions his staff had imposed.

During a House housing subcommittee meeting, one congressman asked Hill if she was hired by DRG because she could access to important offices. She replied, "It may very well be true that as a former cabinet officer, I had better access than some. I think I have a very good reputation as a lawyer knowledgeable about housing."

Not, apparently, the value of apartments in Houston. — P.C.

Lugar aide, was often a participant at political functions when Lugar was mayor of Indianapolis.

HUD records released to the press in 1989 also reveal Puller's political relationships. When Puller attended a President's Dinner in 1987, he stayed in one of several rooms reserved by Thomas Demery, who was then assistant secretary for housing, at the Four Seasons Hotel in Georgetown.

Lance Wilson, former assistant to former HUD Secretary Samuel Pierce, whose administration later was mired in scandal, left HUD in 1984 and became head of New York City's Housing Development corporation. While at New York HDC Wilson kept up a lot of his political contacts from his HUD days and Puller, who did business with HDC, attended a \$911 dinner in April 1985 at Wilson's invitation.

"We had no better access than anyone else," Puller said, discussing his company's good fortune in receiving his coinsurance licenses. "We went through the National Association of Homebuilders and MBA (Mortgage Bankers' Association). That's who did the lobbying."

The FBI's interest in Puller Mortgage was some comfort to Zelvin but it didn't put his project in the black. Residents started to scatter by early 1989 as subcontractors started reclaiming components and grabbing furnishings that hadn't been paid for and nailed down. Independence Hill was hopelessly adrift and about the time ZI was filing bankruptcy, Puller was about to feel a broadside fusillade from a development group he had wronged in Denver. On March 17, 1989, the group, led by Colorado attorney John Musick, won a \$6.35 million civil judgment against Puller for negligent misrepresentation.

Plaintiffs in Denver not only prevailed in their claim that defendants had colluded to defraud the developers, their litigation and events that followed revealed the extent of high-level corruption at FNMA. Puller, it was revealed, was late in submitting an audit report — due on March 31 — in which he would have had to report the loss from the suit and the loss of requisite "sound capital" he was required to have on hand to operate as a coinsurance lender. Puller, according to a HUD Administration Law Judge's documents, persuaded James Hamernick, former Deputy Assistant Secretary of Housing for Multi-family Development, to agree to a later filing. Puller claimed that Hamernick said "no problem" to his request.

HUD's lender approval division demanded the scheduled audit but Puller was never able to submit one that auditors could endorse as complete and in late April 1989 HUD suspended Puller Mortgage's coinsurance license, citing his failure to meet the agency's sound capital requirements — with no mention of the successful Denver lawsuit. The next month Governor National Mortgage Association took away Puller's license to issue GNMA securities.

When the final accounting was done, Puller Mortgage left some 15 projects that ultimately would go into default, around 45 per cent of the portfolio of \$510 million in mortgages that the company originated, adding up to \$236 million

real or potential taxpayer-borne losses — on the notes alone. Meanwhile, HUD officers friendly with Puller and administrators from the office of multi-family housing — charged with overseeing coinsurance lenders like Puller — were attracting the attention of government investigators and prosecutors.

Hamernick and R. Hunter Cushing, a former deputy assistant secretary and advocate of the coinsurance lending system, would plead their Fifth Amendment rights against self-incrimination when called before Congress in 1989 to testify. Demery has been indicted for various frauds and manipulation of HUD programs for the profit of a business partner. Wilson has been hit with an indictment for bribery; deBartolomeis last October pleaded guilty to charges of conspiracy, lying to Congress and colluding with Demery to hide his deals with a business partner.

And Puller, in his effort to get his coinsurance license reissued, even went international and hired belly dancers to entertain Arab investors on whom he was counting to provide capital to resurrect his business. That belly-dancing episode began in 1989, when an Indianapolis export consultant convinced Puller that wealthy Arab royals were waiting to provide \$15 million to revive the de-chartered Puller Mortgage. Puller alleged in a lawsuit filed in an Indianapolis court against the consultant, Munier Jallad, and his "investors"

When Puller arrived in Abu Dhabi and discovered Jallad couldn't produce the rich royals, Jallad set up a meeting with another potential investor named Nour Eddine Zerriffi. But Jallad reportedly told Puller he'd have to pay for a big feast to consummate the deal and as the Arab idea of dinner includes dancing girls, a sumptuous repast was arranged and Puller picked up the check. And, he claims in his law suit, he was promised a pile of fresh cash, though so far he hasn't received a dime.

While Puller was picking up the tab for belly dancers in Abu Dhabi, Zelvin was scrambling to end the siege of Independence Hill. Early in 1990, Zelvin submitted a workout proposal to HUD's Office of Multifamily Housing Management, asking that the agency put up some cash so that the project could be operated into self-sufficiency.

HUD declined, responding, in part, "... we cannot exceed our statutory authority to effectuate your workout plan, or any other plan, regardless of the merits of those allegations." The letter infuriated Zelvin. "It doesn't matter if what I've said is true. That's what it says," Zelvin said. It was enough to launch Ahab, who jumped in the bus and headed off to Washington to meet with HUD's inspector general.

Yet nothing Zelvin offered could move the Washington bureaucrats; not the file cabinets full of documentation, not letters from congressmen to HUD demanding an accounting of money lent on the project, not even evidence that the FBI was investigating the agency's deputy lender could move the bureaucracy.

In July 1990, HUD foreclosed Independence Hill, shifting all losses on the project squarely onto the backs of the taxpayers and at the same

time allowing the government to auction the property. The day of the auction, Zelvin ran up the stairs of the Bexar County Courthouse with a giant blow-up of the *lis pendens* — the legal notice that title to a property is in dispute — he had filed with the land registry to scare off would-be bidders. No one bid on the project and it remained unsold — until this year.

Once the property was sold off, Zelvin's fight was with the federal government and Puller. After finding lawyers to represent him on what looked like a tough case, Zelvin filed his law suit against HUD and Puller Mortgage in San Antonio in January 1991. With HUD brought into the siege, the federal government has been pulled into a conflict of loyalties. Justice Department lawyers are both defending Puller and attempting to define him as anything but an agent of HUD — to limit their own liabilities for anything he might have done while acting as an agent of the government.

Meanwhile, the FBI's investigation of Puller Mortgage is apparently complete. When *The Observer* inquired about the case at the Indianapolis office of the FBI, Agent Ed Lueckenhoff said, "Puller Mortgage? If anyone talks to you about that, it's going to be Larry Mackey at the U.S. Attorney's [office]." Mackey, assistant U.S. attorney at Indianapolis, said his supervisors told him the office couldn't comment, although they were prepared to receive any material *The Observer* cared to share.

In what seem like an attempt to put this trouble behind them, HUD and the Justice Department appear oblivious to civil judgement, allegations and investigations surrounding the federal government's former lending agent. Justice is successfully using in-court procedures to suppress relevant documents in the case — like the Coopers & Lybrand memorandum that discusses "lender liabilities." "The mortgage loan has not been fully funded," the memorandum says, but Justice has successfully petitioned to have the evidence disallowed in court.

The inspector general's memorandum on the Independence Hill project supports Zelvin's allegations but it has been suspiciously "redacted" with large sections having been blacked out. The Justice Department describes the parts of the document they have censored as exempt from entry into evidence because they are either "pre-decisional" or "deliberative" — although the memorandum has a summary and conclusion section and is dated May 1, 1990.

Zelvin's community on a hill, now with more than 70 units filled, was auctioned for \$4,775,000 to Dial Communities on October 15, putting the taxpayer's loss at around \$10 million. Dial, which didn't return *The Observer's* calls, had been indemnified by HUD against any loss from the lawsuits involving the property. Before the auction, HUD announced it would repay the successful bidder should the property have to be returned to Zelvin as a result of his law suit.

Few others besides HUD could afford to make an expensive guarantee like that, but then again, it's all other people's money — taxpayers' money — in the checking account, which is why San Antonio ended up with a half-empty retirement complex in the first place. □

Home Schools in Court

BY ROXANNE BOGUCKA

PERHAPS IT IS THE DESTINY of the state of Texas to be a perpetual litigant over education. The *Edgewood* school finance case has dragged on for a generation. Now it appears that the state will have another day before the Texas Supreme Court on yet another education issue. On January 26, the court will hear arguments in the suit *Texas Education Agency et al. v. Leeper et al.*, a case involving home schooling and the compulsory attendance requirements of the Texas Education Code. While home-schooling parents argue that the right to determine their children's curriculum is at stake, the state's contends that if it loses, its education agencies will lose the authority to establish criteria for home schooling and taxpayers will be liable for \$3.25 million in attorney's fees the home-schoolers have incurred while suing the state.

Section 21.033(a) of the Texas Education Code comprises the compulsory attendance law, and requires Texas children between the ages of seven and 17 to attend public schools for a fixed minimum number of days of the regular school term. Families are exempt from the compulsory attendance law if: a child meets the code's definition of "handicapped" and cannot be served by the school district; a child suffers, temporarily, from a physical or mental illness, for the duration of the illness; a child has been expelled; or a child is enrolled in a private or parochial school.

It is the last exemption that pertains to the lawsuit; specifically, "any child in attendance upon a private or parochial school which shall include in its course a study of good citizenship." The terms "private or parochial school" are undefined in the Code and all of this began in 1981, in response to a school district's query whether home schooling complied with the compulsory attendance statute. A Texas Education Agency (TEA) lawyer issued a legal opinion stating that "educating a child at home is not the same as private school instruction and, therefore, not an acceptable substitute." Attendance officers in school districts across the state, for the first time since 1915, began enforcing against home-schooling parents.

In 1985 the original suit, *Gary W. Leeper v. Arlington ISD*, was filed. The other plaintiff was the Calvert School of Baltimore, Md, providers of home-education materials. The suit named a

broad range of defendants, including the TEA, the commissioners of the Texas State Board of Education (SBE) and truant officers across Texas.

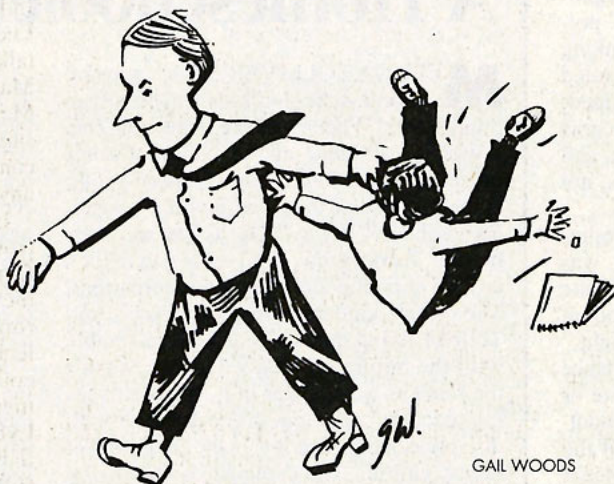
Most compulsory attendance prosecutions begin when someone, usually a neighbor, reports that children in a household do not appear to be attending school. If, after investigation, the complaint is found to have some merit, parents can be taken to court. Those found guilty can be fined \$5-\$25 for a first offense, \$10-\$50 for a second offense, and as much as \$100 per day for repeated offenses. Failure to comply

parents reportedly punished him by starving him to death), are uncommon, but not unheard of. No one denies that the state of Texas has a compelling interest in preventing these kinds of situations, if it can, said Shelby Sharpe, advocate for the homeschoolers. "We've never said compulsory attendance officers don't have the right to make sure a child is in attendance or that a genuine education effort is being made where the child attends," he said.

In an attempt to answer the question "When is enforcement called for?" the State Board of Education, in 1986, adopted new guidelines which described legitimate home schooling. "The intent was to, in 1986, establish a uniform set of expectations for enforcement of compulsory attendance law across the state... guidelines to truant officers," said O'Hanlon. Sharpe contends that what the Board of Education issued was more than a set of guidelines. "They were regulations and they were contrary to the intent [of the statute]... TEA had no authority over private schools, period. They could only make sure that people were in attendance at a type of school, public, private, or parochial," Sharpe said. Sharpe said that the Texas Legislative Council chastised the Board of Education, saying that their directives were regulations, not guidelines.

The state had also hoped that by issuing the guidelines they might get the case settled out of court. It didn't happen. The case went to non-jury trial in front of court-at-law Judge Charles Murray in Fort Worth. O'Hanlon, then an assistant attorney general, represented the state, and Sharpe represented the plaintiffs. Murray ruled for the plaintiffs, and barred truant officers from using the state's guidelines to determine compulsory attendance violations, on the grounds that TEA had no authority to regulate home schools. He further enjoined "any other attempt by the Board to define or regulate private or parochial schools." TEA, not surprisingly, disagreed. "The TEA does not regulate private schools in any way, shape, or form," said O'Hanlon. "TEA felt that they were regulating the conduct of duties of truant officers by giving them what to look for to decide if they should bring a case against parents." Murray also ordered that the plaintiffs' attorneys' fees be paid by all 1,060 Texas school districts. If the parents had lost they would have owed the state for the attorneys' fees.

According to Sharpe, Murray's ruling was a declaratory judgement that defined "private school": "Private, meaning non-public, and school, meaning with a student and a teacher engaged in education.... he just described the



GAIL WOODS

with the compulsory attendance law is also a violation of Chapter 54 of the Family Code, and can lead to loss of custody of children. The standard defense in such cases is that the parents are running a school, and in most such cases that defense is a stout one.

The compelling interest of the state, according to Kevin O'Hanlon, attorney for the Legal Services section of the State Board of Education (who represented the state in the first round of the *Edgewood v. Kirby* school-funding suit), is that its citizens share a comparable, useful education. But parents educating their children at home contend that they are providing an adequate and useful education. "The basic viewpoint of most of the home educators is, 'Why are you spending all of this effort to fix something that isn't broken?'" said Brian Sinclair, a Christian homeschooler. "As a group, home educators feel that the primary interest, the compelling interest in education, is on the parents.... The parents have the compelling interest there, not necessarily the state government."

Incidents of children being kept at home, not for genuine home-schooling, but to work or to care for siblings or the house (or, in the case last year, of the boy in White Settlement, whose

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activity that meant a school at the time of the passage of the [1915] act." According to O'Hanlon, what happened was that Murray issued guidelines of his own, "basically the same guidelines as TEA would have."

If the guidelines are basically the same, one might wonder why TEA took the case to the Court of Appeals, which upheld Murray's decision yet ruled that the TEA's rules were "arbitrary and capricious," and then to the Texas Supreme Court? O'Hanlon said, "The case isn't about the propriety of the guidelines, it's about how to bring a compulsory attendance case. It's a civil suit trying to enjoin the enforcement of a penal statute. This case is about some procedural stuff that lawyers like."

James Todd, appellate coordinator for the Attorney General's Office, wrote the appeal to the Supreme Court. He believes that Murray's order limits truancy enforcement in Texas. "The judge's order means, anywhere in Texas, if a parent wants to do home schooling, and a school district says the home schooling isn't adequate, the parent can haul any district into court in Fort Worth," said Todd. "This will lead, in my opinion, to truant officers taking a 'hands-off' policy regarding home-schooling parents, thinking 'We've got better things to do than be hauled into court in Fort Worth.'" O'Hanlon agreed, but said the larger issue is that such concerns fall under varying community standards, and should be part of a local judicial process, not some court in Fort Worth.

O'Hanlon said that the original agency opinion stated that educating a child at home was not the same as educating a child in a private school — that it didn't constitute a school at all — a position which he felt "wasn't right." His examination of the compulsory attendance exceptions, which do not define "private or parochial," led him to believe that home schooling should be defined objectively. "It's if the kids are learning something. I mean . . . see if the kids learned anything. If so, it's a school." Further, with regard to the legitimacy of such schools, O'Hanlon said that if kids are learning reasonably on par with is expected what they should be left alone: "I mean, no magic here, no absolutely on grade level, because not all of the public schools are doing . . . that, . . . then I say 'Leave 'em alone.'"

This *laissez-faire* attitude is not obvious to home-schooling parents, some of whom worry that they will be subjected to repeated "harassment" from local school districts and arbitrary requirements for curriculum structure and testing from the state. At the November meeting of the Austin Homeschoolers Association, parents discussed the *Leeper* case. About 15 adults sat in chairs arranged in a circle. Several kids roamed freely in and out and about the room. Around the circle, parents introduced themselves, told how many children they had and how old the children were, and why they chose to home school. A variety of reasons emerged: "I don't know," "Traditional schools held kids back," "I always assumed they'd be home-schooled," "I was unhappy with the public schools," "The kids are learning at their own pace," "The [public] schools' rewards were worse than the punishments. The kids became

passive in their own education, and we didn't want that . . . public schools teach a mode of behavior, not information."

Unlike our political system, home schooling has two fairly distinct parties. The parents at the Austin meeting were what are generally referred to as secular homeschoolers—those who have chosen home schooling instead of classroom-based instruction primarily from a desire for a better education for their children, with less concern for religious matters. Those who attended the meeting of the Austin area homeschoolers, while a diverse group themselves, were only a scratch on the surface of the full membership.

The other home-schooling party is more likely to have members who identify with the religious right. In Austin, they have their own group, Christian Home Education Association. A home-schooling friend from Massachusetts told me that in some places the two groups don't even

acknowledge each other's existence. The two main national groups are The National Homeschool Association, which distributes information on home schooling and the availability of educational materials, and the Homeschool Legal Defense Association, which has dealt with cases involving challenges to the freedoms of home-schooling parents.

Among the religious-right homeschoolers are those who are more likely to give their kids an education that is not comparable to Texas' public schools. These are the home-schooling parents that traditional educators worry about. They might home school their kids because they object to local immunization requirements or because they want to protect young minds from corrupting fields of knowledge (evolution or sex education, for example). The religious right defines the home-schooling legislative and lobbying agenda, and is in the forefront of legal actions.

A Homeschooler at Home

MELISSA TOLLIVER'S first exposure to home-schooled kids was less than impressive. "When I was pregnant with Zoe, I was a volunteer at the Nature Center museum, and I had a home-school group come through and they were awful. I thought, homeschool? No way!" But as Zoe and older brother, Adric, grew, Tolliver began to look around at public and private kindergartens. The private kindergartens cost dearly. And Tolliver found that she wasn't comfortable with the public school system. "It wasn't the same as when I was in it," she said, citing teachers' apparent preoccupation with discipline over pedagogy. In the course of her investigations, she came across books by John Holt, a leading home-school proponent; as her husband had frequently mentioned home schooling, she read them. And she decided to homeschool her family, now four kids between the ages of two and seven.

Tolliver's home in suburban Austin has the relaxed atmosphere of people who have made peace with the fact that children, especially four children close together in age, bring with them a certain amount of disarray in the form of toys, paraphernalia, and clutter. In fact, Tolliver may have "relaxed" into home schooling. While none of the parents I met at the Austin Area Homeschoolers were messianic in their home-schooling zeal, Tolliver's attitude is less militant than most.

"The time it takes for four kids in school, and to be there for all of them — frankly, it's very selfish, but I'd rather teach them three hours a day and have the time to do things as a family." For Tolliver's family, home schooling may well be the only solution that allows them to do things as a family. Her husband works a shift that starts at midnight. His two days off are during the week. With his schedule, if the kids weren't homeschooled, he would hardly ever see them.

Although home schooling fits in with the Tolliver family lifestyle and inclinations, not everyone in their extended family is pleased with their choice. Tolliver's mother, who also was homeschooled, isn't nearly as supportive as her mother-in-law. "And my sister has written probably the definitive letter on why you shouldn't homeschool your children," Tolliver adds. "She says that I'm too dependent on my kids and that my kids are too dependent on me."

Some of the criticisms of home schooling Tolliver has heard are downright creative. One woman asked her how her oldest child would keep his place if his next-in-line sibling had the same achievements. "She asked me 'What if the two kids learn the same thing at the same time?'" Most folks' concerns are about social development, either the kids' — "I've never had anyone argue home-schooling with me over academics, always over socialization." — or Tolliver's — "I don't see why just because I'm home and schooling my kids, people think my brain has gone to mush!"

Tolliver feels that if the *Leeper* case has made it all the way to the Texas Supreme Court, it's because the districts are pushing it to the Supreme Court, but that homeschoolers must stand their ground. She says that if she had to go underground [to home-school], she'd go underground, but "I just don't see it coming to that. They [TEA] don't have the time or resources . . ."

Ultimately, though, Tolliver's choice to homeschool is less a matter of legal rights, and more a matter of real family values. "It's an academic issue," she said, "but also it's a difference in the way we see our families. Someone asked me 'How can you spend that much time with your children?' I asked 'How can you not miss spending that much time with your kids?'" —R.B.

"You don't want to get too deep into the curriculum of the religious right," said O'Hanlon. "You want to focus on results . . . show that kids learn the basics." He added that some of the things these parents are teaching can be very strange indeed, but fall within an area that can be interpreted, in court, as individual religious beliefs. These non-mainstream curricula and beliefs are the ones that generally provoke the sharpest criticisms of home schooling, and the most vigorous defenses. The upcoming Supreme Court case, however, has the potential to affect every class of home-schooling parent in Texas.

After the introductions, the Austin group got down to their big concern: *Leeper*. None of the parents at the meeting indicated that they were members of the class-action suit. Paul Saletan, a member of Texas Advocates For Freedom In Education (TAFIE), distributed copies of a newsletter containing the latest information on *Leeper*. The newsletter included a legal analysis by Minnesota attorney Karl Bunday, a former intern with the Homeschool Legal Defense Association.

Todd, of the AG's office, appealed the case to the Texas Supreme Court on two points: 1) the two courts that previously heard the case don't have the authority to tell TEA, SBE, and attendance officers across the state what to do, and 2) the previous two courts were wrong in ruling that the SBE's guidelines violated the homeschoolers' rights to equal protection and due process. The latter point, according to Bunday, is the crux of the case:

The home schooling parents sued under 18 United States Code section 1983 and related sections to protect themselves against a denial of their civil rights by the state authorities. . . . Substantively, the claimants said that the state's application of laws regulating private schooling to the class of home schoolers treated home schoolers differently from the way other private educators were treated, denying the home schoolers the "equal protection of the law" guaranteed by the 14th Amendment. It would be possible in principle for the state legislature to determine that there is something different about home schooling as compared to other private schooling that requires a different pattern of regulation, but when the law is silent on such a distinction, administrators should be even-handed in their treatment. Thus, part of the crux of the home schoolers' argument is that home schoolers are, for purposes of current TX statutes, just another kind of private school.

Asked if, in fact, home schooling was different from private schooling and if the home-schoolers were being treated differently, Kevin O'Hanlon replied, "It is a little bit different treatment of homeschoolers, compared to other private schools, but, market forces come to bear on organized private schools. If no learning goes on, the school would cease to exist." Asked if he thought enforcement was even-handed across all private schools with regard to whether or not legitimate education was going on O'Hanlon responded that "TEA has found no situation where an organized church school wasn't pro-

ducing learning for its students, but if they came across an organized school that was, for example, a front for day labor, they'd prosecute."

Sharpe, however, said that the only difference between private schools and home schools is the size of the student population. "What you're asking, really, is about the quality of home schooling. 'How do we know there's good quality of home education?'" He cited studies that reported home schooling beat public schooling by two grade-levels, "in some cases, by three," Sharpe said the quality issue was never broached in court, because the TEA and SBE knew it was a losing issue for them.

The parents I met at the November meeting were worried about the case. They had a firm grasp on the legal issues. They were not hysterics, though some of my questions and comments elicited a defensive solidarity. I asked the group if any members would consent to be interviewed (see sidebar).

I asked both Brian Sinclair and Kevin O'Hanlon what would happen if the TEA won the appeal. Sinclair felt that it would set the precedent for TEA to regulate home schools. O'Hanlon said that was theoretically possible, "but there is no interest in doing so on the part of the agency." The words "as of now" seemed to hang in the air before me, and I asked how the state would proceed if it ever wanted to change the guidelines.

O'Hanlon said, without going into any specifics, that if the state wins, it would give some indication of how TEA would proceed if the agency ever wanted to change the guidelines. So I was confused when he insisted that whatever change might be wrought upon the home-schooling guidelines, "the state of Texas doesn't regulate home schooling, it enforces on compulsory attendance."

Comparing Texas with other states, he added "Most states probably don't have much in the way of regulation [on home schooling], although the ones that do, it's starting to become more regulated, because of abuse of the system by some." Egregious abuse (such as the White Settlement boy whose parents starved him) can create an outcry for regulation. Abuse of that magnitude is rare, however, and O'Hanlon feels that the measure of a home school should be a "results test. If you are providing an education, then we [TEA] leave you alone."

O'Hanlon, Todd and Sharpe all agree that, whatever the outcome, homeschoolers in Texas are not threatened with the loss of the privilege (which homeschoolers might call a right). "The TEA standards are very generous," said Todd. "They don't require what courses one teaches, or certification of parents. . . . It would be perfectly legal if Texas required *everyone* to go to public schools, no exceptions, but Texas allows alternatives in return for the assurance that you'll get something remotely resembling what you would've gotten in the public schools." Brian Sinclair, a Christian homeschooler, is not relaxing. He feels that a TEA victory will cause homeschoolers and their advocates to make more concerted efforts to get their situation before their lawmakers. "It probably will force the legislature to better define what a private school is." □

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Who Owns the Media?

BY JIM LEE AND ERIC BATES

RICHARD ELAM is bucking a trend. He is one of only four independent newspaper publishers along the entire Texas Gulf Coast, from Corpus Christi to the Louisiana line. For hundreds of miles, all the rest of the papers are owned by corporate chains.

In Texas, as in the rest of the South, newspapers and broadcast outlets are increasingly owned by vast media chains like Hearst, Scripps-Howard and Gannett, as well as by smaller groups like Freedom Newspapers and Harte-Hanks Communications. In the face of such growing corporate control, Elam and his partner Fred Barbee have stubbornly held on to two small-town weeklies — the *Wharton Journal-Spectator* and the *El Campo News-Leader*.

It is not because they have no choice. "We have a standing offer" from a chain to buy the newspapers, Elam says. All he has to do is say "yes" and his papers will be gobbled up, too.

The trend toward group ownership is not new. In 1975, when *Southern Exposure* first looked at media ownership, 65 daily newspapers in Texas were group-owned. Today the number has grown to 74 of the 97 dailies in Texas; chains own 76 percent of the daily newspapers and control 84 percent of the daily newspaper circulation. Over the same period, group ownership of Texas television stations has nearly doubled, from 32 stations to 59, or 58 percent of TV stations.

The trend toward group ownership also is reflected in cable TV, where 12 companies (soon to be 11) control the 28 cable systems in Texas with more than 20,000 subscribers.

Other Southern states differ only in degree. From Texas to West Virginia, more and more media outlets have fallen under the control of fewer and fewer corporations. Since 1975, the number of group-owned daily newspapers in the region has grown from 248 to

318 — an increase of 28 percent. The number of chain-owned TV stations has jumped from 126 to 244 — a leap of 94 percent.

Overall, corporate chains now own 70 percent of all daily papers and 54 percent of all television stations in the South. The top 20 corporations alone control more than half of all

this is the direct result of the corporatization of American journalism."

Media Barons

Media barons have a long and potent history in the United States. From William Randolph Hearst and Joseph Pulitzer to S.I. Newhouse and Rupert Murdoch, powerful and sometimes ruthless men have started their own newspapers — or simply seized control of those started by others. Their rise began over a century ago, when trains and telegraphs liberated people from the confines of hometowns and created a greater need for news and information.

One of the first to see the money-making potential of the press was J.E. Scripps. In 1878, having turned the *Detroit Evening News* into a profitable business, Scripps quickly started up a second newspaper in Cleveland. Within two years the Scripps Publishing Co. owned eight newspapers from Buffalo to St. Louis.

John Knight, an Ohio investor, started a series of raids on Southern newspapers in 1937, when he took over the *Miami Herald* for \$3 million. In a front-page column, Knight promised that the paper would serve the public, "uncontrolled by any group."

But group control of the hometown newspaper is exactly what came to Miami, along with nearly every other city in the country. In 1900, the nation supported 2,042 daily newspapers and 2,023 publishers. Today there are only 1,650 dailies nationwide — and all but 300 are owned by corporate chains.

Indeed, five companies now control more than a third of all newspaper circulation nationwide. Among the modern media barons are Scripps-Howard and Knight-Ridder — the corporate descendants of the earliest entrepreneurs — as well as the Gannett, Newhouse, and Tribune companies.

Such media giants have not been content to merely increase their control of newspapers, however. In recent years, they have extended their reach to radio, television and cable systems, and are now positioning themselves for the arrival of fiber-optic networks and high-definition television. Consider a few of the megadeals of the past decade:

- Ted Turner, owner of the Atlanta-based Cable News Network and SuperStation WTBS, bought MGM/UA Entertainment in 1985. The



dailies and 10 percent of all TV stations in the region.

With large corporations in command of the media, industry observers say, it should come as no surprise that most news and information is filtered through a pro-business perspective. The result has been a kinder, gentler treatment of corporate America by the media — and an increasing emphasis on making money over informing the public.

"There's no question that most newspapers have become much more bottom-line oriented — even the ones we think of as quality newspapers," William Winter of the American Press Institute told the *Washington Journalism Review*. "We hear a lot of editors talking about staffs being cut back. Editors are having to fight harder to get any kind of increase. All of

Jim Lee teaches in the department of radio, television, and motion pictures at the University of North Carolina. John Bare, a graduate student in journalism at the school, and James Cullen, associate editor of The Observer, contributed to this article. Eric Bates is editor of Southern Exposure.

A version of this article originally appeared in Southern Exposure, a quarterly journal of politics and culture published by the Institute for Southern Studies. To subscribe, send \$24 to P.O. Box 531, Durham, N.C. 27702.

studio deal — estimated at \$1.5 billion — gave the media mogul what *Newsweek* magazine called a “diversified entertainment empire.” Turner also tried to take over CBS, but the network raised enough money to fend him off by selling subsidiaries and laying off hundreds of employees.

• The following year, Gannett — the largest owner of newspapers in the nation — bought the *Louisville Times* and *Courier-Journal* from the Bingham family, which had owned the papers for nearly seven decades. The combined circulation of the two dailies added another 300,000 readers to the Gannett empire.

• In 1986, General Electric absorbed RCA and its prize subsidiary NBC for \$6.3 billion. For the first time in history, the deal placed the largest electronic media network in the nation under the direct control of a non-journalistic corporation — one that also happens to be the second-biggest supplier of the Pentagon.

• In 1989, Time, Inc. bought Warner Communications, Inc. for \$9 billion. Overnight, the deal created the largest media and entertainment empire in the nation — a corporation that controls a movie studio, television studio,

24 publications, 6.3 million cable subscribers, two book publishers, and the largest record company and pay-TV network in the nation.

The year-end deal startled even the most jaded observers, prompting worldwide concerns about corporate media control. “On that December afternoon,” wrote the Italian paper *La Repubblica*, “a little piece of the legendary American press freedom died.”

Heading South

As such deals indicate, there has been a lucrative media explosion since *Southern Exposure* first surveyed regional ownership of newspapers and television stations in 1975. As the Southern population boomed and industry moved to the region in search of cheap labor and lax regulation, big media chains joined other Northern companies in their quest to profit from Southern markets. They have been aided by new technologies like computers and satellites, as well as by the deregulatory stance of the Reagan Administration, which removed many barriers erected to prevent undue concentration of media ownership.

The media explosion was also fueled by the

grandchildren of the 19th-century media barons, who began facing stiff taxes on their inheritances during the 1960s. To raise capital, they sold their newspapers to chains or allowed shares of their companies to be traded on stock markets. Because their newspapers had been privately held for generations, outsiders had never known exactly how much money was involved. But as soon as investors learned that pre-tax profits on many papers regularly top 30 percent, corporate buyers quickly entered the picture.

Nowhere has the rapid media growth been more apparent than in the South. Since 1975, the number of television stations in the region has nearly doubled, and Southern newspapers increased their numbers slightly as dailies elsewhere declined. From CNN in Atlanta to *USA Today* in Fairfax, Virginia, the region and its institutions have been at the center of the corporate struggle to reshape the media.

To better understand who is behind the changes, *Southern Exposure* recreated its 1975 survey of media ownership in the region. The survey looked at every chain that owns television stations and daily newspapers in each of the 13 Southern states. Among the findings:

• In the past 17 years, the Canadian-based

Who Owns Your Hometown Media?

Corporate chains now own 75 percent of all daily newspapers and 58 percent of all television stations in Texas. The list includes companies that control two or more dailies or stations in different cities, as reported by *Editor & Publisher Yearbook 1992* and *Broadcast and Cable Market Place 1992*.

NEWSPAPERS

Abilene	Reporter-News	Harte-Hanks	Killeen	Daily Herald	Mayborn
Alice	Echo-News	Boone	Laredo	Morning Times	Hearst
Amarillo	News & Globe-Times	Morris	Longview	News-Journal	Cox
Angleton	Times	Southern	Lubbock	Avalanche-Journal	Morris
Athens	Daily Review	Donrey Media	Lufkin	Daily News	Cox
Austin	American-Statesman	Cox	Marshall	News Messenger	Thomson
Bay City	Tribune	Southern	McAllen	Monitor	Freedom
Baytown	Sun	Southern	McKinney	Courier-Gazette	Hartman
Beaumont	Enterprise	Hearst	Midland	Reporter-Telegram	Hearst
Big Spring	Big Spring Herald	Thomson	Mineral Wells	Daily Index	Livermore
Bonham	Daily Favorite	Head	Nacogdoches	Daily Sentinel	Cox
Borger	News-Herald	Donrey Media	New Braunfels	Herald-Zeitung	Southern
Brenham	Banner-Press	Hartman	Odessa	American	Freedom
Brownsville	Herald	Freedom	Orange	Leader	American Publishing Group
Brownwood	Bulletin	Boone	Pampa	Daily News	Freedom
Bryan	Eagle	Worrell	Paris	News	Southern
Clear Lake	Citizen	Gulf Coast	Pasadena	Citizen	Gulf Coast
Cleburne	Times-Review	Donrey Media	Pecos	Enterprise	Buckner News
Conroe	Courier	Gulf Coast	Plainview	Daily Herald	Hearst
Corpus Christi	Caller-Times	Harte-Hanks	Plano	Star Courier	Harte-Hanks
Clute	Brazosport Facts	Southern	Port Arthur	News	American Publishing Group
Del Rio	Del Rio News Herald	Thomson	Rosenberg	Herald Coaster	Hartman
Denison	Herald	Donrey Media	San Angelo	Standard Times	Harte-Hanks
El Paso	Herald Post	Scripps-Howard	San Antonio	Express-News	News America
El Paso	Times	Gannett	San Antonio	Light	Hearst
Fort Worth	Star-Telegram	Capital Cities/ABC	Seguin	Gazette-Enterprise	Southern
Gainesville	Daily Register	Donrey Media	Sherman	Democrat	Donrey Media
Galveston	News	Walls Investment	Stephenville	Empire-Tribune	Boone
Greenville	Herald Banner	Worrell	Sweetwater	Reporter	Donrey Media
Harlingen	Valley Morning Star	Freedom	Temple	Daily Telegram	Mayborn
Henderson	Daily News	Hartman	Terrell	Tribune	Hartman
Houston	Chronicle	Hearst	Texas City	Sun	Walls Investment
Houston	Post	Media News	Texarkana	Gazette	WEHCO
Huntsville	Huntsville Item	Thomson	Waco	Tribune-Herald	Cox
Jacksonville	Daily Progress	Donrey Media	Waxahachie	Daily Light	Boone
Kerrville	Kerrville Daily Times	Thomson	Weatherford	Democrat	Donrey Media
Kilgore	News Herald	Donrey Media	Wichita Falls	Times Record News	Harte-Hanks

TV STATIONS

Abilene	KRBC	Abilene Radio & TV	Houston	KRIV	Fox Television
Abilene	WHB	Shamrock	Houston	KTRK	Capital Cities/ABC
Alvin	KHSH	HSN Communications	Houston	KTXH	Paramount Stations
Amarillo	KFDA	R.H. Drewry	Irving	KHSX	HSN Communications
Amarillo	KVII	Marsh Media	Kerrville	KRRT	Paramount Stations
Austin	KBVO	McKinnon	Lubbock	KLBK	Woods
Austin	KTBC	Times Mirror	Lufkin	KTRE	Civic
Austin	KVUE	Gannett	Midland	KMID	Davis-Goldfarb
Austin	KXAN	LIN	Odessa	KOSA	Adams
Beaumont	KBMT	McKinnon	Odessa	KPEJ	Associated
Beaumont	KFDM	Freedom	Odessa	KTPX	R.H. Drewry
Big Spring	KWAB	R.H. Drewry	Port Arthur	KJAC	Price
Brady	KWIY	T.B. Lanford	San Angelo	KACB	Abilene Radio & TV
Brownsville	KVEO	Associated	San Angelo	KLST	T.B. Lanford
Corpus Christi	KIII	McKinnon	San Antonio	KABB	River City
Dallas	KDAF	Fox Television	San Antonio	KMOL	Chris Craft
Dallas	KDFW	Times Mirror	San Antonio	KMOL	United Television
Dallas	KDTX	Trinity	San Antonio	KSAT	H&C Communications
Dallas	KXTX	Christian Broadcasting	San Antonio	KVDA	Telemundo
Dallas	WFAA	A.H. Belo	San Antonio	KWEX	Univision
El Paso	KDBC	Birney Imes Jr.	Sweetwater	KTXS	Lamco
El Paso	KVIA	Marsh Media	Tyler	KLTV	Civic
Fort Worth	KTVT	Gaylord	Victoria	KAVU	Withers
Fort Worth	KTXA	Paramount Stations	Waco	KWKT	Associated
Fort Worth	KXAS	LIN	Waco	KWTX	KWTX Broadcasting
Galveston	KTMD	Telemundo	Waco	KXXV	Shamrock
Garland	KUVN	Univision	Weslaco	KRGV	Manship Stations
Houston	KHOU	A.H. Belo	Wichita Falls	KAUZ	Adams
Houston	KHTV	Gaylord	Wichita Falls	KFDX	Price
Houston	KPRC	H&C Communications			

CABLE SYSTEMS (more than 20,000 subscribers)

Abilene	United Artists Entertainment	Houston	Warner Cable Communications Inc.
Amarillo	TCA Cable TV Inc.	Irving	Time Warner Cable Group
Arlington	TeleCable Corp.	Kemah	Storer Communications Cable Division
Austin	Time Warner Cable Group	Laredo	KBLCOM
Beaumont	Tele-Communications Inc.	Lubbock	Cox Cable Communications
Bryan	TCA Cable TV Inc.	Midland	Times Mirror Cable Television
Corpus Christi	Tele-Communications Inc.	Odessa	Post-Newsweek Cable Inc.
Dallas	Tele-Communications Inc.	Plano	Tele-Cable Corp.
El Paso	Time Warner Cable Group	Port Arthur	Tele-Communications Inc.
Fort Worth	Sammons Communications Inc.	San Antonio	Times Mirror Cable Television
Garland	Storer Communications Cable Division	Sherman	Post-Newsweek Cable
Harlingen	Tele-Communications Inc.	Texarkana	Times Mirror Cable Television
Houston (east and west suburbs)	Prime Cable	Tyler	United Artists Entertainment
Houston	Storer Communications Cable Division	Wichita Falls	Time Warner Cable Group

Thomson Newspapers has moved south in search of new markets, establishing itself as the owner of more Southern dailies than any other chain. Since 1975, Thomson has increased its string of newspapers in the region from eight to 33, including the *Gazette-Mail* in Charleston, West Virginia.

Thomson, which now controls dailies in every Southern state except Tennessee, has long been among the most profitable — and the most ruthless — of newspaper chains. According to reporter Jonathan Kwitny, the late Lord Roy Thomson once remarked that he “began to get a twinge of conscience” that he was ill-serving a community only when his profit margins exceeded 40 percent.

- Although Thomson owns the most newspapers, it ranks eighth in overall circulation with 570,000 readers. Knight-Ridder is first with 1.6 million, followed by Gannett, Cox, the Tribune and New York Times chains, Scripps-Howard, and Newhouse.

- Newspaper ownership in Alabama, where

84 percent of all dailies are controlled by chains, is the most concentrated in the region. Chains also own more than three-fourths of all daily papers in Florida, South Carolina Texas, and Virginia.

- North Carolina experienced the most rapid rise of chain ownership in the region since 1975, with media groups more than doubling their control. Chains also increased their share of newspapers by 71 percent in Virginia, 67 percent in West Virginia and 53 percent in Georgia.

- Never content to limit themselves to newspapers, media groups have nearly doubled the number of television stations in their Southern portfolios since 1975. The change has been most dramatic in Florida, where the number of chain-owned TV stations has soared from 14 to 33.

- Chains now own at least three TV stations in more than a dozen Southern cities, including Little Rock, Miami, Atlanta, Louisville, New Orleans, Jackson, Charlotte, Knoxville, Houston, Richmond and Charleston South Carolina. In Birmingham, all five channels are tuned to a

chain: ABRY Communications owns WTTO, Park Communications owns WBMG, Great American Broadcasting owns WBRC, Krypton Broadcasting Group owns WABM, and Times Mirror owns WVTM.

- Many corporations now own both radio and television stations in several Southern states. Among the multimedia, multi-state owners is Adams Communications, which controls TV stations in West Virginia, Texas, North Carolina and Tennessee, as well as radio stations in Texas and North Carolina.

Taxes and Technology

What is new and different about the modern media barons is the increasing variety and complexity of their empires. Knight-Ridder, for example, owns 30 newspapers, including a dozen in the South, as well as the massive Dialog information system of database files. Viacom Cable reaches 1.1 million cable subscribers nationwide and also owns four AM, 10 FM, and

Chaining the South

Corporate chains have steadily increased their control of daily newspapers and commercial TV stations in the region since 1975.

	Newspapers		Television	
	#	%	#	%
Alabama	21	84	18	56
Arkansas	18	58	9	60
Florida	35	81	33	46
Georgia	23	64	20	56
Kentucky	14	61	9	41
Louisiana	16	55	13	48
Mississippi	13	59	10	53
N. Carolina	35	67	21	62
S. Carolina	13	77	14	67
Tennessee	19	70	18	56
Texas	72	75	59	58
Virginia	24	75	12	50
W. Virginia	15	65	8	57
South	318	70	244	54

Sources: *Editor & Publisher Yearbook 1992* and *Broadcasting and Cable Market Place 1992*.

five television stations, including KSLA in Shreveport, Louisiana.

The Washington Post Co. owns two newspapers, *Newsweek* magazine, four television stations (including stations in Miami and Jacksonville), and cable television systems that reach half a million subscribers, including viewers in Gulfport, Mississippi and Sherman, Texas.

Perhaps the best example of the scope of the modern media empire is Capital Cities, which bought the ABC television network for \$3.5 billion in 1986. The corporation delivers news and entertainment programming to more than 225 ABC affiliates across the country. In addition, Capital Cities owns and operates eight of those affiliates, including KTRK in Houston and WTVD in Durham, North Carolina, along with 21 radio stations. On top of that, Capital Cities owns a majority interest in the cable sports channel ESPN and holds substantial interests in cable programming services like Lifetime Cable and Arts & Entertainment. It sells home videos worldwide, owns the *Ft. Worth Star-Telegram* and seven other daily newspapers, and publishes 78 weekly newspapers and 42 shopping guides. No matter where readers and viewers turn, they are bound to encounter Cap Cities.

As media takeovers in the region have multiplied, the lines between the South and the rest of the nation have blurred. The hometown paper is likely to be owned by a global conglomerate like Cap Cities, while a homegrown entrepreneur like Ted Turner cashes in on the the nationwide cable industry and the Virginia-based *USA Today* remakes the front pages of newspapers across the country. Southern media increasingly reflect the standards and practices of their national counterparts — and they increasingly help set those standards for the nation as a whole.

Not all the effects of such concentrated media ownership have been salutary, however. For Richard Elam, who has held on to his two weekly papers in Texas, the trend toward group own-

ership has meant unfair competition. Elam says group owners operate with economies of scale that make production more efficient and less costly. In addition, many chains use their far-flung networks of newspapers and TV stations to offer major retail chains more advertising for less money.

The flow of advertising dollars has also shifted as large retail chains — themselves group-owned — have moved into small Southern towns over the past decade. "The effect is to put some of the local retail merchants out of business and reduce the number of people who advertise in the newspaper," says Elam.

Elam, who teaches media at the University of North Carolina, says group owners enjoyed a boost from new technologies like computers and the commercial offset press. Both innovations were costly at first, so only groups could afford them, but their impact has been widespread. Large chains used the technologies to eliminate people from the work force and cut costs. "The International Typographic Union just disappeared," Elam says.

Fewer jobs for workers has meant greater profits for owners. At a time when most major corporations count themselves lucky to collect 10 percent of their revenues as pre-tax profits, most daily newspaper publishers expect pre-tax profits as high as 40 percent. And how better to shelter those profits, Elam says, than by spending them to buy new media outlets?

"Federal tax rulings in recent years have encouraged a great number of newspaper corporations to buy other newspapers," Elam says. "The government has essentially encouraged groups to spend their new profits or pay more taxes on them."

"So Much Power"

Independent publishers are not the only ones hard hit by the increasing concentration of media

ownership. According to Ben Bagdikian, author of *The Media Monopoly* and a professor at the University of California, the public has also felt the effects.

Bagdikian observes that the profit motive pushes media companies to shape information to attract the most appealing demographic audiences. "It is normal for all large businesses to make serious efforts to influence the news," says Bagdikian. "Now they own most of the news media that they wish to influence."

Like most large corporations, Bagdikian notes, media owners are geared toward short-term profits rather than long-term development. In the competition to expand their empires, he says, news executives are under pressure to "design the product to make quick cash flow." The emphasis on profits accounts for "the remarkable sleepiness on the part of most of the news media during the Reagan years when all these political disasters were occurring and they simply didn't get reported."

Even industry leaders acknowledge that the slumping economy has made media owners bend over backwards to accommodate advertisers. According to McCann-Erickson Worldwide, 1990 was the worst year for newspaper advertising since 1961.

"Editors are tending to listen more to ad department concerns," David Berry, past president of the Association of Newspaper Classified Advertising Managers, told the *Washington Journalism Review*. "We are all realizing it's a hurting market. Why shoot ourselves in the foot?"

For the most part, the federal government has come to the aid of large media owners. Alfred Sikes, chair of the Federal Communications Commission, has not only loosened restrictions on the number of broadcast stations a company can own in a given market, he has also pushed to allow telephone companies to enter the field of video technology. Sikes and other advocates of deregulation are also working to hand the lucrative field of high-definition TV over to major corporations.

The media barons who emerge over the next decade are likely to control even more complex networks of television programming, pay-per-view services, interactive fiber-optic cable systems, computer services, cellular phones, and fax machines. Such advances in communication technology create all the more cause for concern about who will control such powerful resources. With a dwindling handful of media barons controlling nearly all the data and entertainment that travels by phone, cable, computer, and satellite, citizens who need diverse information to function effectively in a democracy are already increasingly limited to the transmissions of corporate media.

"In a country as large and as diverse as we are, it is dangerous for so few organizations to control so much power," says Ben Bagdikian. "We all know how resistant news organizations are to bad news about themselves. With the media in the hands of a handful of corporations, how will the average person even know that a social problem exists?" □

Politics of Social Capital

BY ERNESTO CORTES JR.

Ernesto Cortes Jr., the director of the Texas Industrial Areas Foundation, a statewide network of grassroots organizations, delivered an abbreviated version of the following speech at the Economic Conference presided over by President-elect Bill Clinton December 14-15 in Little Rock, Arkansas:

IT IS OBVIOUS from what we have heard today that the quality of life in our cities has seriously deteriorated. Mr. (Robert) Reich's *The Work of Nations*, William Julius Wilson's *The Truly Disadvantaged*, as well as many other scholarly works have documented what Mr. Reich has called "secession of the successful," the distancing of the wealthy and fortunate from the fate of those less fortunate in the war zones in the centers of despair that have become urban and rural America. At the same time, too many among our adult population feel that politics and public life have become largely irrelevant. To them, as a result, our public discourse has become impoverished. This sense of disillusionment seriously inhibits our ability to work collaboratively.

The forces affecting our cities originate from changes in the national and world economies. Dealing with these forces will require some of the major shifts in economic policy that President Clinton has proposed. Yet, I hope that as we talk about investment, we recognize the importance of investment in our cities and impoverished rural communities.

The Industrial Areas Foundation (IAF) believes that the revitalization of our cities depends on two things. The first is resources and technical competence. The second, however, is equally important: The capacity of our citizens to do "politics," that is, their ability and opportunity to engage in public discussion, debate, argument, negotiation and compromise which culminates in initiatory action. As Sheldon Wolin has suggested, politics means participation. But it is not just taking part as in electioneering. It means originating or initiating collaborative action with others, as in efforts to improve local schools, to bring health care to a community, or to give students access to a higher education or long-term job training. We need citizens and neighbors woven together in a fabric of community institutions, not just participating as customers, clients and professional plaintiffs.

This entrepreneurial political activity, upon which the revitalization of our cities and communities depends, is as important as business entrepreneurship. It is the social capital of our communities. Government can facilitate, encourage, recognize and reward it, but it cannot create it. Government cannot create local initiatives, but it can recognize the ways in

which local initiatives develop confidence and competence. More importantly, government can understand the importance of these initiatives having an institutional base rooted in people's imagination, curiosity, values and search for meaning.

Strategy for rebuilding communities

We need a results-oriented strategy for rebuilding our cities and communities, a strategy which would aid and abet local initiatives. Such a strategy would structure a federal match to leverage the commitments of local municipalities and communities in need. We propose that communities receive a certain minimum entitlement, using the same concept as an augmented (we would hope) Community Development Block Grant Program. However, based on the communities showing serious and indigenous local participation and planning, the federal government would increase the amount of the grant. It is important to recognize that these efforts need to be part of an overall strategy through which state and local governments, corporations, and private sector institutions provide resources to match the social capital of local community organizations. The federal contribution would especially encourage and reward substantive commitments from the corporate community, such as evident with the scholarships and jobs program of the Commonwealth effort in Baltimore or the commitment of jobs involved in the San Antonio COPS and Metro Alliance job-training effort. Any such federal effort would be dependent upon evidence of similar kinds of coordination and involvement of authentically local independent institutions. At a minimum, community partners which represent the local social capital would have to be non-governmental, financially self-sufficient, demonstrate a constituency, and have a history and track record of at least two-and-one-half years, so that they can hold their local government accountable.

If a local community demonstrated a serious commitment of local resources to deal with basic infrastructure needs — sewers, water projects, flood control, roads, sidewalks, streets, parks, libraries, community centers, clinics — targeted to inner city and poorer areas, the federal government would significantly increase the grant. The grant would be further augmented if there were a serious housing strategy targeted at first-time home buyers and involving public-private partnerships with local community-based organizations that have serious constituencies and track records. The strategy should also involve

a grant for first-time home buyers, as in the Nehemiah Homes effort. It would likewise reward efforts in other areas, such as transportation, job training, public education and health care. If the local community were building the human capital of poor people through initiatives like, for example, Project Quest, a serious job training strategy in San Antonio (See TO, 12/25/92), it would receive a larger grant. Essentially, the federal government would match local investments of money, resources and sweat equity.

Communities of hope

There are thousands of efforts which reflect serious local investments of social capital. The ones with which I am most familiar include:

- **The Nehemiah Homes Project in Brooklyn and Bronx, New York.** East Brooklyn Congregations has built more than 3,000 new single-family homes for working families, renewing completely devastated neighborhoods. This was possible because the broad-based organization, under the auspices of the IAF, leveraged land and tax abatements from the city of New York and no-interest construction financing from religious institutions. In addition, each home carries an interest-free, city second mortgage of \$15,000 as a lien, repayable whenever the house is sold. A federal program could match these kinds of efforts with block grants providing the \$15,000 payments for first-time home buyers. A similar Nehemiah program has worked in Baltimore. The Nehemiah Housing Opportunity Act was passed by Congress in 1988.

- **Job Training in San Antonio.** Governor Ann Richards, former Mayor Henry Cisneros, COPS and the Metro Alliance, the business community, the city of San Antonio, the local Private Industry Council (PIC) and several other state and local agencies collaborated to create a \$7 million, high-skill job positions, primarily in health care. The Governor committed \$2.3 million for development; the city committed \$2 million for income maintenance; the PIC committed \$2.6 million for job training; and COPS and Metro Alliance committed the sweat equity of the neighborhood leaders, who hold trainees accountable to the community for commitment to long-term training.

- **Commonwealth in Baltimore.** The corporate community in Baltimore contributed \$20 million in scholarship funds to be matched by funds from local universities for high school graduates with good grades and a good attendance. The BUILD organization contributes by

bringing in additional resources from the government, and through the participation of families and local schools. Similarly, COPS and the Metro Alliance have created the San Antonio Education Partnership, which was modeled on the Commonwealth effort.

• **Colonias in South Texas.** The state of Texas has pledged \$250 million in grants and low-interest loans, which are helping to leverage federal and local funds, to build water and sewer systems along the Texas-Mexico border. Valley Interfaith, the Border Organization and EPISO (El Paso Interreligious Sponsoring Organization) developed the effort in collaboration with the elected leadership of the state, the Texas Water Development Board and local providers. It is important to recognize the countless hours put in by Valley Interfaith leaders in the development of their strategy.

• **Moral Minimum Wage.** In 1987, after nine months of hard dialogue and negotiation with Southern California IAF, the California Industrial Welfare Commission raised the state's minimum wage to \$4.25 an

hour, then the highest in the nation.

• **Texas Alliance Schools.** The Texas Education Agency has pledged additional resources to 32 schools collaborating with local community organizations to seriously reorganize neighborhood schools. Modeled on the experience of Fort Worth's Morningside Middle School, in which leaders of Allied Communities of Tarrant re-knit the fabric of community, binding families, teachers, administrators and community leaders, the Alliance Schools seek to empower stakeholders in schools in order to make dramatic improvements in performance.

Implementation

A pilot program to encourage these kinds of local initiatives could target medium-sized cities where strategic investments could have a large impact, cities such as Atlanta, San Antonio, Fort Worth, Tucson, Baltimore, New Orleans, or Memphis. A similar strategy could be piloted in larger cities at the same time. An office within the cabinet could coordinate

the federal government efforts; the office would have authority to structure grants in a variety of areas, including the departments of Housing and Urban Development, Health and Human Services, Labor, Education, Transportation and Commerce, the Environmental Protection Agency and the Office of Management and Budget. Representatives of these agencies would form a council modeled after the National Security Council. It would establish guidelines, outline a strategy for assessment and offer technical assistance. Ultimately, the council would have in the neighborhood of \$15 billion in grant money for these comprehensive urban initiatives.

The task of building is urgent. Vaclav Havel (playwright and former President of Czechoslovakia) pointed out in his address to the World Economic Forum in February, our civilization is in danger of destroying itself through inattention to numerous massive threats — the population explosion, the greenhouse effect, AIDS ... As Havel indicates, the rehabilitation of "human uniqueness, human action and the human spirit" can only be accomplished through a different kind of politics. That is what we propose. □

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High-Risk High-Tech

BY KENT PATERSON

A S THE NATION CONTINUES its drift away from smokestack industries, economic planners are looking to high technology to provide the jobs of tomorrow. Building on a 20-year phase of high-tech development, Southwestern cities from Austin to Albuquerque to Phoenix are aggressively seeking new computer-chip, printed-circuit-board and aerospace manufacturing firms. But like California's Silicon Valley, many of these communities already have suffered the side effects of what once was promoted as a clean industry: polluted groundwater, worker illness, rising housing costs and a widening gap between a well-paid managerial-technical class and a poorly paid production force.

A national campaign is underway, with grassroots organizers in high-tech centers like Albuquerque and Austin trying to redirect the industry toward an environmentally sensitive framework and to get the industry's companies to guarantee clean, stable employment in minority communities where much of the production goes on. Christened the Electronics Industry Good Neighbor Campaign, it is a collaboration of the Campaign for Responsible Technology and the Southwest Network for Environmental and Economic Justice, an Albuquerque-based organization now working in seven western states.

"We're not against employers coming into the community. This is a campaign for responsible technology," said Frank Campos of Austin's People Organized in Defense of the Earth and its Resources (PODER), a Good Neighbor Campaign affiliate. "We're not against economic development. There has to be a balance between the type of industry that comes in, the benefits to the community, protection of the environment. All that is a package deal."

PODER, along with grassroots groups in five other states, conducted a summer-long organizing drive that included public forums, meetings with current and former workers and lobbying elected officials. In October, the campaign issued a number of demands to the semiconductor industry, as well as state and federal regulatory agencies, calling for increased research in methods to produce computer chips without the use of hazardous chemicals; greater attention to health and safety training; commitments to provide employment for local res-

idents first; caps on executive salaries in a business where individual compensation sometimes exceeds \$1 million; a ban on the use of temporary agencies in employment; and respect for workers' rights to organize.

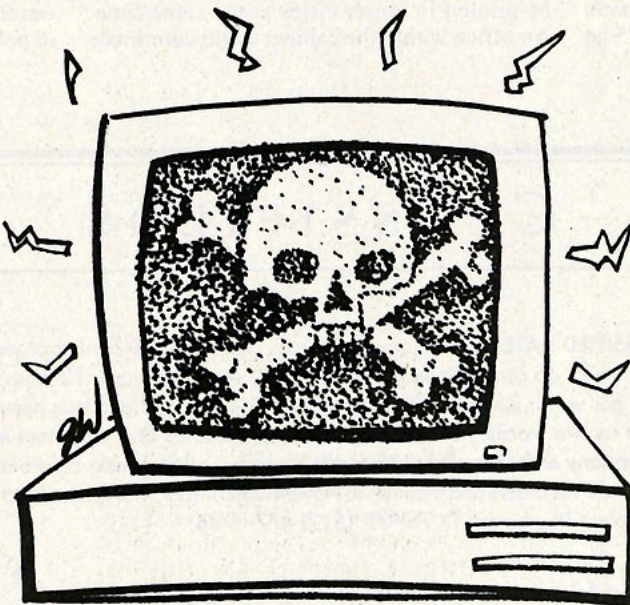
"We're all going towards the same goal and we're finding out the same things," said Albuquerque organizer Aida Franco. Franco, who works for the Southwest Organizing Project, another campaign affiliate, has researched the health and environmental impact of large computer-chip makers and criticizes the high-tech industry for routinely giving the best jobs to

including Intel, Motorola and Digital, Sematech's goal is to regain the edge in the worldwide computer chip market for United States-based corporations. A fundamental objective of the Good Neighbor organizers is to move Sematech away from its relationship with the Department of Defense and, now that the Cold War has ended, to redirect Sematech toward environmental and civilian technological research. So far, the industry's response has been a mixture of reluctant discourse and outright refusal. Sematech, for instance, has conducted an on-and-off dialogue with campaign members, allowing activists to tour the consortium's facility in Austin on at least one occasion.

Sematech spokesman Scott Stevens said the research consortium supports the campaign's ecological goals and employs people who have a knowledge of environmental issues. He cites Sematech-backed research into equipment safety guidelines and minimization of gases and solvents in the production of silicon wafers as examples of the Sematech's leadership in the environmental arena. "So those folks who come to us are already environmentally versed," Stevens said.

Traditionally, high-tech industries have used solvents, toxic gases and acids to clean circuit boards or clean material from silicon wafers used in the production of chips. Medical research has linked these substances, and the heavy metals also involved in the process, to cancer, miscarriage, central nervous system damage, severe headaches, memory loss and other ailments. The campaign is pressuring the industry — which in its production facilities employs predominantly women of color of child-bearing age — to devote more attention to employee safety. Concern about pre-natal risks increased after last year's release of a preliminary report of a Johns Hopkins University study of IBM chip workers in New York and Vermont. The study found a high rate of miscarriages, as did a similar study conducted at a Digital factory in Massachusetts in 1986.

Nationally, the Semi-Conductor Industry Association (SIA), a trade group established in 1977 to represent U.S. corporations in the global marketplace, is sponsoring a health study of 18,000 workers at computer companies across the country. Results should be released sometime this winter. Yet already a growing number of workers claim illness as a result of exposure to toxic materials at high-tech work sites. Nowhere is this more apparent than in Albuquerque, a city already known in occupational-health circles for having the worst cluster of poisoned high-tech workers in the United States.



GAIL WOODS

white males while locking line workers — mainly women of color — into the most dangerous jobs.

"There's no promotional avenue. There's no way of becoming technicians," said Franco. "If you're hired in the labor force, that's all you're going to stay — a laborer."

Last year the Good Neighbor Campaign won a victory when Congress authorized \$10 million to be included in the budget of Sematech, the Austin-based computer-chip research consortium, for research into development of an environmentally benign chip.

Campaign organizers had lobbied Congressman Ron Dellums, a California Democrat, to include the money in the 1993 Defense Reauthorization Act. The legislation requires Sematech to consult with environmental and labor groups to decide how to spend the money. Elated, leaders of the Southwest Network and the CRT then called on individual computer companies to match Sematech's upcoming expenditure.

Formed by 12 of the largest chip producers,

Kent Paterson is a radio producer and a freelance writer in Albuquerque.

Many worked at the old GTE-Lenkurt plant between 1972 and 1986, where chemicals were used to clean circuit boards under poorly-ventilated conditions some employees have likened to a "gas chamber." Mary Lou cDe Baca began working at the factory during the early 1970s when she was in good health and 32 years old. Within a few months, she began to suffer internal bleeding and as a result underwent a hysterectomy. Gum troubles, searing headaches and insomnia soon followed. "My children and husband had to drive me to the doctor and cook for me," she said. cDe Baca said she earned a better-than-average salary at GTE-Lenkurt but: "They were paying us to die."

Nearly 200 GTE-Lenkurt workers filed a workers' compensation lawsuit against the company in the mid-1980s and later settled out of court. The corporation has steadfastly denied responsibility for the health complaints. In 1987, 457 former GTE-Lenkurt workers and their dependents joined a lawsuit seeking, on product liability grounds, billions of dollars from several chemical manufacturers, alleging the companies failed to warn GTE-Lenkurt of their products' hazards. More settlements followed, with the last defendant in the case, Dow Chemical, going on trial earlier last year in U.S. District Court in Houston. The jury decided in Dow's favor, although lawyers reportedly are negotiating a settlement in the case.

Some industry insiders concede the poor safety and environmental record of high-tech industry in its formative years, but insist that the businesses are cleaning up their act and searching for new methods and for processes to substitute for hazardous chemicals, while safeguarding workers in situations where no alternative to chemicals is feasible.

The SIA's Beerman, for example, calls the semiconductor business "a model for other industries" in terms of worker health and safety. Beerman cites Bureau of Labor Statistics figures that show less occupational illness in electronics than in other industries. When industry leaders were informed of the Johns Hopkins-IBM study, Beerman notes, many semiconductor employers met with their employees to discuss the possible hazards and to offer workers the option to transfer to tasks that did not involve chemical exposure. "We're not trying to hide anything from anybody," he said. "We're trying to put all the information out on the table and let workers and their doctors judge, you know, what course of action to take."

Nonetheless, reports of high-tech workplace hazards continue to surface. PODER, for example, documented a May 19, 1992, incident at the Advanced Micro Devices plant in Austin, in which 28 workers received medical treatment after a hydrochloric acid spill.

High-tech hazards are not confined to the private sector. In December, for example, Albuquerque's Sandia National Laboratories, facing workers' compensation claims, released the results of a Duke University study on the health of 25 current and former microelectronics laboratory employees who used chemical solvents to clean electronics parts at the plant, which contracts with the U.S. Department of Energy. Although the study was limited by the lack of

health monitoring data, the Duke researchers concluded that the employees probably suffered temporary sickness from chemical exposure, with some showing signs of brain damage associated with solvent poisoning. The number of affected workers could be higher, since the study group was made up of volunteers and did not include everyone who worked in the electronics section.

Strategists working on the Good Neighbor Campaign are using the worker health issue as ammunition in a battle to force high-tech companies to become more socially responsible. Since much of high tech's growth is underwritten through direct or indirect public subsidizing, the campaign wants an end to "whipsawing," a process by which private companies play one locality against another in search of the best deal in tax breaks, infrastructure and educational support and a hospitable regulatory climate.

One popular device cities and government entities employ to attract high-tech firms is the industrial revenue bond, which typically has provisions for property tax exemptions and sometimes includes tax-free interest earnings privileges for the private investors who purchase the bonds.

Industry critics, such as PODER's Campos, have been critical of public underwriting of corporations which operate with no citizen input, play down environmental hazards, then locate or relocate as suits their needs. To underscore their point, industry critics charge that high-tech industries often locate where school and social services are already strained by budgetary difficulties and unemployment rates dictate a jobs-at-all-costs attitude.

"Many times what happens is that communities that are competing for companies to locate in their communities offer such great incentives, it's coming out of the pockets of the people who can least afford to do that," said Campos, "and we feel that we shouldn't be pitting one community against another or one state against another."

In today's economic climate, however, proponents of economic development are stepping up efforts to attract high-tech companies to their communities. One example is the behind-the-scenes competition among Texas, New Mexico and other states for a possible new Intel computer-chip plant. Governor Ann Richards, accompanied by the mayors of Austin, San Antonio and Fort Worth, flew to California last summer in an attempt to convince Intel Chairman Gordon Moore to locate his company's proposed new production facility in Texas.

Texas faces some stiff competition. The computer giant, which witnessed record profits in 1992, is expected to announce this winter whether it will build a new plant, with an estimated 1,000 on-site jobs and another 1,500 in contracted services, or expand existing plants. Rio Rancho, New Mexico, the Albuquerque suburb where Intel already employs 2,100, last spring approved a record \$1 billion industrial revenue bond package in an attempt to entice Intel to expand its existing New Mexico facility. The *Albuquerque Journal* noted the bond issue equalled nearly one-half of the entire state budget.

Although Intel and state officials in Texas and New Mexico are tight-lipped about the com-

pany's plans, Texas is still in the running for a factory. Good schools and the overall quality of life are as important as tax breaks and labor costs, according to Intel spokesman Howard High. Kathy Schwartz, a spokeswoman for the Texas Department of Commerce, cited advantages such as a good highway network, proximity to Mexico, superior technical training at the university level and the proven ability of the University of Texas to transfer technology to the private sector. "The cities [Intel is] considering offer a lot of the attributes they're looking for," Schwartz said. "Texas has a good base of high tech. Texas is in a good strategic position to become a leader in moving resources to the marketplace."

Whether Intel decides to move to Texas or not will probably matter little. The state is already established as a leader in the emerging industry and Bill Clinton's Administration probably move high-tech industries to center stage in a restructured economic system in which the United States undertakes to reposition itself in the world's markets.

As a response, the Electronics Industry Good Neighbor Campaign is trying to coordinate a grassroots community, labor and environmental movement aimed at reforming the most dynamic sector of the economy. Until now, said campaign analyst Lenny Siegel of the Pacific Studies Center in Mountain View, California, policy debates over the direction of high tech have taken place within a narrow spectrum of the right wing, with one branch in favor of a free-market approach and another in support of state intervention.

"And there's never been a third voice nationally on the promoting of technology based on the needs of the people as a whole and involving the people in their communities and determining what that technology does," Siegel contends. "And what we're doing is not only giving a voice to that on a national scale, but rooting it in the communities that are most affected." □



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Enduring Fidel

BY SAUL LANDAU

ON JANUARY 2, Fidel Castro marked his 34th year of rule in Cuba. For almost that long the United States has tried every tactic short of sending in Marines to overthrow the government 90 miles off the Florida coast. The myriad "expert" predictions about Castro's imminent fall have proven silly. Indeed, it makes more sense to ask why he stayed so long in power.

One reason is that obstinate U.S. policy has helped deprive Cubans of an alternative to their present system. Another reason is that Cuban communism has delivered in some areas and millions of Cubans are well aware of that fact because it has been their sweat and blood that has built hospitals, schools and roads. The revolution did, after all, convert Cuba from an informal U.S. colony into a proud nation that became a world geopolitical player for 30 years. Clinton might review these facts — and his predecessors' behavior — for policy lessons.

Eisenhower (#1, January 1959-January 1961) permitted Castro to pursue his opposition because he was certain that the CIA would get rid of the bearded guerrilla. The agency later collaborated with the Mafia to assassinate Castro and recruited and trained several thousand Cuban exiles to invade the island. Washington imposed an embargo on Cuba and broke diplomatic relations.

Kennedy (#2, January 1961-November 1963) authorized the CIA-sponsored invasion of Cuba and watched helplessly as the counterrevolutionary plan turn into a fiasco in 72 hours. The CIA continued to hatch assassination plots and carry out sabotage. When Castro countered and agreed to the emplacement of Soviet nuclear missiles and bombers in Cuba, the world faced a Missile Crisis in October 1962. By late 1963 Kennedy appeared to have mellowed and sent an emissary, with an agenda for discussion, to see Castro. At the very moment Castro admitted the envoy the news came that Kennedy had been shot in Dallas.

Johnson (#3, November 1962-January 1969) tightened the embargo, got Cuba kicked out of the Organization of American States and maintained a steady level of CIA dirty-trick harassment. But he was more than occupied by Vietnam.

Nixon (#4, January 1969-August 1974) used the CIA on a few assassination attempts. But by 1974 Nixon had also learned that if the United States could drop its obsession and open relations with China, a big red monster, it could certainly

afford to live with Cuba, a much smaller one. In June 1974, Secretary of State Henry Kissinger sent a confidential note to Fidel Castro asking the Cuban leader to open high-level talks. Castro agreed, and secret meetings commenced between Lawrence Eagleberger and Cuban Envoy Ramon Sanchez Parodi at a New York airport.

Ford (#5, August 1974-January 1977) continued the secret talks, which led ultimately to the establishment of Interests Sections in Washington and Havana, informal embassies that allowed for more civilized communication between the two countries. Although Ford broke off the secret meetings when Castro sent troops to Angola in October 1975, he also enlarged loopholes in the embargo — opened in Nixon's final year — which allowed U.S. subsidiaries abroad to cash in on the Cuba trade.

Carter (#6, January 1977-January 1981) used diplomacy to address the issues that stood as barriers to normal relations. But obsessive anti-communists in the Carter Administration helped sabotage the diplomats. They used human rights as a national security weapon to attack the Cuban regime in its area of vulnerability. By focusing attention on procedural rights involving free speech, press and political prisoners, Carter and his successors won propaganda victories against Castro in the Western media and put brakes on the diplomacy efforts. Castro's plea to the press to focus on substantive human rights, such as housing, access to food and medical care, employment and retirement, where Cuba would receive higher marks than the United States, fell on deaf ears.

But Carter's opening had an impact inside Cuba. Discontent inside Cuba erupted in 1980 when some 12,000 people took refuge in the Peruvian Embassy. When Carter chided Castro on Cuba's restrictive immigration policy, Fidel retaliated by opening up the port of Mariel to those wishing to go the United States.

Among the 125,000 Cubans who left for Florida in April 1980, before Castro closed the port, were a liberal quantity of criminals and insane people. Bill Clinton will remember them because Carter placed thousands of *Marielitos* at Fort Collins, Arkansas, during Clinton's first term as governor. The handling of a Cuban refugee uprising at Fort Collins proved to be a liability when Clinton ran for a second term and lost.

Reagan (#7, January 1981-January 1989) stepped up the propaganda war against Cuba while his Secretary of State Alexander Haig threatened in vain to "go to the source" of terrorism in the hemisphere, meaning a naval quarantine of the island. For eight years, as the Soviet Union disintegrated, Cuba was accused of being its primary agent of evil in the hemisphere.

Bush (#8, January 1989-January 1993), instead of recognizing that Castro's Cuba had more staying power than the supposedly stronger regimes in the U.S.S.R. and Eastern Europe, tried to destroy the revolution by strangling it to death. Making normal relations dependent on Cuba's adoption of a U.S.-style democracy and a free market economy, Bush provoked a harder line inside Cuba. Dissidents who had been freed were rearrested as Castro called for wartime unity in the face of the renewed U.S. aggressiveness.

Mistaking fixation *hubris* for reason, Bush progressively tightened the embargo and ultimately signed the so-called Cuba Democracy Act that prohibited U.S. subsidiaries abroad from trading with Cuba and refused to allow ships that had docked in Cuban ports to dock in U.S. harbors for six months, thus making it even more difficult for other nations to engage commercially with the communist island. Castro didn't collapse as a result, but the United States was humiliated at the U. N. General Assembly, which by an overwhelming margin voted to condemn the embargo.

Clinton (#9, January 1993-?) can learn from the past that Fidel Castro thrives on adversity. He also has considerable internal support that has survived the worst of economic times. Cubans might grumble over scarcity, but there's no apparent malnourishment or millions of kids going to bed hungry. They can compare their conditions to conditions in other places around the world and see that despite the restrictive nature of their system they are better off.

By treating Cuba like any other nation the United States can enjoy the benefits of commerce and even tourism. That way of relating to a people about whom we claim concern makes sense. We sent 30,000 troops to feed the Somalis whose government was barbaric, while trying to prevent Cubans from getting food and oil. We sent a half-million troops to defend Saudi Arabia, a kingdom that cuts the hands off religious dissenters. China, whose political prisoner population far outnumbers Cuba's, gets most favored nation status.

We have welcomed (imported) one million anti-Castro Cubans, the logical opposition to Castro's policies on the island. They have more influence on U.S. policy than they do on Cuban affairs. Most of the ten and a half million who remain on the island think of the embargo as a mean punishment policy that deprives them of food, medicine, oil and other necessities.

If President Clinton were thinking of logical New Year's resolutions he might pledge to return Cuba policy to a realistic standard of behavior and drop the 34-year-old obsession. □

Saul Landau is a fellow at the Institute for Policy Studies in Washington, D.C. He directed a film on Castro that appeared on CBS in 1974 and was present when Castro received and read the note from Henry Kissinger.

Labor's Love Lost

BY STEVEN G. KELLMAN

HOFFA
Directed by Danny DeVito

"HE IS DIFFICULT to figure out unless he's slightly mad which I think he might very well be," wrote Robert Kennedy about Jimmy Hoffa when, as chief counsel to a Senate select committee on labor corruption, Kennedy was trying his best to put the Teamster boss behind bars. His best was not yet good enough. James R. Hoffa's middle name was Riddle, and anyone attempting an account of his turbulent life should begin with a respect for enigma. Few figures in recent history have been so revered and reviled, for the same reasons.

"He was the most powerful labor leader who ever lived," claims director Danny DeVito in a press release and a bit of hyperbole. True, in 1961, when Hoffa took over the presidency of the International Brotherhood of Teamsters, trucking employed more than 7 million people. But Samuel Gompers, John L. Lewis, Walter Reuther, and George Meany were not chopped liver. What about union chiefs in Mexico, Argentina, Brazil or Italy? Lech Walesa toppled a government and altered the equations of authority throughout Eastern Europe. *Hoffa* is an act of hagiography, complete with martyrdom, but what is remarkable about it is how warts appear as beauty marks. Though clearly a crook and a brute, Jack Nicholson's Hoffa is an amiable scoundrel.

Senator Sam Ervin said Hoffa "makes Attila the Hun appear by comparison to be a very mild-mannered and benevolent individual." Hoffa's Hoffa is a brawler, arsonist, perjurer, embezzler and racketeer, neither mild-mannered nor benevolent when it came to wielding power. When a *Detroit News* reporter threatens to print information that could scuttle Hoffa's bid to head the Teamsters, he is sent a bottle containing human testicles; the tactic is quite persuasive. "I may have faults, but being wrong ain't one of them," quipped Hoffa, wrong in that as in so much else, including his support for Richard Nixon, who called Frank Fitzsimmons, the dolt who succeeded Hoffa as IBT president "my kind of labor leader." But the camera adores Hoffa anyway, almost as much as the workers who were willing to overlook the shady ways by which he won their battles.

Part of the reason is the iconography that the stars bring to their roles. From *Easy Rider* through *Chinatown*, *Prizzi's Honor*, *The Witches of Eastwick*, *Batman* and much else, Nicholson has built a career based on stubborn, raffish characters casual about the nuances of ethics and law.

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Nicholson playing Hoffa is a perfect coup of casting, and, regardless of the iniquities of the role, the veteran moviegoer roots for him to pull it off. By contrast, Kevin Anderson is not a familiar face, and his Robert Kennedy, Hoffa's nemesis, is a callow prig. However, DeVito, who plays Bobby Ciara, a fictional composite of several of Hoffa's actual disciples, benefits from our history with him. No moment in the film is more chilling than the one in which Hoffa, Ciara and the *mafioso* Carol D'Allesandro (Armand Assante) go off into the Michigan woods to combine hunting with business. So absorbed are they in details of the union pension fund that they neglect the local fauna. But when a fearless deer walks up to Bobby, he pulls out his pistol and, point-blank, shoots it dead. It is an act of gratuitous cruelty even more loathsome than Bobby's tossing cash at the fawning woman he has just spent the night with. But, as actor and director, DeVito draws on a reserve of good will, even when behaving like a knave.

Cinema has a generic bias toward energy, and a screen treatment of *Paradise Lost* would surely inspire sympathy for the devil. Nicholson's Hoffa is a figure of inchoate force whose words and deeds are forever bursting the bounds of decorum. "I'm gonna do what I gotta do to get the union back," barks Hoffa in the trailer clip that has been tantalizing audiences for months. His blunt and truculent speech is just the thing for David Mamet, who wrote the script and who, in such plays as *American Buffalo* and *Glengarry Glen Ross*, has made himself the bard of crude and angry men. He excels at stories of male bonding, in which males are bound for trouble, and, in the 1950s and '60s, the truck cab was a male enclave. Women are as welcome as a spare rib in a Buddhist kitchen.

Hoffa had a wife, Jo, to whom he was reportedly as devoted as to the IBT. But she remains invisible for most of the film. Hoffa begins and ends with two men in a parking lot in 1975. Jimmy and Bobby wait in vain all afternoon for a mobster to arrive for a meeting. DeVito tells the story of Hoffa by flashing back and forth between the fleeting present and chronologically ordered episodes from the past. We know from the outset that these are 62-year-old Hoffa's final hours and, the film even presumes to resolve one enigma by speculating on how he died. The classical unity of time intensifies the action and offers Hoffa as a tragic hero.

Hoffa is the character study of an extraordinary thug, and it has more in common with criminal spectacles like *The Godfather* and *The Untouchables* than with union movies like *Salt of the Earth*, *Matewan*, *Norma Rae*, and *Harlan*

County USA. Recruiting and striking are the two union activities that are most cinegenic, and Hoffa offers lavish scenes of Hoffa goading truckers into Teamsters and of the commander leading his pickets into industrial battle. But the film gives little sense of the mundane operations and issues of a major union. It suffers from the cult of personality, and Hoffa's prodigious personality obscures the fact that he was part of a labor movement. The film is silent about the IBT's rancorous expulsion from the AFL-CIO, as it is about crucial issues that shaped the work of labor leaders in the '50s and '60s, including civil rights and Vietnam. Hoffa's rank and file are all white.

"Life's a negotiation," contends Hoffa. "It's all give and take." Hoffa portrays the Teamsters' top negotiator as more comfortable giving than taking, while it ignores the intricacies of collective bargaining. "They treat us like dirt," complains Bobby about the trucking executives; that is about as sophisticated an analysis of why and how a union works as Hoffa offers. You would not know from this movie that the industry was embroiled in complex haggling over mileage pay, piggybacking on railroad flatcars, and sleeper cabs.

Hoffa joins two other big biopics: *Chaplin* and *Malcolm X*. Each presents its protagonist as a martyr to American injustice, although it is only Chaplin's character and spirit that are assassinated by federal prigs and xenophobes. Malcolm is gunned down in the Audubon Ballroom on February 21, 1965, while Hoffa's disappearance on June 30, 1975, was almost certainly a violent one, even if not exactly according to the scenario that DeVito provides. While Denzel Washington's Malcolm is distanced from the rest of us by his sanctity and Robert Downey Jr.'s Chaplin by his artistry, Nicholson's Hoffa is the most human of the three.

"The brotherhood of man is not a mere poet's dream," wrote Oscar Wilde, not yet dreaming of the Brotherhood of Teamsters. "It is a most depressing and humiliating reality." □

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Freedom Fights Past and Present

BY MAURY MAVERICK

"DEAR REPRESENTATIVE John Barnhart:

"Legislators who seek social justice today are unfortunately rather few. Sometimes I wonder how the good people of Beeville had the good judgment to elect you. You have been in Austin long enough to discover that some of our legislators are frightfully reactionary, and some, it is said, are not even honest ... some of the legislators from San Antonio could hardly be called statesmen.

"Since the Board of Regents of Texas University notified the Legislature that they are satisfied with the loyalty and good Americanism of Professor [Clarence] Ayres, you have obviously achieved complete vindication in this matter. This letter is written to you to say more power to you and long may you wave."

*Letter dated April 26, 1951,
from Archbishop Robert E. Lucey.*

"At times he regarded the wounded soldiers in an envious way ... he wished he, too, had a wound, a red badge of courage."

Stephen Crane

I have written before about John Barnhart. He was the bravest state representative I ever served with — as brave as Sam Houston trying to preserve the Union, as brave as Henry B. Gonzalez trying to prevent war, as brave as Tom Paine, who said, "Tyranny, like hell, is not easily conquered."

The letter from Archbishop Lucey, above quoted, is new information on Barnhart, and so is a letter dated March 22, 1951, from the late Gus Garcia, civil rights lawyer, who wrote: "I can state with all sincerity that your efforts in behalf of our fundamental freedoms should be an inspiration not only to state legislators but to our representatives in Congress."

Barnhart walked through the fires of hell by doing two things: First, he refused to vote for the Communist Control legislation. Second, he voted against the resolution censuring Professor Clarence Ayers of the University of Texas for having "socialist" ideas.

On the Communist Control legislation, I was

with Barnhart at his apartment the night before we voted and, when full of whiskey courage, was determined to stand with him. I didn't. On the Ayers resolution I hid in the "Men's Room" and didn't vote at all. That's when my father called me a "[shit]house liberal."

In subsequent sessions, I was one of the four who voted against "Communist Control" legislation, and along with state Rep. Edgar Berlin, led the fight that defeated the creation of the Texas Un-American Activities Committee, which was designed to go after schoolteachers. I did it in part because Barnhart shamed me. Why be the only one? Because one person can make four people brave and later on four people can, finally, make a majority brave. On both occasions when Barnhart voted, the silence in the House was all by terrifying as that little guy, about 5-feet 4-and-a-half inches tall, became the tallest man in the Texas Legislature.

After all these years, I have prevailed upon John Barnhart to tell me what was on his mind. He's part of what he wrote me:

"I reminisce on the political finesse whereby these inflammatory strawmen issues were used to distract legislators from the people's business. That tactic continues to be effective today. ... Then, the 52nd Legislature was distracted by a corporate income tax (a bill which I introduced) and from rate regulation of intrastate telephone charges (which I introduced).

"Another thought is the proposition that politics is the art of compromise. We recognized that the able legislator gets half a loaf. Lyndon Johnson proved that principle. Yet someone has to take out the whole loaf or its identity is lost. Compromise can occur diluting proposition to nothingness ... I continue to believe that human rights are core, fundamental stuff maximizing the process of democracy. I believe human rights need constant vigilance and are not amenable to the process of compromise.

"Another thought is my freedom in 1951 from the temptations inherent with political ambition. Appropriately an officeholder should desire reelection in order to be responsive to the will of the people, but the burden of trying to please the majority in the short term can be crippling.

"He, the officeholder, is extremely vulnerable to the petty and the inflammatory of that day's headlines. A congressman or legislator is handicapped in his long-term effort by short-

term accountability. This is rather like the problem of the American businessman whose decisionmaking is based upon the next quarter's profit rather than long-term growth.

"I want more citizen politicians and less career politicians. On the other hand, term limitation has too many downsides. Although I do not have a cure, I do hope free speech and the exercise of it with public financing of campaigns will help.

"My principal remembrance is one of gratitude for the opportunity to stand loud and clear for human rights. I was provided with a dramatic stage from which to assert the Bill of Rights. You later carried the day with your Stanford case before the Supreme Court.

"I thought that this (then) 25-year-old sixth-generation son of the Republic of Texas was immune from the Red Brush. I naively thought the accusation of communist and 'fellow traveler' and 'pinko' was ludicrous. It should have been. There will always be Joseph McCarthys and Marshall O. Bells and like ilk seeking by demagoguery to gain popularity, but we cannot be intimidated by them. And someday we will be sufficiently wise to join Molly Ivins and Garry Trudeau in their laughter.

"In summary, I am delighted to have had the opportunity to oppose the McCarthy hysteria and the Marshall O. Bell exploitation. My dissent was heard, and I am complimented that you would continue to think my actions were significant after these 41 years."

A note of explanation for a new generation of Texans who did not know the late state Rep. Marshall O. Bell of San Antonio, the person who introduced the legislation Barnhart opposed. He also was a lawyer who never saw the inside of the courthouse and who held retainers from some of San Antonio's most distinguished businessmen. They hid behind him and they had their hands on the knife Bell struck into the Bill of Rights.

[In the Stanford case, the U.S. Supreme Court in 1964 ruled a search warrant signed by then-Attorney General Waggoner Carr under the Texas Communist Control Act was unconstitutional.]

So there you have the story of John Barnhart, the great-great-grandson of John W. Smith, who was selected by Travis to carry the last dispatch from the Alamo and who was mayor of San Antonio three times during the days when we were a Republic. □

Maury Maverick is a lawyer, a former legislator and a columnist for the San Antonio Express-News.

POLITICAL INTELLIGENCE

✓ **ONCE AGAIN**, *New York Times* reporter Jeff Gerth has broken a story on a Texas senator and a questionable savings and loan deal. Last time it was Republican Phil Gramm's Maryland house. This time it is Lloyd Bentsen's insider deal with Houston S&L operator J. Livingston Kosberg, who was brought into state government in 1985 by Gov. Mark White as someone who could make the Department of Human Services function more like a business and less like a bureaucracy. Last month, Kosberg's business deals resulted in a \$2.4 million fine for violation of banking laws. His connection to Bentsen came through what the *Times* described as a "private deal" between Bentsen and Kosberg, by which the senator acquired \$100,000 in stock, which three years later was worth \$600,000. "The stock was in a company that federal regulators later determined had been created largely with a subsidy from the businessman's [Kosberg's] failing savings and loan, an arrangement that helped a small circle of invited investors to profit handsomely," the *Times* reported. According to the *Times*, a former top Bentsen aide, Loyd Hackler, had also invested in Affiliated Computer Services (ACS), a company that earned high short-term profits for Bentsen. Hackler told the *Times* that he had told Bentsen about the company, informing the senator that it "looked like a hell of a deal." Only 28 investors were invited by Kosberg, a Democratic Party fund raiser, to participate in the stock purchase. ACS was subsidized by Gibraltar and First Texas Savings and Loan, operated by Kosberg and described in the *Times* as institutions then in a very precarious condition.

Former *Houston Post* reporter Pete Brewton, in his book *The Mafia, the CIA and George Bush*, reported on several questionable S&L deals involving the senator and said that had Michael Dukakis won in 1988 the title of the book could have just as easily been *The Mafia, the CIA and Lloyd Bentsen*. (See TO, 12/25/92.) Bentsen press aide Jack Devore said the senator's recollection of the ACS deal "isn't totally clear."

✓ **ABORTION** could serve as the wedge to pry Republican voters away from Kay Bailey Hutchison, the state treasurer who is shaping up as a consensus GOP candidate in the free-for-all race to succeed Sen. Lloyd Bentsen. While Hutchison styles herself as the relatively pro-choice Republican, the *Houston Chronicle* reported that before the 1990 GOP primary Hutchison told Texans United for Life and the National Coalition for Life she supported a con-

stitutional ban on abortions except to save a mother's life. Hutchison denies she ever supported such a ban but she believes states should be permitted to regulate abortions. Two Republican congressmen in the race, Jack Fields of north Houston and Joe Barton of Ennis, are anti-abortion. Bob Krueger, the Democrat appointed by Gov. Ann Richards for the interim, voted for federal funding for abortion as a member of Congress in the 1970s and the former professor, known to be pedantic, has dragged Saints Augustine and Thomas Aquinas into the debate, claiming the two fathers of Christian theology could not agree on when the soul joins the body. "I don't think we should expect the Congress to agree for them," Krueger said.

Ann Richards and the Democratic establishment may be trying to freeze him out, but Jim Mattox continues to prepare for a guerrilla campaign for the Senate. José Angel Gutierrez, a civil rights activist and founder of La Raza Unida Party in the 1970s, also plans to run as a Democrat. Gutierrez, a former Zavala County judge, is now a lawyer in Dallas and president of the Greater Dallas Foundation, which funds lawyers involved in social-impact litigation. Richard Fisher, a Dallas investor, one of the founders of the centrist Democratic Leadership Council and an adviser to Ross Perot in last year's presidential campaign, also reportedly is ready to spend as much as \$5 million of his own money to run as an independent Democrat.

✓ **ATTORNEY GENERAL** Dan Morales unveiled a six-point crime package, including a proposal to reduce the time it takes to execute convicted capital murderers by limiting their rights to appeals. "In Texas, punishment is not swift enough, not certain enough and often not severe enough. Sentences bear little resemblance to time served," he said at a Houston news conference. The package included proposals to earmark prisoner income to a victims' trust fund, more flexibility to use abandoned military bases to house prisoners, laws to make sure sentences handed down by juries are served, more authority for the attorney general to track drug money laundering operations and a more than doubling of the death benefits paid to families of law enforcement officers killed in the line of duty. The package did not include provisions to make sure that defendants get fair trials, despite well-publicized miscarriages of justice in the past few years. In the latest such case, Muneer Deeb, a former Waco convenience store operator, spent eight years on Death Row for a role in the 1982

murders of three Waco-area teenagers before a Fort Worth jury acquitted him in a retrial ordered by the Court of Criminal Appeals. Suzanne Donovan of the Texas Resource Center in Austin reported that Texas leads the nation not only in the rate of executions, but also in the number of unrepresented inmates on Death Row. Of 198 inmates in line for execution, 31 do not have attorneys for their appeals.

✓ **TEXAS IS ONE** of at least six "focal points" for Religious Right activity, reports People For the American Way, the constitutional rights organization that seeks to counter the fundamentalists. From its review of the pronouncements of Religious Right leaders and their track record, People expects "a year of unprecedented political activity," with grassroots campaigns focusing on abortion choice, gay rights, public education and speech freedoms. The report noted the virtual takeover of the Republican Party in Harris County and fundamentalist candidates for school board in the Houston area; battles developing over sex education in the Legislature, as well as running battles in Austin and Lubbock; a coalition of groups pushing for a return to school prayer in McAllen; and full-page advertisements the American Family Association has run in Houston and Fort Worth newspapers attacking the entertainment industry and seeking contributions from the public, with contributors converted to members of local chapters. The Christian Coalition also is expected to be active in the election of a successor to Sen. Lloyd Bentsen.

✓ **MARY SCOTT NABERS** will replace Bob Krueger on the Texas Railroad Commission despite her mineral interests and her lobbyist-husband's history of representing clients with mineral, energy production and trucking interests, Gov. Ann Richards decided. Nabers, a member of the Texas Employment Commission since 1984, said she would recuse herself from any decisions that would present a conflict of interests on the three-member commission, including those involving the high-speed rail consortium which her husband's law firm represents. Ms. Nabers could become the swing vote on trucking deregulation, an issue on which she said she has no opinion; for several years, Lynn Nabers lobbied for Merchant Motor Lines, which opposed deregulation, but his contract was not renewed and he said he will not lobby at the Railroad Commission. State Rep. Eddie Cavazos, D-Corpus Christi, will replace Nabers on the Employment Commission. □