

THE TEXAS OBSERVER

December 24, 1982

A Journal of Free Voices

75¢



Photo by Alan Pogue

DEATH RACE

Austin

By Joe Holley

AT ELEVEN O'CLOCK on Monday morning, Dec. 6, attorney Eric M. Freedman is leaning against the wall of a small hearing room crowded with reporters. With his client, Charles Brooks, Jr., scheduled to die in a little over 12 hours, he waits for the Board of Pardons and Paroles to announce whether it will recommend that Gov. Clements grant a reprieve. Waiting with Freedman are Texas Civil Liberties Director John Duncan and Henry Schwarzschild of the American Civil Liberties Union in New York. As Board Chairman Ruben Torres opens the meeting, a phone on a small table near the door rings.

"The Fifth Circuit did not agree to hear it," the man who answered the

phone reports. Torres seems confused, then calls a recess. He and the other two board members file from the room. For Eric Freedman, Charlie Brooks' lawyer for the past ten days, the frustrations are just beginning.

Within minutes the board returns, and board member Connie L. Jackson moves to recommend a 30-day reprieve. Torres' call for a second is met with silence. He asks for a motion denying the reprieve; again silence. Board member George C. Killinger then moves to hold the request in abeyance until the Supreme Court rules later in the day. Torres seconds the motion, and the meeting is adjourned.

"We, of course, would have been happier if it had gone the other way," Freedman tells reporters outside the hearing

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**S. A. Nuke Freeze
Hunger in Laredo
Huntsville Deathwatch
Fulton Street, Houston**



On the Saturday before Charlie Brooks' execution, Henry Schwarzschild, director of the ACLU Capital Punishment Project, sat in an Austin hotel room discussing his passionate opposition to the death penalty. The question prompting the following response had to do with what opponents of capital punishment, readers of the Texas Observer, for example, might do to bring about the abolishment of capital punishment: J. H.



Photo by Alan Pogue

Long-time San Antonio activist Tom Flower, UT historian Joe Frantz, and CURE director Charlie Sullivan attend a vigil at the capitol (above); on the cover are Flower (back to camera) and Henry Schwarzschild.

"Let me be openly somewhat pessimistic and not be a kind of clarion call to this kind of social activism, which I regret but that's where my head happens to be at the moment. I think what they ought to do is let it be known publicly in their personal lives and their institutional lives . . . and let it be known in their political relationships — and to the media, that's very important — that they do believe that the death penalty is an impermissible arrogation of both god-like wisdom and totalitarian arrogance to the state of Texas. . . . I don't think we'll prevail; I don't think they will prevail for the moment. I guess readers of the *Texas Observer* may be now somewhat used to not always prevailing, and to their glory and to its glory, they have nonetheless persisted. Interim failure has not been the test of whether you persist. And you persist, not in the expectation of victory in the foreseeable future, but because these values and these principles are, on their own merits, worth upholding and struggling for. . . ."

"I think, in fact, we're going to have the death penalty with us for this generation; I don't see any reason to believe

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The Progressive Biweekly

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otherwise. I think it's going to get worse rather than better. And I think thoughtful people know that you better fight moral social struggles, not because you expect to win them, but because on the merits they're worth fighting for.

"Now that doesn't mean that I think that America will have the death penalty always. I think in the long run it's going to abolish it like every other civilized country. It'll take a while though. But when that point is reached, it will not have happened automatically, but it will have happened only because people like ourselves and like readers of the *Texas Observer* will have maintained that issue alive and will have held it up before the culture and society as something that's worth achieving. The achievement will come not so much perhaps because of our scoring debater's points or being right and our convincing people in argument that we are right rather than the other side, but because the whole culture will

have freed itself a little of this panic about crime, of its intuitions about the racial implications of the return to the death penalty. . . . At that point we will have had to maintain that principle and those arguments and those moral considerations before the public consciousness. . . .

"I do what I do in part, not because I can expect to prevail every time — we've so far prevailed in a great many instances, but we have obviously failed in five so far, and my feeling is that a great many will come, I'm afraid — but because I think it is a moral mandate, a moral commandment, a moral requirement that we do what we can. You can't expect the impossible; all you can expect is that people will do what they can. And at least we will have tried.

"In the Charlie Brooks context, there are, as you know, people sitting right now and all through the night in Washington, in New York, in Austin, in

Houston, and elsewhere really with enormous resourcefulness and diligence trying to keep this thing from unraveling on Monday night, Tuesday morning. And they know they might fail; they are, on the whole, more likely to fail than to succeed. We do it because we think that the one thing more impermissible than an execution taking place is an execution taking place without an enormous struggle on the part of the State to do it, without enormous opposition from us, without our making the state of Texas aware that it is doing something terribly awesome and terrible destructive and terribly impermissible. . . ."

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Nuclear Freeze Fight in San Antonio

San Antonio
THE SAN ANTONIO City Council came within one signature of placing a nuclear freeze resolution on the agenda for discussion at its November 18 meeting. Resolution sponsor, Councilman Joe Alderete, had approached the meeting thinking he had the support necessary for full discussion in the council meeting but was disappointed by the position taken by Mayor Henry Cisneros.

Discussion of a nuclear freeze resolution was, instead, relegated to the "Citizens to be Heard" forum, which ends each council meeting. But, according to Alderete, even that served an important function. "My purpose in proposing the nuclear freeze resolution was to

By Geoffrey Rips

plant the seed. I'm a strong believer in educating. This has got to be our main thrust."

Five military bases are located in San Antonio. While these bases and their satellite industries provide the largest source of civilian and military employment in the city, the military does not exert the same social and economic dominance it did in the 1950s and 1960s. The growth of software and medical industries, as well as San Antonio's function as a Sunbelt magnet for potential employers and employees, drawn from economically-stricken regions of the



Photo by Alan Pogue

Mayor Henry Cisneros

northern United States and of northern Mexico, has led to the emergence of commercial and housing developers and of business managers as an important political force.

In 1977, the council-manager government of San Antonio was altered by the division of the city into ten districts, each to elect one council member with the election of the mayor as a council member at-large. The change from a general election of all members was made to insure the representation of each area of the city and, particularly, to redistribute the population of the city council so that it better approximated the population of a city in which 53.7% of the 785,000 residents are Mexican-American. (7.3% are black, 38.1% are

Anglo, and .9% are of other ethnic origin, according to the City Planning Office's latest figures.)

This change is reflected in greater Mexican-American representation on the council and a median age for council members that must be at least twenty years younger than the median age of the councils of the 1950s and '60s, typified by Good Government League slates of august business and professional movers and shakers. Current council members work their position as if it were a full-time enterprise and the council a major political forum. Cisneros' position has led to his mention as a potential candidate for lieutenant governor or for the U.S. Senate.

For the nuclear freeze resolution he was proposing for discussion at the November 18 meeting, Alderete had taken an informal poll of his colleagues to determine whether he had the majority necessary for discussion. Under rules adopted by the council, a majority of the council members must sign affirmatively a memo circulated among them before any item originating with a member other than the mayor can be placed on the council agenda for discussion. Nuclear freeze advocates believed they had received assurances from members Bernardo Eureste, Maria Berriozabal, Joe Webb, and Helen Dutmer that they would join Alderete in his effort to place the issue on the agenda. According to Alderete, Cisneros had said two months earlier "that he had no problems with discussion of a nuclear freeze."

Alderete's resolution, modeled after the Kennedy-Hatfield Senate resolution, cited the increasing risk of a nuclear holocaust brought on by the nuclear arms race and the damage suffered by social programs and the national economy at the expense of armaments expenditures. It proposed:

As an immediate strategic arms control objective, the United States and the Soviet Union should:

a. pursue a complete halt to the nuclear arms race;

b. decide when and how to achieve a mutual and verifiable freeze on the testing, production, and further deployment of nuclear warheads, missiles, and other delivery systems, to be achieved by New Year's Day, 1983;

Proceeding from this freeze, the United States and the Soviet Union should pursue major, mutual, and verifiable reductions in nuclear warheads, missiles, and other delivery systems, through annual percentages or equally effective means, in a manner that enhances stability.

When Alderete sent the required memo and the resolution around to coun-

Nuclear Texas

The Center for Defense Information reports that from unclassified information it has determined that nuclear weapons may be stored or deployed in as many as five locations in Texas, including the state's three largest urban areas. (There are approximately one hundred such sites in the United States and its territories.)

In addition to the Pantex Plant in Amarillo, which operates as the final assembly plant for nuclear weapons and as the disassembly plant for retired weapons, the Center lists bases in Abilene, Fort Worth, Houston, and San Antonio as certain or probable sites for nuclear weapons. The Strategic Air Command squadrons based at Carswell AFB in Fort Worth (with two squadrons) and at Dyess AFB in Abilene (with one), have approximately 150 nuclear weapons per squadron. Air Defense units with F-4C/D aircraft are deployed at Ellington AFB in Houston and on occasion may carry Genie air-to-air missiles. Kelly AFB in San Antonio serves as one of five Air Logistic Centers, providing for the procurement, supply, maintenance, and transport of Air Force weapons. It appears that this includes responsibility for nuclear weapons.

cil members, it came back with four YES votes and six NOs (arriving at the majority decision to deny discussion before reaching Cisneros). After some reconnoitering, Alderete determined that Dutmer had misunderstood the purpose of the vote. (She supported the discussion of the issue but not the freeze itself.) He sent around another memo and this time received five YES votes and 6 NOs, including that of Cisneros, preventing the issue from being placed on the agenda. Following the rejection of the proposal, Alderete suggested that nuclear freeze supporters address the council in the "Citizens to Be Heard" segment.

Cisneros explained that he had told freeze advocates that he preferred not to have a freeze resolution placed on an agenda of city business because there was more than enough municipal business to attend to. "City government should deal with city governmental questions." He

went on to say that if they persisted, he would agree to vote for its inclusion for discussion if the freeze resolution "assures mutuality, includes that which is verifiable, and speaks to the question of phasing." He said he particularly objected to the language of the proposed resolution, which requires a freeze by New Year's Day, 1983. "I'm not going to urge another level of government to do something I wouldn't do myself in that position," he said.

When asked how the interests of those representing minority or dissenting interests can be heard if a council majority is required in order for an item to be placed on the agenda for discussion, Councilman Alderete replied that there is another route, one he's traveled for several other issues. Three council members can call a special meeting of the council to discuss a specific issue. "If you get the city council to pass a resolution, you've found a quick way to represent the community. But calling a special meeting often raises barriers. The cause is too important to have it destroyed by poor strategy."

The 1982 Texas Democratic Party Platform, adopted on September 11 at the state convention, reads, in part:

The Democratic Party welcomes and supports the national movement to control nuclear weapons and prevent their use, including the national nuclear weapons freeze campaign, as a clear expression of the desire of the American people to halt and reverse the nuclear arms race.

The Texas Democratic Party, in order to enhance our security as citizens of this state, shall call upon the President of the United States to propose to the Soviet Union, a bilateral and verifiable freeze on the nuclear arms race. Specifically, that together and at the same time, both the U.S.A. and the U.S.S.R. should immediately adopt a halt to all further testing, production, and deployment of nuclear warheads, missiles, and delivery systems.

Citing the freeze referenda passed in nine of ten states on November 2, Alderete believes the same thing can happen in Texas, but that it will take time. "Every little advance we can make is important for the nuclear freeze movement, especially because a lot of people look to Texas to see what's really happening in this country."

At the November 18 "Citizens to be Heard" forum, Councilman Bernardo Eureste suggested that freeze proponents mount a petition drive to place a freeze referendum on the ballot for the city elections next April. Such a petition would require over 36,000 approved signatures in order to force a referendum. Nuclear freeze advocates, including longtime

Bexar County Democratic leader Kathleen Voigt, think the idea of a San Antonio referendum on the freeze may be premature. Alderete concurs: "Part of the problem with the referendum is the newness of the issue and the strong military influence in our community." Both Alderete and Voigt look to the 1984 elections as the time for a city or state referendum on the freeze.

Supporters of a nuclear freeze referendum in San Antonio represent a coalition of religious, professional, labor, political, and civic organizations. Alderete suggested that they initially approached him to present the resolution because "I am regarded as more moderate than some other members of the council. They thought the resolution had a better chance of passing if I showed my support for it. I think they were surprised by how much I knew about it. I don't know that I have a problem with weapons in general — everything is a weapon — but with the people who handle the weapons. With the Reagan administration, the solution to a problem they can't solve is 'Let's roll up our sleeves and fight about it.' The issue is not whether the Soviets are ahead of us. The issue is that we now have the power to destroy the world. When you have a weapon that can destroy the world, you don't need to refine that weapon anymore. The world will not become a more difficult target."

During the citizens' segment of the November 18 meeting, Alderete's resolution was supported in a letter from Archbishop Patrick Flores, read by Rev. Charles Pugh, Vicar General of the San Antonio Catholic Archdiocese. He was joined by representatives of People for Peace, a local organization instrumental in initiating the local referendum, Bexar County Democratic Chairwoman Marilyn Jones, San Antonio AFL-CIO Council President Joan Suarez, speaking as a member of the Amalgamated Clothing and Textile Workers Union, a representative of Physicians for Social Responsibility, and other religious leaders.

Cisneros answered these petitioners by cautioning against what he characterized as "the Soviet devil," saying, "I don't believe that when we freeze that they automatically will." He then offered his own resolution, which, he said, "tracks Senate Resolution 177" (the Jackson-Warner resolution):

WHEREAS, a nuclear war would kill or injure millions and millions of people and threaten the survival of the human race;

WHEREAS, there can be no assurance that a nuclear war, once initiated,

would remain limited in scope; WHEREAS, there exists the ever-present risk that nuclear weapons might be employed through accident or miscalculations;

WHEREAS, sizeable and verifiable mutual reductions of Soviet and United States nuclear forces to an equal and far-lower level would enhance stability and the maintenance of peace; and,

WHEREAS, President Reagan, on November 18, 1981, states that the United States "will seek to negotiate substantial reductions in nuclear arms which would result in levels that are equal and verifiable";

NOW, THEREFORE, BE IT RESOLVED THAT: The City Council of San Antonio urges the governments of the United States and the Soviet Union to engage in negotiations leading to substantial, equitable, and verifiable reductions of their nuclear weapons in a manner which would contribute to peace and stability;

The United States should propose to the

Soviet Union practical measures to reduce the danger of nuclear war through accident or miscalculation and to prevent the use of nuclear weapons by third parties, including terrorists;

The United States should challenge the Soviet Union to join in this historic effort to channel the genius of our two peoples away from the amassing of nuclear armaments and to focus the energy and resources of both nations on attacking the ancient enemies of mankind — poverty, hunger, and disease.

There was no immediate show of support for the mayor's resolution.

Alderete says Cisneros has challenged him to work out a resolution that both of them can support. He believes some sort of compromise resolution can be reached that he (Alderete) could agree to, as long as it contained the idea of a freeze. "And it will be important. No matter what the language is, people will know it is a nuclear freeze resolution. It's important that the symbolism stay alive." □

A Case of Sexual Discrimination

By Susan Melnick

Dallas

IN COURTS of law, justice is often a slow process. And when the persons in question are big-city attorneys and a Dallas County district judge, the obstacles can be considerable. No one knows this better than Sheila Porter, former Dallas County law librarian. In August of this year Porter, who is also an attorney, filed her second sexual discrimination complaint in two years with the Equal Employment Opportunity Commission against the Dallas Bar Association and the Dallas County Commissioners.

The fight to try and keep her job has been tedious and frustrating. From August 1980, until June 1982, Porter was fired three times, reinstated twice, and forced to spend hours in two different sets of hearings being interrogated about everything from her sex life to how well she did her job. It has not been pleasant for Sheila Porter or for members of the Dallas Bar Association, who are reluctant to discuss the case.

Sheila Porter's story began two years

Susan Melnick is a contributing editor to the Dallas Observer and a freelance writer.

ago, only months after she'd completed her first year as Dallas County law librarian. On August 30, 1980, she was fired from the \$27,000-a-year position by Dallas County District Judge Dee Brown Walker, then the 20-year veteran chairman of the law library committee. Porter says she was given no reasons for her termination. She suspected she was fired because she refused to cooperate when Walker allegedly made sexual advances toward her. She promptly appealed the firing and, along with her lawyers, requested a hearing before the Dallas Bar Association's Board of Directors.

"We thought in the fall there'd be a hearing. But they delayed for one reason or another," she said. She was finally reinstated temporarily by the County Commissioners Court in December 1980. Bar association members, however, refused to talk about the sexual harassment issue. In December 1980, Porter filed her first EEOC complaint against Dee Brown Walker. That was all it took. The bar association granted a hearing. Meanwhile, Porter was transferred to work at the library in the Belo Mansion, home of the Dallas Bar Association.

Sheila Porter

For years the law library has been under the authority of the Dallas County commissioners' although it was understood it would be managed by the Dallas Bar Association through the law library committee. On August 6, 1980, the commissioners entered an order officially vesting management of the library over to the bar association. The association entrusts the library's operation over to the law library committee members, appointed each year. Until a year or so ago, the committee was chaired by Walker.

The hearing began in March 1981, and continued for four months. Present during the hearing were Porter's lawyers Ken Molberg and Gene Beatty, attorneys for the county, G. H. Kelsoe, Jr. and John Write, the bar association's board of directors. Walker refused to appear, but was represented by three personal lawyers who were members of the law library committee.

Says Porter, "Normally in this situation, an employer comes in and says why Sheila was fired. But I presented my evidence and then they cross-examined me." The transcript of the hearing included Porter describing how Walker propositioned her.

On May 11, 1981, after four months of hearings, the bar association reinstated her at the main law library saying her discharge was improper. She hoped that things would settle down and she could go back to her responsibilities as head law librarian. But apparently the bar association was no longer satisfied with Porter, though it is said she was the best educated person ever to hold that post.

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The county commissioners voted on May 27, 1981, to give the Dallas Bar Association \$6,000 to finance a search for someone to head the law library. It must be unsettling to know you have just finished struggling for your job, only to learn your superiors are looking to replace you in a blatant way.

John Hauer, then president of the bar association, told the *Dallas Morning News*, "it's an attempt to find the best qualified person we can to head the law library . . . he just might turn out to be the one best qualified for the job."

Sheila Porter thought then and does still, that she is the best-qualified person. She practiced law for eight years in Irving before becoming the law librarian. While in Irving she participated in a study of the Irving library system as well as the Irving Schools library system. She was later chosen as a delegate to the White House Conference of Library In-

**"If it weren't me, it
would be funny. But it's
damaging my
reputation. . . ."**

Sheila Porter

formation Science. With a growing interest in libraries and her law background, she applied for the county law librarian position which had been vacant for 10 months. The job notice called for someone with a law degree or a degree in library science. Judge Dee Brown Walker hired her.

Once the hearings were completed in May 1981, Porter and her lawyer Ken Molberg set about getting the bar association to respond to the EEOC complaint.

"They started a settlement," Porter recalls, "but it included a paragraph which would have prevented a retaliation lawsuit once I was fired again." At their request, the paragraph was dropped. Porter had her job again with back pay so she dropped the EEOC complaint. Then the predictable happened. Within a matter of days the law library committee met and decided again to fire her.

On September 24, she met with Charles Storey, chairman of the law library committee where she was given the "opportunity" to resign. She refused, and made futile attempts to start negotiations. Alas, on November 7, she was fired for the second time and immediately appealed to the bar association's board of directors. This time the termination was repealed by John Hauer. That lasted until January when the bar associ-

ation elected a new law library committee and a new committee chairman, William Harris.

The new committee met February 15 and fired Porter the same week. Again she appealed and again the bar association ignored repeated letters and phone calls from her lawyer asking for reasons for her firing. Finally, Molberg wrote a letter to County Judge Garry Weber. With this additional pressure, he received a letter from Harris on April 2, 1982 listing five reasons for Ms. Porter's dismissal: lack of library-related skills and training, lack of budgetary skills, lack of administrative and supervisory skills, poor communications with the law library committee (sic), and ineffective leadership and motivation of staff. These reasons were apparently based on Storey's complaints. Porter wonders how either Harris or Storey could be sure of her supposed inadequacies.

She said during her entire employment she was never once given a job evaluation, and if she had been, there was not a job description on which to base it. Furthermore Harris had never visited the library and Storey "had come once" she said.

A second hearing was scheduled for June. Molberg said it was difficult to prepare the case for his client. "We asked for a list of witnesses; they refused to give them to us. Under the rules for hearings and appeals we're entitled to them. Quite frankly, we got there and we didn't know who would be witnesses."

Storey turned out to be the county's main witness. Robert Gwinn, vice president of the bar association's board of directors, represented the law library committee. It came to light during the hearing through letters sent to Porter that Storey did not comply with county personnel policy by listing specific complaints against Porter. Three reasons he did list were that she did not have a work contract, he thought others were more qualified to serve, and the committee has the right to determine hiring and firing. These reasons differed greatly from the ones listed in the letter from William Harris.

Robert Gwinn's closing remarks at the hearing make it appear as if it was up to Porter all along to prove her innocence. Said Gwinn, "The evidence has been established that Ms. Porter's employment was at will. Ms. Porter has offered no evidence to the contrary. The evidence establishes that there are more people available to perform the job of Dallas County law librarian. She has offered no evidence there is no one more capable or even just as capable as her in performing the job."

The board sustained the firing on June 21. In August, Porter filed a second EEOC complaint, this time adding that retaliation was made against her based on her first EEOC complaint. What the outcome will be for the latest EEOC complaint is difficult to determine.

Members of the bar association and the law library committee are still reluctant to talk about the case, partly because it involves such a powerful judge and partly out of embarrassment.

When contacted, William Harris said he hadn't been apprised of the most re-

cent EEOC complaint. "I haven't seen the complaint so I don't know anything about it." The position of law librarian has been vacant since Porter was fired for the last time in February. Harris explained that "we're trying to fill the position as best we can." So for the time being persons using the library must depend on clerks with little or no law background to assist them.

As of this writing Sheila Porter and Dallas County are nearing a monetary out-of-court settlement. Negotiations are expected to be completed within the next

few weeks according to Porter's attorney Ken Molberg.

The lengthy series of events has taken its toll on Sheila Porter and she's eager to have her job back. Meanwhile she continues practicing law and waits. "If it weren't me, it would be funny. But it's damaging my reputation, because I'm a professional."

"I don't mind if they hire another head law librarian," she says, "as long as the new librarian is better qualified than I am." □

VISTA Under Fire

Dallas

By Jon Weist

NANCY CUNNINGHAM TOOK in the almost empty Dallas warehouse with one glance. Then she smiled. This had been a long time coming. At times, it looked like it might not happen at all. Cunningham, a VISTA supervisor with the North Texas Food Bank, had been through a summer of indecision, mixed signals, and misdirection regarding the project.

After hiring in April to recruit VISTA volunteers for the food bank, Cunningham was told that if VISTA's directors had their way, her VISTAs would be phased out at the end of the

John Weist is associate editor of The Shorthorn, the UT-Arlington student newspaper.

fiscal year, which meant September 30. Since it took most of the summer to secure a warehouse, (eventually donated by conservative Dallas developer Trammel Crow), line up memberships, and solicit food donations, a September closeout would kill the program just as it was beginning to distribute food.

To Cunningham, this was a real waste of money, since "we were being funded for a program that didn't exist."

"It's a real downer to think that we're going to be out September 30," she said in June. "With everyone experiencing cutbacks, there's just got to be something to make up the difference."

The word in June, though, was that VISTA Director Constance Horner was doing her level best to close the agency down by the end of the year.

Hyman Bookbinder, one of VISTA's founding fathers, told a congressional reauthorization hearing in the spring that "if there was not a VISTA on the books today, I think this Reagan Administration would have probably joyfully invented it. It is so consistent with the basic philosophy of the current administration."

That it is, but no one counted on VISTA's parent agency, ACTION, being turned over to a New Right warrior bent on destroying all vestiges of "leftist activism."

The appointment of Tom Pauken to ACTION was obviously a bone thrown

to appease the New Right. A graduate of the Georgetown University law school, Pauken never practiced law in Texas, where he chose to reside. In 1976 he ran a losing campaign for the Texas Senate against conservative Democrat Bill Bracklein. Two years later, after moving to suburban Mesquite, he almost defeated Dallas Cong. Jim Mattox, the newly elected attorney general, losing by slightly more than 800 votes. This set the stage for a bitter rematch two years later. The incumbent won by three times the 1978 margin, and Pauken went job hunting.

Pauken spent the two years between congressional races following Jane Fonda around, making a movie that he used to scare little old ladies into believing commies were everywhere and you couldn't trust the media. A military man who spent considerable time in Vietnam, Pauken talks of the Soviet threat as if it were more pervasive than herpes.

Mattox was one of many who were surprised that Pauken would get appointed to an administrative post — for which he had no experience — especially at a welfare agency like ACTION. "I would have thought they would put him somewhere where he could look for communists or something," Mattox said last year.

Pauken looked anyway. After setting up true believers like Pauken at VISTA, ACTION requested a funding program that, by 1983, would completely gut VISTA.

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VISTA received \$30 million in fiscal 1981. ACTION requested only \$89 million for 1982 and \$231,000 for 1983, just enough to close VISTA down. Congress, apparently not as concerned with VISTA's "leftist" bent, specified funding floors to thwart the phase-out.

Dixie Cassel, administrative assistant to VISTA director Horner, said recently that the administration wanted VISTA canceled, and that it was in a "phase-out mode."

The projects, she said, could be replaced with "more cost-effective programs."

No VISTA volunteer can make more than \$7,800 a year from the government, and most VISTAs generate three or four

times their pay in public and private resources.

The reasons for the hostility toward VISTA aren't clear, though Cassel said VISTAs under Sam Brown, an anti-war activist who headed ACTION under President Carter, "were training poor people to demonstrate against federal and local governments. Marge Tabankin (VISTA's director under Brown) went over to Hanoi and criticized the United States.

"They organized tenant unions and actually hauled some landlords to court," Cassel said. "They were very supportive of legal services."

Pauken, apparently, had found his communists.

Some ACTION workers suggest that Pauken's antipathy toward VISTA is more personal. During his crusades against Mattox, the congressman was supported by an East Dallas neighborhood group, the Bois D'Arc Patriots. A couple of VISTAs worked with the Patriots, though they didn't participate in the group's political activities. Pauken charged that the VISTAs were being used illegally, though he could never prove it.

Pauken's VISTA problem may run even deeper than that. A product of the free-enterprise-is-gospel school, it's possible that voluntary work in poor neighborhoods is something he simply can't comprehend.

At any rate, he was temporarily de-

Hunger in Laredo

Laredo

THERE ARE LONG LINES at employment and food stamp offices in a lot of towns these days — Laredo isn't that special. Even so, people here have been hit hard. From the biggest rancher to the merchant/middle class to the guy who just barely has something, everyone has devaluation-induced economic worries. So who's going to be thinking now about those people who never had enough for an economic disaster to make any difference?

Even before the devaluation, Laredo and the entire Rio Grande Valley were areas of widespread poverty. At least 40% of Laredo's population were living at or below poverty level,* according to the 1980 census; 18% were living at below half the poverty line. Added to these are all the recently unemployed — the victims of the devaluation. The unemployment rate in Laredo jumped from 15% in August to 23% in September, and continued to rise about 3% more in October.

*\$9,287 annual income for a family of four.

Yale graduate Miriam Davidson came to Laredo in August as an American Friends Service Committee volunteer. She had been working in Boston as an Atlantic Monthly intern and is now 'Lifestyle' editor for the Laredo News.

By Miriam Davidson

"The thing I'm worried about," said Laredo TEC office manager Raymond York, "is six months from now. Half-way through March, people will begin exhausting their benefits. What's going to happen then? I just don't see things returning to normal."

In Laredo, some people who were making it marginally before just aren't anymore. These are the first to fall from a shrinking economy into the "Safety Net"; perhaps they don't even qualify for unemployment benefits. What they might find is a world already familiar to other very poor, a world in which help is not forthcoming and at times is non-existent. What they might find is that the "Safety Net" is seen only from above.

IT MUST BE difficult and confusing not to have enough money to feed your family.

"They always seem to wait till the last minute," a Laredo food stamp worker said. "They come in and say, 'I can get by, but my children can't.'"

Applications to the Department of Human Resources (DHR) for food stamps have increased 46.4% from August to October. The current wait for an interview after filing for assistance is 24 to 45 days. If a family can't hold out that long, they must tell the caseworker

that they want service expedited. If they qualify, an interview will be scheduled in one to three days.

"About 40% of the applicants tell us up front that they want expedited service," said Food Stamp and Aid for Dependent Children Program Director Diana Hughes. "The worker then has to see that they have zero net income or that their only source of income has been terminated. That is the only way they would qualify for expedited service."

"There are some that don't ask for it, and then, when they get here for an interview, we find that their case should have been expedited," she added. "But they do get the full amount of food stamps from whenever they applied. They just get it a little late."

Ms. Hughes expressed hope that the delays would be temporary, until her office could get more help. (This is one place in Laredo that needs more workers.)

Some families in Laredo won't find the welfare office answering their prayers. Food stamp workers are trained to determine the status of anyone who might possibly use the stamps-to purchase food.

"We can tell," said a caseworker, "if the person has just come from Mexico. They put the street first and then the number . . . that kind of thing. We ask questions about all the family members: 'Who's this uncle? Where does he come

feated in his anti-VISTA campaign. The General Accounting Office audited the group and discovered most of the funds appropriated for 1982 hadn't been spent. ACTION was ordered to spend the money.

A letter from Horner, sent to all VISTAs in mid-July, said the program would likely be phased out by September, and the VISTAs should prepare for the eventuality.

Congress, however, had already tentatively voted to keep VISTA alive, and some ACTION workers suggest the letter was a "scare tactic" designed to discourage VISTAs from completing their terms.

It didn't work.

The terms of all VISTAs in the field

end in April of next year, though Congress may authorize more money for the program. That means there will be money and no workers, just the opposite of Nancy Cunningham's earlier fear: workers and no money.

None of the political problems in far-away Washington were entirely clear to Cunningham; she was only concerned with their local reverberations. Working all summer to set up a program, only to see it killed two weeks after it started, wasn't her idea of a summer well spent. Now that things are somewhat settled, though, the mood is calmer.

Cunningham finds charges that VISTA is a bunch of leftists funny, considering one of her VISTAs is a 72-year old grandmother. Their warehouse is in an

industrial office/storage complex in South Dallas, where days are spent tracking inventories and processing paper — basic administrative chores and hardly the seeds of revolution.

The North Texas Food Bank has 60 member charities. All major food chains — except Minyard's — are participating. Food began going out Sept. 14, and the recipients were happy.

"They walk out with grins from ear-to-ear," Cunningham said recently. "They say, 'My God, how this is going to help our program'."

And that, to her, is the main thing. Still, she's sad about what appears to be VISTA's eventual demise. "We made it," she said, "but the whole damn program isn't making it. The country is losing."

"In Laredo, some people who were making it marginally before just aren't anymore."

from?"

As a result, food stamp fraud by the undocumented is not too common — less than 1% in Laredo, according to a recent study by the DHR. A new law has just gone into effect here, requiring caseworkers to report to immigration authorities any illegal aliens they encounter. The Food Stamp worker is not supposed to provide stamps if a family member is indicated as "ineligible," but how many people coming for hunger relief know this?

FOR PEOPLE who don't qualify for food stamps, who might qualify but have to wait, who have illegal family members who managed to avoid being turned in but are still hungry, Laredo offers few alternatives. Some churches and social service agencies in Laredo try to help people regardless of their legal status or other circumstances. The Centro Aztlan, for example, is an inconspicuous office that does a brisk business assisting people with their food stamp forms. The forms are in English and Spanish, but many of the people who bring them in can't read or write. The Centro can try to expedite an emergency case or locate food for a desperate family. Most of the people they serve are migrant workers, the elderly, or disabled.

Recently a gaunt, middle-aged widow came to the Centro for help. Her case was typical. She was a migrant worker

returning home penniless from the crop disasters in West Texas; she had gone to the DHR and been given an appointment thirty days later; until then, she had no income and no food for herself, her two daughters, and five grandchildren.

The Centro's director, Albert Luera, took her case. Luera spent the morning on the phone to the welfare office, doing what he could to speed up her case. Frustrated, he gave her seventy-five dollars from the Centro's business account.

There is always the Salvation Army. Their new Laredo office has seen a 30% increase in the number of people coming for food since the devaluation. The Salvation Army requires proof that a person has been to the DHR; then they will give that person a meal or a voucher to buy some groceries.

"Of course, there's no way a group like ours can feed a family for 30 days," said the director, Lt. William Thrasher. "If we see people coming in day after day, we have to look for other alternatives."

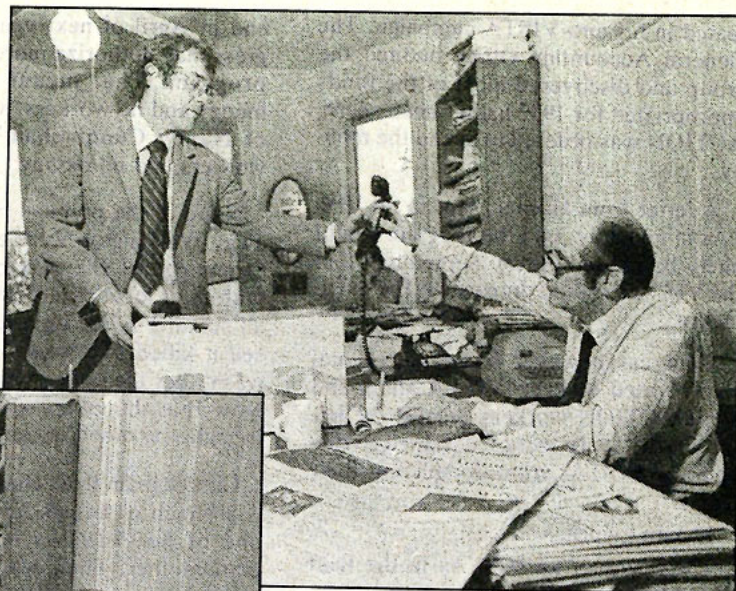
Lt. Thrasher believes that, in a country with enough food to feed the world, there should be no hungry people. "I may be mistaken," he says, "but as far as suffering the real pain of hunger, of not eating for days or weeks, there shouldn't be any of that. If people are, then it's because of mental problems, or

because they lack the motivation, language, or learning to understand the community structure. We find some, particularly aliens, who don't know where to go. Or we find elderly people who grew up in a spirit of independence, and pride gets in their way. You hear about people eating dog food: there's just no need for that. They may think it's not right to accept charity, that they can provide for themselves."

Pride or no, it's becoming increasingly clear that hunger in Laredo is not just confined to a few old people, or people with mental problems, or people without papers. Serious gaps exist in the mechanisms of hunger relief.

A couple of the local churches prepare bags of food for needy families; thirty-four such families came in one week to the Methodists. But the resources of these churches and the Centro are limited. "The time lag between when families apply for stamps and when they get them makes a food pantry necessary," said Luera. He, church leaders, and a few concerned citizens have begun the process of organizing a community pantry. But it will take time. Until then, caring for the hungry of Laredo is a relatively haphazard, individual effort. It requires initiative and aggressiveness by the hungry people themselves. Those who are too old, too sick, too alone, or too uninformed are falling through the cracks in the social system.

John Duncan and Henry Schwarzschild (right) and Eric Freedman and Schwarzschild (below) battle the state and the clock.



Photos by Scott Van Osdol

Schwarzschild (Continued from Page 1)

room. "We're optimistic until the switch is pulled. That's why we're lawyers."

Eric Freedman is a very young — not yet 30 — very good lawyer. A large, owlish-looking man, very serious, who peers out at the world from behind brown, horn-rimmed glasses, he is a corporate litigation expert whose New York law firm has taken on without charge a number of capital punishment cases on behalf of the NAACP Legal Defense Fund. "He truly has a wonderful heart underneath that bluster and pomposity," a former instructor at Yale says. She remembers him as a student volunteering much of his time and energy to prisoners' right cases. On the Saturday night before Charlie Brooks' execution date, Freedman spent two hours in Huntsville with his client, getting back to Austin at 3 Sunday morning.

What follows is an account of Freedman's last-day efforts — in conjunction with John Duncan, Henry Schwarzschild, and perhaps a dozen attorneys from around the state — to save Charlie Brooks' life. They failed, after more than a week of working almost night and day. For the rest of us, however, their efforts and their arguments are instructive, for once again the death penalty is in our midst. With more than 1100 persons on death row around the country — 172 in Texas — and with many approaching the

end of the appeals process, it is an issue we cannot ignore. In the words of Henry Schwarzschild, "It is a terribly important moral watershed for the people of Texas."

"THIS DIDN'T have to happen Eric Freedman is saying as he hurries from the Pardons and Paroles hearing to the Capitol a block away. "It's just that we got here too late. The public has been led to believe that there's a small band of top-notch lawyers keeping the death penalty at bay. What they don't understand is that we're about to be overwhelmed. There are only five or six of us doing this kind of work; I don't do this full time. There is triage going on. We are dancing on the edge of a 50-story building." (Freedman's firm, Paul, Weiss, Rifkind, Wharton and Garrison, had worked on five capital punishment cases in Texas prior to Brooks; in each of the five cases, the death sentence was overturned.)

Freedman, Duncan, and Schwarzschild enter the Capitol through a basement door and proceed to Austin Rep. Terral Smith's office. Smith, a Republican, will be asked to intervene personally with the governor. With the Fifth Circuit Court's refusal to grant a stay, the governor becomes a more

crucial figure in this drama, standing as he does near the end of a tortuous process that began five years earlier and accelerated dramatically the day after Thanksgiving of this year.

- Charlie Brooks, Jr., was convicted of capital murder on Dec. 3, 1977 for the 1976 shooting death of Fort Worth mechanic David Gregory, a 26-year-old father of two children. Brooks' co-defendant Woodie Loudres was also convicted of capital murder, but his sentence was subsequently overturned. (In a plea-bargain arrangement, Loudres was then sentenced on Nov. 1, 1982, to forty years in prison. Brooks' death warrant was signed four days later.)

- Also in December, 1977, Fort Worth State District Judge Tom Cave turned down a motion for a new trial for Brooks. Brooks appealed to the Texas Court of Criminal Appeals on a number of points, including improper jury selection. On June 6, 1979, the appeal was rejected, and Brooks' conviction was affirmed. Brooks' lawyer filed a motion for rehearing and asked the U.S. Supreme Court to review the case. On June 27, 1979, the motion for rehearing was rejected.

- On June 21, 1981, the U.S. Supreme Court denied Brooks' request for a review. Brooks' attorneys filed a writ of habeas corpus (unlawful imprisonment) challenging the constitutionality of the proceedings by which he was convicted.

On Dec. 1, 1981, the Texas Court of Criminal Appeals turned down a state-level writ of habeas corpus, and Brooks' attorneys immediately filed two separate federal habeas corpus writs.

- The federal writs were turned down in federal district court on October 24 of this year by U.S. District Judge David O. Belew, Jr., of Fort Worth. Defense lawyers filed in federal district court a request for a new trial. On Nov. 5, 1982, Judge Howard Fender in Fort Worth set December 7 as Brooks' execution date.

- On Nov. 9, Judge Belew denied both the motion for a new trial and a stay pending appeal. Brooks' attorney Danny Burns then filed an appeal with the Fifth Circuit Court requesting a stay pending an appeal. Attorney General Mark White immediately filed a motion in opposition and requested oral arguments in opposition to a stay. From that point, legal proceedings revolved around procedural questions instead of the questions of sentencing disparity or the failure of Brooks' original lawyers to call character witnesses on the defendant's behalf. (Only Judge Belew at 9:30 p.m. on Monday night — after the Fifth Circuit Court, the Texas Court of Criminal Appeals, and the Supreme Court had declined to intervene — agreed to hear a newly filed writ of habeas corpus.)

- On December 2, Brooks' new attorney Eric Freedman, after digesting 3,000 pages of background material over Thanksgiving weekend, asked for a rehearing before the Fifth Circuit. The answer came during the Monday morning Pardons and Paroles hearing.

IT IS NOW early afternoon. After meeting with Terral Smith, Freedman, Duncan, and Schwarzschild return to the cluttered, comfortably shabby Texas Civil Liberties Union offices. Freedman is soon on the phone again with the governor's office, but none of the governor's advisors will let him get to Gov. Clements' himself. One even questions Freedman's right to attend the Pardons and Paroles hearing set for 4 in the afternoon. Freedman finally badgers Hilary Doran, one of Clements' legal assistants, into meeting with him; David Herndon, the governor's chief counsel, will also be there. Freedman goes to the meeting hoping to persuade the two men to allow him to meet with the governor, who is allowed by state law to issue a stay even without a recommendation from the parole board. He returns thinking he might have persuaded Doran, but not Herndon. They will get back to him, Doran has told him.

At 4, Duncan and Schwarzschild return to the Stephen F. Austin State Of-

fice Building for the meeting of the Board of Pardons and Paroles. The board will apparently make a decision even though the Supreme Court has still not yet ruled. Freedman stays at the office awaiting a call from the governor. The board's decision, though not unexpected, is not good. Connie Jackson's request for a reprieve is voted down; George Killinger's motion for a denial of the reprieve passes 2-1. Board Chairman Ruben Torres was in a difficult position, Duncan muses later. His position, subject to appointment by the governor, runs out on January 31 two weeks after Mark White takes office. "Had the 60-day reprieve been granted,"

"Every government that wants to kill people always cites beneficial social reasons. . . ."

Duncan says, "it would have dumped a hot potato into the lap of Mark White about the third week into his administration." (Duncan said later he felt getting a reprieve out of Gov. Clements was a long shot, but that he thought Clements might relish the opportunity to pass "the hot potato" to Mark White.)

When Duncan and Schwarzschild get back to the TCLU offices they are joined by Jack V. Strickland, the prosecutor who convinced a Fort Worth jury to condemn Charlie Brooks, Jr., to death. Duncan hopes Strickland, now in private practice in Fort Worth, will be able to help the erstwhile Freedman get in to see the governor. On Friday, Strickland had told the Board of Pardons and Paroles that his conscience compelled him to argue against Brooks' execution, even though he supports capital punishment, because Woodie Loudres had plea-bargained for a forty-year sentence and could go free in six years. Former Attorney General Waggoner Carr, representing Texas Trial Lawyers, also testified in favor of a reprieve.

"I spent a lot of time talking with people and doing some soul searching last weekend trying to determine for myself if this disparity [in sentences] was in some way justified," Strickland told reporters. "I came to the conclusion it was not."

In the affidavit filed on Friday, Strickland said prosecutors in Brooks' trial never determined whether Brooks or Loudres fired the only bullet found in Gregory's body. "No fact surrounding the offense proves that one defendant was more culpable than the other," Strickland said. "Only a single shot was fired, only

a single bullet entered the body of the victim, and to this day, the state of Texas does not know which defendant fired it."*

Strickland waits out the afternoon conferring with Freedman and Duncan and taking calls from a researcher for ABC's "Good Morning America." Ironically, it is Strickland who has made Freedman's job difficult. By doing a good job as prosecutor in the Brooks case, Strickland left none of the technical errors that Freedman could have exploited. At 4:30, Terral Smith calls to say he's gotten nowhere with the governor's people.

At 4:47, Henry Schwarzschild tells another of the innumerable phone callers, "Things are going badly. The Supreme Court is still in session, and the governor says he will wait for the Supreme Court to speak. Then he will issue a press release on the matter." He looks up from the desk piled high with papers where for the better part of four days he has been sitting and recalls a quotation from Justice Holmes that, to him, characterizes the Board of Pardons and Paroles: ". . . I could make a stronger backbone out of a banana."

Schwarzschild has been through this before — with Gary Gilmore in 1977, John Spenkelnik in 1979, Jesse Bishop in 1979, Steven Judy in 1981, Frank J. Coppola last August, with several others over the past six years whose death penalties were stayed. Associated with the ACLU since 1962, he has, since 1976, directed the ACLU Capital Punishment Project.

"The ACLU, oddly enough, came to a policy position of opposing the death penalty fundamentally as a violation of the Eighth Amendment to the Constitution — the Constitution obviously being the benchmark for what the ACLU does — very late in the game," he had explained a few days earlier. (Founded in 1920, the ACLU adopted its policy on the death penalty in 1976.) His job, Schwarzschild says, in what he calls "these terribly demanding, complicated crisis-management situations," is to see that the most capable lawyers available are brought into the case and "to make the state and the public aware — not by unseemly things but by decent things — that they are doing something that's ter-

*An affidavit filed by Tarrant County District Attorney Tim Curry implies that Curry has evidence that Brooks fired the fatal shot, although Curry has released no such evidence. "Loudres has been in the Tarrant County Jail since September, 1980," John Duncan says, "and the only two people who know what's happened are Loudres and Brooks. Loudres has every incentive to accuse Brooks. The only affidavit that should mean anything is one from Loudres, and he's not talking."

ribly important and terribly outrageous to decent humanity."

Schwarzschild, who came to this country in 1939 at age 14 when he and his parents were forced to flee Nazi Germany, passionately and eloquently defends the principle that "official homicide is impermissible because we don't think a State has the moral right, and ought not to have the legal right, to execute someone. . . . Every government that wants to kill people always cites beneficial social reasons, but to let the power of the State decide who is going to live and who is going to die is seriously destructive of a humane society. . . . What the state of Texas is saying is that in an ultimate quarrel with Charlie Brooks, the way to deal with that quarrel is to kill the sonofabitch. All that an execution teaches is that."

Schwarzschild wastes no sympathy on the condemned man. "I don't blame the family [of the victim] for being vengeful," he says. "I am as appalled by what happened in that motel room [where Gregory was murdered] as the attorney general of Texas is." Earlier he told a reporter, "I try to let people understand, and it's hard to get across, that I don't do this because I like these people. I've never laid eyes on Charlie Brooks, and I don't intend to. I never met Gary Gilmore. I'm appalled by who they are and what they've done. . . . I think killing someone is a bad thing to do, whether Charlie Brooks does it or the state of Texas does it. After Hiroshima and after Auschwitz, after all the blood spilled by governments, it ought to be possible to assert that to give governments the right to kill some people is absolutely insupportable."

He would agree to the notion of capital punishment, Schwarzschild says, on one condition — that the State, by executing someone, could revive the victim. "It can't so it has two homicides on its hands. The death penalty is not social self defense, and executing Brooks is not required to keep Charlie Brooks from killing anybody else — nor does it keep anyone else from killing."

"Ultimately, for me," Schwarzschild says, "what's really crucial is that it is unseemly for the state to be in the business of killing human beings. Even if we were wrong on the questions of deterrence and discrimination and mistakes — and we're not — even then I would not agree that capital punishment is permissible."

IT IS NOW 5:15 on Monday evening, and Texas's first execution in 18 years is imminent. Still there is no word from the Supreme Court. Why,

everyone wonders, is the Court taking so long. It's been three hours. Freedman emerges from a tiny office he has commandeered, a converted bathroom, and tosses a quarter to a reporter. "Give me that back if there's no dissenting opinion," he says. John Duncan wonders if the Court is deciding only the Brooks case. He speculates that the vote is 2-2 with "the other five trying to decide where they're going." On a small blackboard behind Schwarzschild's desk someone has listed the Court in three columns: Brennan and Marshall on the left; Rehnquist, O'Connor, Burger, and Powell on the right; Stevens, Blackmun, and White in the middle."

"The extraordinary thing is not that we're going through all these motions, but that we can't get an appeal on a capital case," Schwarzschild says. He

"After Auschwitz . . . it ought to be possible to assert that to give governments the right to kill some people is absolutely insupportable."

takes a call from a *New York Times* Supreme Court reporter. The reporter tells him the Court is working exclusively on the Brooks case.

At 5:26, the Austin sky is a deep purple; a harsh ceiling lamp illuminates the TCLU offices. "Good Morning America" calls again for Jack Strickland, and Henry Schwarzschild allows himself a bit of gallows humor. The next-to-last man executed in Oklahoma, he says, was named French. On his way to the electric chair, Schwarzschild claims, the condemned man turned to a reporter he had befriended and said, "I can see your headline tomorrow — 'French Fries.'"

At 5:44, Schwarzschild takes another phone call. "It looks very grim," he says. "I think it's 95% go." He takes a call from a *Washington Post* reporter. "Isn't it extraordinary," Schwarzschild tells him, "that in three hours and forty-five minutes the Supreme Court hasn't been able to arrive at an answer?" At intervals, Freedman, Duncan, and UT law professor Hugh S. Lowe reconnoiter in the hallway out of earshot of reporters. Lowe has been called in to help draft yet another Court of Criminal Appeals procedure.

At 5:52, David Herndon, Gov. Clements' chief counsel calls. Freedman bolts into the bathroom office and slams the door. Seconds later he is heard slamming down the receiver. The message

from Herndon is that the governor is not interested in anything Freedman has to say.

Minutes later Duncan is waiting to give a front-porch interview to a local TV reporter when a runner from the TV station arrives with the governor's statement:

After a thorough review of the file in the Charlie Brooks, Jr., case, a meeting of the legal representatives with Eric Freedman, an attorney for Brooks, and subsequent advice of my counsel, at this time I do not plan to grant a reprieve. Eric Freedman has been so advised.

My legal representatives will continue to monitor developments in the case through the evening and keep me advised.

There is speculation about the phrase "at this time." With no word from the Supreme Court, might the governor reconsider when the Court rules? Freedman, Duncan, and Lowe are in the hall again. Schwarzschild is telling yet another caller that Brooks would be the first black man executed in this country since 1967 and the first person ever executed by a state-administered lethal injection. He hangs up the phone and leans back in his chair. "The mind simply rebels," he says "at what it means to be Charlie Brooks at this moment."

Earlier in the evening Eric Freedman had wanted to keep secret from the governor the Court of Criminal Appeals motion that Hugh Lowe has been drafting; he wanted to be able to tell the governor that he (the governor) was the last recourse. Duncan, however, overrules because he knows it would be difficult to convene the Court after 5 o'clock without advance warning to the court clerk. The clerk assures Duncan he won't spread the word, but if reporters ask, he will have to tell them. At 7:54, the Court has reconvened and is on the bench awaiting a Supreme Court decision. In yet another move, Duncan and Freedman decided to send Jack Strickland back to Fort Worth to appear before Judge Belew. Duncan rushes him to the airport, and he is the last man on the last flight of the evening to D-FW Airport.

Two large pizzas are delivered. Freedman, looking older than his 29 years, his white shirt wrinkled, his blue pin-stripe suit pants now shapeless, emerges from his bathroom office to pace the main office, out into the hall, and back again. He slumps down for a moment on a window sill, a soggy slice of pizza in his hand.

At 8:39, the call comes from Washington. The Supreme Court says no, 6-3, Brennan, Marshall, Stevens dissenting. Immediately the phone starts ringing. "Our best hope was the Supreme Court," Schwarzschild tells a caller.

"After taking six and a half hours to reach a decision," John Duncan fumes. "I don't know what's so urgent about killing a guy." He tells another caller, "I think we're gonna throw a paper at everything that moves till midnight. I don't see how anything we do can be called frivolous when a fellow's life is at stake." He tells yet another caller that "Burger and Rehnquist have been looking for an opportunity to get all procedure out of capital punishment cases, and this is probably it."

Hugh Lowe rushes his request for a stay over to the Court of Criminal Appeals. The request begins, "Anticipating that you will not want to hear oral arguments. . . ."

Freedman, holed up in his tiny office, demands that Duncan send reporters, perched like vultures waiting for the end, out of the main office. "He's a big-city lawyer," Duncan explains apologetically. "He's afraid someone's going to steal what he's trying to do." Duncan looks dog-tired. His face is red and mottled, a sign, his wife Becky Beaver says, that his blood pressure is high.

Behind the closed door of the main office, attorney Lowe is dictating to TCLU Assistant Director Dorothy Browne an additional memorandum to the Court of Criminal Appeals. Lowe argues that the forty-year sentence given to Woodie Loudres "was not merely newly discovered or newly available. It was new. . . . If it had been in existence at the time of the punishment," he contends, "the evidence would probably have brought about a different result."

Lowe rushes the brief over to the state Supreme Court Building a few blocks away, Browne collating on the way. A clerk rushes it upstairs. In less than ten minutes he returns with a one-sentence message: The stay is denied.

At 9:55, the attorney general is served with habeas papers in the court of Judge Belew, the federal judge in Fort Worth who denied the original habeas writs back in October. A petition for writ of habeas corpus has also been filed in Criminal District Court No. 2, Tarrant County. Frank Sullivan, Allan Butcher (one of Brooks' original attorneys), and Jack Strickland are waiting in Fort Worth to appear before Judge Belew. "That is the last shot, I think," John Duncan says.

Throughout the day Duncan has been blaming Attorney General White for opposing Brooks' request for a stay. "All of this is coming about because of Mark White's hurry-up politics," he had told a reporter earlier. "John Hill had a policy of not opposing any stays of execution while you went through the nine-step pro-



Austin execution vigil

cess. After the Supreme Court said no, then you set an execution date, and the guy has had a fair go at it. I am convinced that Mark White saw the advantage of being able to attain political visibility by pushing death penalty cases."

Duncan objected to White's efforts to seek what is called "expediting process" in the Brooks case. "The most severe thing the judicial process can do to a person in this country and Mark White has singled this out for expediting process," he said.*

AT 11, JUDGE Belew, after conducting an hour and a half habeas hearing by phone, denies the stay. At 11:35 Frank Sullivan calls to report that after a 30-minute argument with Judge Alvin Rubin of the Fifth Circuit Court in New Orleans, the judge has finally agreed to reconvene the panel. (A few minutes before midnight, he called again to say the Fifth Circuit had again declined to issue a stay.)

"I think that tells the story," Henry Schwarzschild says. He walks wearily out of the office and heads to the Capitol for a candlelight vigil.

A couple of days earlier, Schwarzschild had talked about the execution

*On Wednesday, December 8, Duncan was quoted in the *Dallas Times Herald* as saying that White's legal position seemed to be that criminal defendants "have no rights to a full briefing prior to us killing you."

White called the charges "patently ridiculous" and accused Brooks' attorney of deliberately delaying his appeals so courts would be forced to act in the final hours before the execution.

"pipeline" now opening up in this country. We are now sentencing people to death at a rate of about 200 a year, he said, and the rate is rising. California, he said, sentences to death about forty a year; at that rate it will soon overtake the southern states (Florida, Texas, Georgia). This country's high point was in 1937 with 199, "three a week," Schwarzschild pointed out. "We'll soon be executing more than that, and we'll still be building up a backlog as well."

How will we react, Schwarzschild wonders. Will executions become commonplace? Will there be a public outcry? "Something has to give," he says. "For the life of me I do not have any notion what it is that's going to give. The Supreme Court is not about to become more liberal; there is a general rebarbarousness of the society at the moment — nothing seems to be making the culture more generous, more relaxed, more humane, more thoughtful."

At 11:30, Eric Freedman is still holed up in the cramped, white-tiled office, phone to his ear, trying to get through to the governor. Only once during the long night did his fatigue and frustration seem to stagger him. At one point he wandered out into the hall and said to no one in particular, "Charlie Brooks is going to die because he doesn't have a good lawyer." Henry Schwarzschild heard him, and like a stern father, he delivered a reprimand. "Don't even think that," he said. "You know it isn't true."

At midnight, Freedman is still on the phone. He doesn't get through. At 12:16, a reporter with a call into Huntsville tells him: "It's done." □

Death Knell in Huntsville

“Kill first. Ask questions later.”

Huntsville

It was reminiscent of one of those movies where old gnarled women twist yarn and cackle. “Guillotine, Guillotine!” Only this time, it was 1982 and college students hoisted posters that pictured hypodermic needles and read “Justice Finally Prevails” and “Candyman is Next.” One sign included the footnote, “Hi Mom.” Like a pep rally or the big game on Saturday night. As television lights illuminated the drama and cameras zoomed in on the execution witnesses, long-time Huntsville liberal George Russell described the scene aptly as the “high-tech Middle Ages.”

Hundreds of students jammed into the street between the Huntsville Walls Unit and the Texas Department of Corrections administration building last Monday night hoping to help usher in a new era of crime and punishment in Texas. It was exactly the opposite sort of scene expected by many news people, who had heard reports of candlelight vigils being held throughout the night for condemned killer Charlie Brooks Jr. The candles were there, all right, but very few of them; and several times, when an opponent of the death penalty tried to make a public statement to the press, he was shouted down by seemingly bloodthirsty students.

Once, a shouting match began between young Paul Garner, a black man and member of the Equal Rights Congress, and Randy Ellisor, a conservative political activist at Sam Houston State University. Garner was immediately drowned in a sea of white faces, and for a moment seemed in danger of physical harm. A television reporter remarked, “Not much news value, but it makes great street theatre; where’s my camera crew?”

And that’s the way it was, the news media people rushed to get every fresh lead, story, or quote from virtually

By Booth Gunter

anybody willing to speak. Publicity hounds were like gleeful dogs tossed a hunk of meat. Two male students, obviously in a festive mood, wore “gimme” caps that featured a cow’s ass protruding from the front.

When all was done, Brooks was dead, and they hauled his body over to Huntsville Funeral Home before sending it on to Houston for an autopsy. On Dec. 1, Brooks had talked briefly with reporters who had come to see him on Death Row at Huntsville’s infamous Ellis Unit prison farm. At first he refused to speak with newspaper reporters, granting a personal interview only to *Texas Monthly* writer Dick Reavis. Brooks said his attorneys were filing for a stay of his execution with the U.S. Supreme Court, which denied the stay ultimately. “The gravity of the situation and the legal procedures involved preclude me from saying anything that could, by mistake, adversely affect those efforts,” Brooks said. He later changed his mind and agreed to answer a few questions. “My faith, which is Islam, has prepared me for this, because Islam teaches that nothing will

happen unless it is the will of God,” Brooks told reporters from behind the dense black screen of an Ellis Unit visiting room. “If it is God’s will that I’m to be executed at 12:05 Tuesday morning, then I will be executed at 12:05 Tuesday morning.”

He was.

Brooks was asked if he preferred death by lethal injection to a death by other means. He paused, then replied, calmly, in a clear voice: “I read an article where it said when they electrocute a person, they stuff cotton up his nose to keep the blood from flowing down when the electricity bursts the blood vessels in his brain. Do I compare that with just laying down and going to sleep? I’ve had surgery quite a few times. The only thing is that in surgery, you wake up. That’s frightening, knowing that I won’t wake up.”

When it was over Tuesday morning, TDC spokesman Rick Hartley made it official for the news media: “At 11:30 this evening, and also at 11:35 this evening, two IVs with a neutral saline solution were administered to inmate Charles Brooks. At 12:01 this morning we received word from the governor’s office

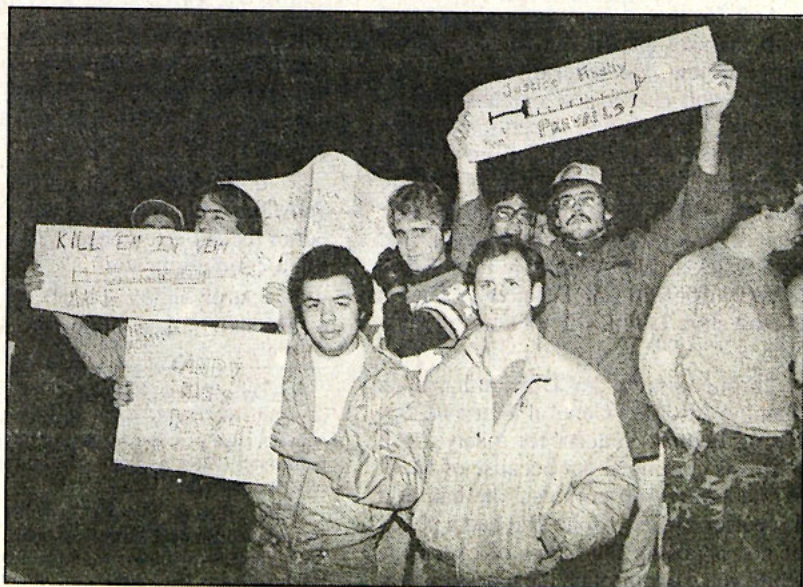


Photo by Ron Creel

Booth Gunter is a free-lance writer living in Huntsville.

there had not been a stay ordered in this execution. At 12:09 the lethal injection was administered in the IV. And at 12:16 this morning, inmate Brooks was pronounced dead by a TDC doctor."

Four media representatives witnessed the execution — Charles Hill of Associated Press, Bruce Nichols of United Press International, Terry Scott Berling, managing editor of the *Huntsville Item*, and Reavis. (Brooks also requested three witnesses: Vanessa Sapp, a 27-year-old Fort Worth nurse, and two Muslim spiritual advisors.) The four walked solemnly from the Death House at 12:30 and held a brief press conference.

Brooks was rolled into the chambers strapped to a gurney, wearing gold pants, black shoes and a khaki shirt open in front. He did not struggle when guards placed straps around his chest, Hartley said. He looked at his girlfriend, Vanessa Sapp, and said, "I love you."

"I bear witness that there is no God but Allah," he said moments before his death. "I bear witness that Mohammed is the messenger of Allah. Verily unto Allah do we belong. Verily unto him do we return."

Brooks fixed his last gaze on Sapp and said, "Be strong" — the last words he uttered.

Reavis described the execution: "He turned his head upwards and seemed to yawn. And then he began to wheeze. And that was all. I think he went to sleep when he yawned. . . . He was nervous. When he had said his last words, it was as if he was waiting to feel a change, waiting for something to hit him. I think he didn't feel it. He had his head turned this way, towards us, or towards Ms. Sapp, I think; then he looked up and he yawned, a long deep yawn. After that he wheezed, maybe for 15 seconds or five. I really don't know, but briefly. That's the last I remember; his head may have turned back towards us. I would say that by the time he finished the yawn, he was gone."

While most of the demonstrators outside the Walls were there as proponents of capital punishment, a few came to fight the potential "bloodbath" — possible now that the Supreme Court has stamped its seal of approval on executions. Members of the American Civil Liberties Union were present, as were members of Amnesty International and the Southern Coalition on Jails and Prisons.

"It would be a bloodbath; I think that's fair to say," said Joe Ingle, director of the Southern Coalition on Jails and Prisons, only hours before Brooks was silenced. He was referring to what might happen if Brooks was allowed to die.

"Several judicial issues are being pushed aside in the name of politics. We're not talking about Charlie Brooks alone. We're talking about hundreds of people on Death Row around the South. . . . The implications are so great because if this becomes routine, Katie bar the door."

Jon Vodicka, of the same organization, in statements made immediately after the execution, said the death penalty will not deter anyone from committing a violent crime. "Historically, it never has deterred violent criminals from committing violent acts. In some instances it increased violent crimes after an execution has taken place."

Vodicka said his group will continue to speak against the death penalty. "We want to make it as difficult as possible for people to be killed by lethal injection or whatever."

Asked if the Supreme Court's denial of a stay is a death knell for the 169 men and two women on Death Row in Texas and those on Death Row around the nation, Vodicka said, "There have been indications from the Justice Department and others that might occur. I would hope, though, that there are still courts of law that will consider what we feel are significant issues in every one of these cases. They will grant relief when appropriate, and those who feel the same way we do about the death penalty being abolished will start speaking out. I think this a warning to the state that more executions are imminent unless those opposed to the penalty and those in favor of workable, safe alternatives to the death penalty came forward and speak out. I think many people felt that an execution would not occur tonight, that an execution would not occur in this state for some time, that there have been false alarms and this would be another one. But judging by my discussions with folks around the state in the last few days, there are a number of concerned people who are not here tonight, and who did not come out to Houston or Dallas vigils or Austin vigils, who are opposed to this punishment and will begin to speak out."

The voices of those opponents who showed up were small, however, and were drowned out by the execution-happy crowd bent on getting a measure of collective revenge for crimes against society.

Andrew Schaefer, 23, a junior at Sam Houston State University, said, "I don't know if it will be a deterrent, but it will teach this guy (Brooks) a lesson. It just shows you can't go around killing people."

Craig Ortega, a 20-year-old student at SHSU, said, "I think it's about time that

Texas started waking up to the fact that there needs to be a stronger deterrent to crime, like the death penalty. I think Texas is becoming too liberal; that's why there has been so many stays."

In the midst of the pro-death crowd of students, Michael Hebert, 18, stepped out and said he does not think killing Brooks solved anything. "He killed somebody, yes. When people come out here and say, 'kill him, kill him,' I just wonder sometimes."

At one point the students with signs held up a Confederate flag, as they whooped it up. A reporter asked what the meaning of the flag was. "The old Rebel maxim," came the reply. "Kill first, ask questions later."

Kill first and ask questions later. Maybe that's what Roger DeGarmo did. The 28-year-old Death Row inmate said in a recent interview that he was not even aware Texas had a death penalty law when he brutally slew a Fort Worth woman. "I didn't think about the death penalty while I was doing this crime, because whenever you do a crime, you don't think about the consequences, you think about the crime." □

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• POLITICAL INTELLIGENCE •

✓ Texas Railroad Commission members testified before the Sunset Commission that accepting contributions from oil and gas industry members did not constitute a conflict of interest. Buddy Temple told the *Dallas Morning News* that "I'm quite confident that the three of us feel that our campaign contributions have not influenced us one bit." He added that most of the issues presently before the commission are among private parties, so presumably, the oil industry contributors would have no prevailing interest anyhow.

Although oil and gas money was spent on a winning candidate in the person of Buddy Temple, for the most part oil political action committee contributions did not prove so successful. The Dallas Energy PAC (DALENPAC) managed to elect only 29% of the Senate races and 22% of the House races to which it contributed after spending \$244,000. In 1980, DALENPAC contributions went to 77% of the winning Senate races and 60% of the winning House races.

✓ Members of a Congressional subcommittee on foreign affairs say Bell Helicopters of Fort Worth may be in violation of a congressional ban on the sale of military equipment by selling both helicopters and providing training to the government in Guatemala. The International Institute for Strategic Studies in London released figures showing that Guatemala has purchased about \$25 million in helicopters from Bell over the past two years.

According to reports coming out of Guatemala, helicopters are being used to move troops and attack the Mayan Indians populating the rural areas, who often support guerrilla groups.

✓ Federal hearing judge Ellin O'Shea upheld a May 14 Labor Department ruling that Charles Atchison had been fired from his inspector's job at the Comanche Peak nuclear plant because of his reports of defective welds in plant construction. (TO, 11/12/82) In a ruling issued December 7, O'Shea recommended Atchison's reinstatement with back pay. Atchison, however, thinks Brown & Root will fight the ruling. Hearings are scheduled for late January on appeals by the contractors at the Waterford II nuclear plant near Taft, Louisiana, who are protesting a Labor Department ruling that Atchison's subsequent firing at the plant was illegal.

✓ The significance of the black vote in the November election was a surprise to

no one. The percentage of registered black voters who went to the polls in Dallas's 24th Congressional District nearly equalled the percentage of the white voter turnout in the district and almost doubled the percentage of the 1978 turnout. Incumbent Cong. Martin Frost received 93.7% of the district's black vote and 73% of the total, while Mark White garnered 94.3% of the district's black vote and 63% of the total.

Bill Clements subsequently charged the Democrats with attempting to scare the black electorate with claims that the election of Republicans would mean the loss of Social Security or food stamps.

✓ Rep. Paul Moreno's (D-El Paso) announcement as a candidate for mayor of El Paso came as a surprise to many observers, even his own staff members. Reportedly, Moreno announced to ensure that a qualified Hispanic would make the race. But Moreno has little chance for the mayor's post since Texas law prohibits fundraising by state reps from now until the end of the session. This leads analysts to believe that Moreno's bid is not serious, but designed to allow him to throw support to a third party and take credit for the victory. All this is seen as Moreno's buildup for a rematch with El Paso state Sen. Tati Santiesteban.

✓ Rep. Ron Wilson (D-Houston), under investigation by the Travis County DA's office, was elected December 2 to chair the Legislative Black Caucus. He replaces Senator-elect Craig Washington, who declined to run for Caucus office, but will remain a member.

Wilson, who was not an announced candidate, put together a coalition to derail Austin Rep. Wilhelmina Delco during a secret-ballot, closed-door session. Reps. Paul Ragsdale (D-Dallas) and Senfronia Thompson (D-Houston), who are not presently members of the Caucus, were elected to the other two offices.

For Wilson, this is the shot of prestige he needs to retain his activist image: he is unlikely to retain a committee chairmanship once the legislature reconvenes. The DA wants to know how Wilson, a full-time UT law student, can work nearly seven days a week for a year on legislative and committee business (collecting per diem) and still hold down a job as a public affairs rep for Hermann Hospital in Houston.

Wilson says it's because he's the hardest working rep in the legislature.

Wilson's opponent already asked why

he owns a home in and lives in Austin, but has no residence in his Houston district. The voters didn't mind, though; despite his troubles, Wilson (his colleagues call him the Flash) took over 60% of the vote in last November's reelection bid.

Whatever this means for Wilson, it means new hope for the Black Caucus. During Washington's tenure, the Caucus never formally endorsed a single issue. Several black members even dropped out, reportedly due to personality and legislative conflicts with the chair. Ragsdale, who will now serve as vice-chair, dramatized the disenchantment by joining the Mexican-American Caucus.

✓ One of the Legislature's most wily conservatives, Rep. Bill Messer (D-Temple) is reportedly stepping up to chair the powerful Calendars Committee next session, according to at least two state reps. Since nearly all legislation passes through Calendars, some progressives fear that this will give the ambitious Messer the power base he needs to make a run for speaker in 1985.

✓ The Congressional House Freshman Democratic Caucus added their support to a Democratic movement in the Congress to strip Cong. Phil Gramm of his committee assignments because of his continued support of the Reagan budget proposals.

The caucus asked House Speaker Tip O'Neill to make sure that Gramm gets the last choice of new committee assignments out of all 435 members of the House. Earlier this month party members acknowledged that they will try to strip Gramm of his membership on the Budget Committee and on the Energy and Commerce Committees. The House has only broken its self-imposed seniority rule once in its entire history, that being in 1974, a year when a record number of freshman legislators were in the House. □

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Notices on upcoming events must reach the *Observer* at least three weeks in advance.

PANTEX VIGIL

Northwest Texas Clergy and Laity Concerned (CALC) sponsors a vigil at Pantex the last Saturday of every month to publicly demonstrate the presence of a community committed to conversion, and to pray for peace. The next vigil will be **Dec. 25, 4-5 p.m.**, at Pantex. CALC is part of an interfaith resource network which has two major program areas: militarism and economic justice, and human rights and racial justice. Call (806) 373-8668 for information about its work.

HANDWORK EXHIBIT

"HandWork", an exhibition of outstanding needlework from the ethnic traditions of Central Texas, will open in Austin at the Dougherty Cultural Arts Center, 1110 Barton Springs Rd., **Jan. 3**. The exhibition, presented by Women and Their Work of Austin, features examples of crochet, quilting, tatting, cutwork, drawnwork, embroidery, fringing, and malla. A reception celebrating the exhibit will be **Jan. 8, 1-4 p.m.** Call 477-1064 for information about Women and Their Work whose arts activities bridge sexual, ethnic, and cultural barriers.

WEAPONS FREEZE

Democrats for a Nuclear Weapons Freeze have begun working to pass a nuclear weapons freeze resolution in the Legislature. This new organization plans to work for a weapons freeze through the Democratic Party. To get involved, write 2210-I S. 1st. St., Austin, 78704, or call (512) 444-0805 or 444-6562.

DRAFT REGISTRATION INFORMATION

A network of groups in Texas and Oklahoma has formed to provide information and counseling for nonregistrants, or those with questions about registration, and to train counselors and advise attorneys. Regional contacts include: Austin area, Dick Lavine, AFSC, 1022 W. 6th St., Austin, 78703, (512) 474-2399 or 458-1623; Houston, Bob Henschen, (713) 661-9889; Dallas, Mavis Belisle, (214) 337-5885; El Paso, Arthur Sullivan, (915) 544-6724; Lubbock, Marcy Wenzler, (806) 762-8950, evenings; Tulsa, Bill Major, (918) 592-5294, or Kurt Chestnut, (592-2136); Oklahoma City, Jim Bowers, (405) 525-0019. The regional American Friends' Service Committee office in Austin also has an excellent slide show with cassette, "Choice or Chance," about registration and military promises; call (512) 474-2399 for information.

DRINAN AT ROTHKO CHAPEL

Father Robert Drinan will speak at the Rothko Chapel in Houston on Sunday, **January 16, at 3 p.m.** His topic will be

"International Human Rights in Central America," and the role of the Church in liberation movements. The program will mark the Chapel's annual observance of the birthday of Dr. Martin Luther King, Jr. The program is free and open to the public. For information, contact The Rothko Chapel, 3900 Yupon at Sul Ross Street, Houston 77006; (713) 524-9839.

Progressive Organizations

The *Observer* has built up lists of organizations in Texas we regard as progressive. The editor invites communications recommending organizations for inclusion. We will generally run the listings for Austin, San Antonio, and Houston in one issue followed by Dallas, Fort Worth, and Around Texas in the next.

AUSTIN

ACLU (Central Tx.), 447-4335; ACORN 442-8321; Alternative Views (ACTV), Box 7279, 78712; Ann. Friends Service Cmte., 474-2399; Amnesty Intl., Bx. 4951, Aus. 78765; Anti-Hunger Coalition of Tx. (ACT), 474-9921; Assoc. for Retarded Citizens (ARC), 476-7044; Audubon Acty., 447-7155; Austinites for Public Transportation, 441-2651; Aus. Lambda, 478-8653; Aus. Lesbian-Gay Pol. Caucus, 478-8653; Aus. Nighborhood Ccl., 442-8411; Aus. Nighborhood Fund, 451-2347; Aus. Peace and Justice Coalition, 263-2586; Aus. Tenants Ccl., 474-1961; Aus. Women's Alcohol Resource and Education Center (AWARE), 472-5553; Aus. Women's Centr., 472-3775; Aus. Women's Political Caucus, 472-3606; Black Aus. Demos., 478-6576; Brthrhod of Viet Vets., 892-4738; Ctznz Party, 451-3864; Ctznz, United for Rehab. of Errants (CURE), 476-4762; Cmte. in Solidarity with the People of El Salvador (CISPES), 477-4728; Common Cause, 474-2374; Consumers Union, 477-4431; Demo. Socialists of America (DSA), 926-9600; Demos. for a Nuclear Weapons Freeze, 444-0805; Ecology Action, 478-1645; El Centro Chicano, 477-7769 or 476-3747; Grandparents for Nuclear Disarmament Action, 453-1727; Gray Panthers, 345-1869; IMPACT, 472-3903; Lawyers Alliance for Nuclear Arms Control (LANAC), 477-2774; Leonard Peltier Support Group, 472-4142; Live Oak Fund, 476-5714; Lone Star Alliance, 478-7481; LULAC, 451-3219; Max's Pot, 928-4786; Mxn.-Amn. Demos., 444-7688 or 472-9211; NOW, 472-3775; November 29th Coalition, 478-6733; Nuclear Weapons Freeze Campaign, 459-0762; Nurses' Environmental Health Watch, 454-3932; (Leave message); Northeast Aus. Demos., 836-3533; Organizing Cmte. for a Nat'l. Writers Union, (OCNWU), P.O. Box 4184, Austin 78765; Pax Christi, 476-7351; Phogg Foundation, Box 13549; Poverty, Education and Research Center (PERK), 474-5019; Professionals for Nuclear Arms Limitations, 443-9826; Progressive Writers' Alliance, 477-3281; Red Ryder Preservation Scty. (UT), 479-8548; Rural America, 459-3320; Save Barton Creek, 472-4104; Sierra Club 478-1264; Socialist Party of Tx., 452-3722; South Aus. Demos., 447-4091; Students for Political Awareness (Austin High), 476-0777; Tx. Abortion Rights Action League (TARAL), 478-0094; Tx. Consumer Assn., 477-1882; Tx. Council on Family Violence, 327-8582; Tx. Environmental Coalition, 476-3961; Tx. Fathers for Equal Rights, 452-0848; Tx. Mobilization for Survival, 474-5877; Tx. Pesticide Research & Education

Project, 474-0811; Tx. Solar Energy Society, 474-0811; Tx. Solar Energy Society, 472-1252; Travis Cty. Demo. Women, 453-3243; Travis Cty. YD's, 453-3796; Univ. Mobilization for Survival, 476-4503; UT YD's, 452-8516; West Aus. Demos., 454-1291; Women's Pol. Caucus, 474-1798; Zilker Park Posse, 472-1053.

HOUSTON

ACLU, 524-5925; ACORN, 523-6989; Amnesty Intl., 529-1892; Brotherhood of Viet. Vet., 728-4857; Citizens' Anti-Nuclear Info. Team (CAN IT) 522-3343; Citizens Party, 633-8587; Demo. Socialist Organizing Cmte., 921-6906; Gay Political Caucus, 521-1000; Harris Cty. Demos., 528-2057; Houston Area Women's Center, 528-6798; Houston Human Rts. League, 523-6969; Houston Interfaith Hunger Coalition, 522-3955; Houston Non-violent Action, 661-9889; Interfaith Peaceforce of Houston, 388-3803; Lesbian and Gay Demos. of Texas, 521-1000; Mxn.-Amn. Demos., 6944 Navigation, Houston 77011; Mockingbird Alliance, 747-1837; NAACP, 1018 Clebourne, Houston 77001; North Harris Co Demos., P.O. Box 90704, 77290; Nuclear Weapons Freeze Campaign, 522-2422; Park People, Inc., 741-2524; PASO, 46716 Fairfield, Houston 77023; Senate Dist. 15 Demo. Coalition, 862-8431; Sierra Club, 288-0037; Tx. Abortion Rights Action League (TARAL), 520-0850; Tx. Coalition of Black Demos., 674-0968; Tx. Demos., 667-6194; Tx. Fathers for Equal Rights, 960-0407; Tx. Gay Task Force, 529-7014; Toxic Substances Task Force, 228-0037; UofH YD's, 749-7347; United Viet. Vets. Organization (U.V.V.O.), 645-1821; Westside Demos., 464-2536; Women's Lobby Alliance, 521-0439.

SAN ANTONIO

ACLU, 224-6791; Alternatives to Imprisonment, Box 27393, 78227; Amnesty Int'l., Box LH134, 78212; Bread for the World, 494-1042; Civil Rights Litigation Center, 224-1061; Citizens Concerned About Nuclear Power, 655-0543; Communities Organized for Public Service (COPS), 222-2367; Coalition Against U.S. Intervention in El Salvador, 225-6913; Demos. for Action, Research & Education (DARE) 674-0351; Ecumenical Peace Group, 736-2587; Fellowship of Reconciliation, 432-5715; Habitat, 822-9100; International Center for Peace Through Culture, 822-0461; Interreligious Task Force on Central America, 432-1125; Latin-American Assistance, 732-0960; Metropolitan Congregational Alliance, 349-2401; Mxn.-Amn. Demos., 227-1341; NAACP, 224-7636; Organizations United for East Side Development, 824-4422; Pax Christi, 432-5715; People for Peace, 822-3089; Physicians for Social Responsibility, 691-0375; Poor People's Coalition for Human Services, 923-3037; Presbyterian Peace Fellowship, 732-9927; Proyecto Hospitalidad, 726-9306; Residents Organized for Better and Beautiful Environmental Development (ROBBD), 226-3973; St. Mary's Human Rights Assn., 436-3107; S.A. Demo. League, 344-1497; S.A. Gay Alliance, Metropolitan Comnty. Church, 102 S. Pine; S.A. Human Rights Commission, 436-4013; San Antonians for Freedom of Choice 733-4013; Sierra Club, 271-7169; Tx. Fathers for Equal Rights, 337-6803; United Campuses Protesting Nuclear War, 691-0375; United Citizens Project Planning and Operating Corp. 224-4278; Vietnam Vets. Against War, 826-2441; Women's Political Caucus, 655-3724.



Photography: Carlos Rios on Fulton Street

Houston

CARLOS ANTONIO RIOS lived in Houston for years before he spent much time on Fulton Street. He didn't need to visit the barrio to make the acquaintance of elderly Mexican-American couples who scrubbed floors day in and day out so that their children and their children's children would have a better life. He already knew about illegal aliens setting up tire repair businesses in their front yards, hoping to earn a toehold in America. The tattoos, the religious trinkets, the souped-up cars, the paint cans bought for sniffing — Rios wasn't interested. He had left a barrio like the one surrounding Fulton Street long ago. And he was just a little afraid to go back.

Last spring, however, the National Endowment for the Humanities set aside money to pay for the first photography exhibit focusing on Houston's Mexican-American neighborhoods. Rios, a photographer for the *Houston Chronicle*, was given the chance to take the pictures. He went into the project expecting to get paid. He expected to be "objective" and take pictures that were "arty." He ex-

By Claudia Feldman

pected to go into the neighborhoods, do his job, and emerge relatively untouched. But things didn't work out as he imagined.

The scope of the project was reduced drastically when Rios and his partners, Houstonians Jose Torres and Thomas Kreneck, realized they were going to get for their efforts \$500 — an amount so small they would have to dig into their own pockets just to finish the Fulton Street pictures. They had proposed photographs of other Houston barrios. Those plans were dropped. Torres and Kreneck had planned to do oral histories of people living in the barrios and a detailed history of the areas. All of it was canceled. And Rios, who once thought about being objective and arty, gave up those postures immediately. When he started work, Fulton Street began to remind him very much of his home in San Antonio; he discovered he had quite a few things to say about his neighborhood and his people.

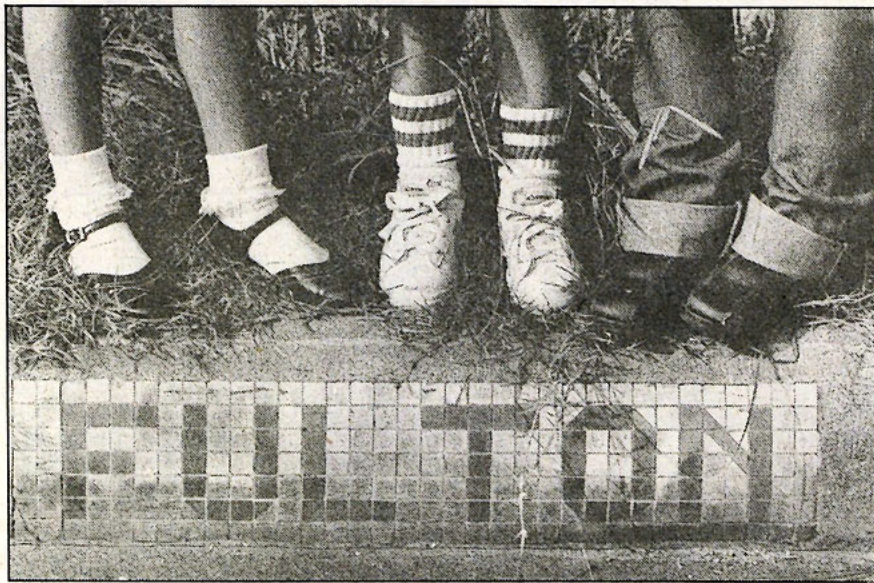
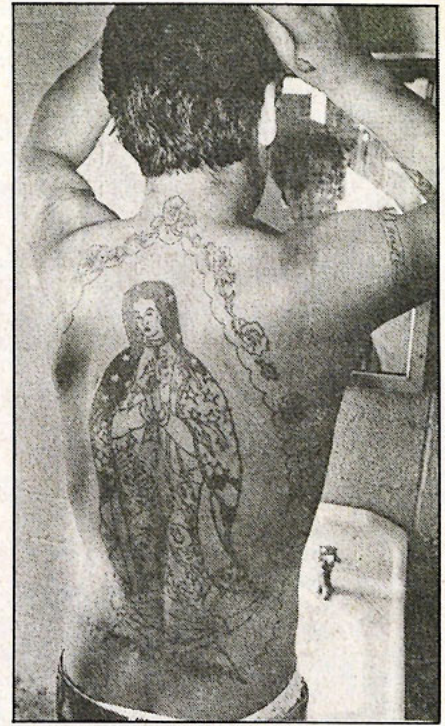
The pictures, fifty in all, now are rotating through the Houston Public Library branches, and when the tour is over, the photos will rest in the Mexican-

American archives at Houston's Metropolitan Research Center. Technically, Rios' work is finished, and there is nothing for him to do but collect the compliments on his stunning exhibit and count his financial losses. Instead, he is still working. The exhibit moves to a new library branch every month, and every time it moves he hopes to replace some of the photos with new and better ones. That means Rios still is spending his free afternoons and weekends in the barrio.

IT'S LATE afternoon on a Saturday, and he is tooling up and down Fulton Street. There's much to see on his guided tour of the neighborhood, which begins in the front yard of the Southern Pacific railroad. The railroad was largely responsible for the development of the neighborhood back in the 1800s. Then, Germans settled into the neighborhood and supplied the labor needed to keep the company in business. Eventually, the Germans moved out and the Italians moved in. Well into this century, the Italians moved out, and the Mexicans moved in.

The railroad is in operation today, and the houses the company built for its employees are still standing, though they look as if the next good rain will flatten

Claudia Feldman is a reporter for the Houston Chronicle.



them. Near those shacks are sturdier single-family dwellings, two-story duplexes, old boarding houses. Many of the homes sport fresh coats of paint and flower boxes and fancy gingerbread trim. Driving down the street, mixing with dogs that are clearly family pets, young men toting babies, women on the way to the neighborhood grocery, the feeling of community is strong.

Rios points out a Masonic lodge, the only one in Houston with an all Mexican-American membership, the billboards advertising in Spanish everything from beer to mayonnaise, Moody Park, the half dozen excellent Mexican restaurants, a public housing project —that's Irvington Village, a funeral parlor, an outdoor market that features live music most

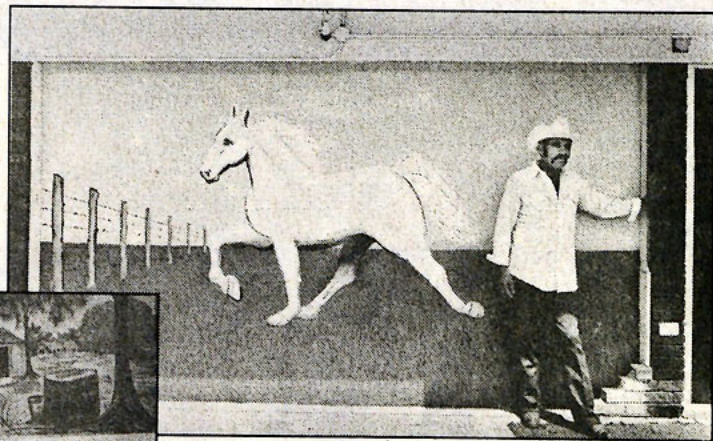
of the weekend, the corner bars. He passes several businesses that spill from dilapidated houses onto the porch and into the front yard. Many of the businesses, he says, are operated by illegals.

"Illegals," Rios says, "are slowly destroying the neighborhood, and the Mexican-Americans who live here already are the first to talk about it. The illegals make for a lot of transition —for people floating in and out."

Past two theaters that show movies in Spanish, past soccer fields and the first piece of art ever purchased by the city specifically for a Mexican-American neighborhood, is Loop 610. That, as far as most people in the neighborhood are concerned, is the end of the street.

Rios turns back and heads for Las Cazuelas Taqueria, a neighborhood restaurant known for good and cheap food served around the clock. He orders a margarita, leans back in his chair and stretches his legs. He's a talker, a good one, and he enjoys conversation about his project.

"I grew up in an area similar to this, and when I first saw Fulton Street, it was like *deja vu*. I mean, in terms of walking back and confronting the past. My father owns a bakery on a main street in the neighborhood —and it is just like this. Even when I was a kid [Rios is 31], we saw changes, we saw the influx of illegals, we saw our neighborhood go through this same transition."



The folks that Rios is really hoping to reach are children — the Mexican-American children living in the barrio.

"I began the exhibit with pictures of kids and I ended it with a child wandering through Moody Park, barefoot, in jeans, without a shirt. He was a little bitty kid charging off without a worry in the world. I hope the kids will see his freedom — see that freedom is taking chances and that life is a chance — and that you have to take it one step at a time. I hope the kids look at that."

The exhibit includes pictures of businessmen, old people, rebellious teenagers, drug addicts, young marrieds. Rios tried to convince the doctors in the

neighborhood to be photographed, too, but they refused.

"I wanted the kids to see the pictures and say, 'Hey, this guy is a doctor and I can do that, too.' I wanted them to say, 'I want to be like this and dream,'" Rios says. "It's hard to dream about tomorrow when the reality of what's happening today is staring you in the face."

Rios took over 1,000 pictures of the neighborhood before he cut all but fifty for the show. "I'm not trying to pass it off as great journalism," he says. "What I have is a bunch of informal portraits. I tried to show personalities. I tried to show that you can find everything on Fulton Street — everything you'd need

from the cradle to the grave.

"In a way, I tried to run away from all this," Carlos Rios says. "And when talk of the photo essay came about, it was frightening. It was the very first time I'd ever considered a photo essay of the Mexican-American community. As a journalist, I had been told there were other things to do besides taking pictures of ethnics. I didn't want people to think I was pushing my culture down their throats. So I played by the rules. Even up to the time the project came about, I said I'd play by the rules and be objective. But instead, it became very personal. It took on a life of its own, and I just tried to catch up." □

◇ DIALOGUE ◇

Perils of Gonzo Journalism

The death penalty should always prompt thoughtful consideration. The *Observer's* recent pieces on the subject were well-timed, given the number of citizens on Death Row and the current policy in Mark White's office of opposing stays of execution — formerly routine — as each capital case wends its way through direct and collateral appeal in state and federal court.

But Bill Stott's article, I think, trivializes this debate, deflecting it from the fundamental issues. He allows that "the problem with execution by injection . . . is that it sets up the wrong relationship between the executioner and the condemned person." By indirection, of course, this supposes that there exists a correct method of execution. But my quarrel is not that Stott favors capital punishment, while I oppose it. Rather, it is that Stott disguises, or rather circumvents, the fundamental question. By reducing a serious political and moral issue to the level of esthetics, he prettifies capital punishment — or uglifies it — just

as he complains that "death by injection 'humanizes' execution in the wrong way." What, in fact, is the 'right' way to humanize execution? And what has the personal relationship between the condemned person and the executioner have to do with the basic questions posed by the existence of the death penalty?

Capital murder stands alone at the far end of the spectrum of state power over the individual. We willingly sacrifice some individual freedom so that we can pursue personal goals protected by the state from violence by others. Outside of wartime, government countenances only one form of murder — capital punishment. Myself, I have long been convinced that this maximum penalty neither deters nor reduces crimes. But advocates and opponents of the death penalty can and should debate the questions of whether executions deter crime, vindicate victims, or in any way serve any goal our society professes to protect.

But Stott's essay demonstrates the moral and analytical limitations of gonzo journalism, or gonzo essay-writing. There are times and topics in which the subjective sensations, reflections and relationships of the individuals involved simply do not properly define the issues. The executioner-condemned relationship falls well short of being an adequate metaphor from which to launch a discus-

sion of the death penalty. His starting point and premise — that the relationship matters much — dangerously confines the ethical sweep of his examination of the death penalty to a small and inconsequential fraction of the whole. He has, I fear, badly served a critical public debate. He gave us a teacup painting of offended sensibility when what we need is a broad canvas of fundamental inquiry. Surely the *Observer* can better define the issues so as to enlighten rather than obscure our discussions of the death penalty — the rawest use of state power, the power to murder with impunity.

Martha McCabe, 420 South Vine, Tyler, Tx 75710

Execution "No less wrong"

As I write this, I am not sure it serves any useful purpose but, nevertheless, I feel compelled to write because I have grown to expect something better from *The Texas Observer* than Bill Stott's essay on death by injection.

While I am sure his musings are heartfelt, they are, at the same time, strange and confusing. Electrocutation requires the laying on of hands as much as does death by injection — to shave the head and ankles, to put the prisoner in the wooden chair, to buckle the leather straps, to place the electrodes on the body, to pray with him before he is killed by the "community."

Stott writes of the "ties and prohibitions that bind the community together" that are reinforced by the execution. I don't feel a greater sense of community at those times. I feel sick deep inside just as I feel sick deep inside when I read of the death of the murderer's victim.

The inescapable fact of execution is that it is intentional killing, perhaps more organized than the earlier killing and definitely more thoughtful but no less wrong. I am appalled not so much at the murderer's "fate" but at the carefully

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planned, considered, deliberate killing by the state. Do not count me among your "community" Mr. Stott. It is as frightening to me as the community on death row.

An essay on why Stott was a "better person" when he was against capital punishment might have been more interesting. I doubt that it would have been as disturbing to me as the one he wrote.

Lamar W. Hankins, 4008 Culpepper, Bryan, TX 77801.

Injection "humanizes"?

What in the world does Bill Scott mean by writing, "What I am saying is that death by injection 'humanizes' execution in the wrong way."? What the hell is the right way? Sedatives or drink as he suggests?

This kind of prissy, urinating in the wind so-called intellectual argument about killing somebody only outrages the rank and file. It turns them off.

I know this is so because I have used the argument myself in debate along with some others equally as uninspiring. You see eyes roll in back of heads with boredom.

But then I used the argument of Judge William O. Douglas one time in front of

a white, union crowd. There was an immediate positive reaction to this thought by Douglas: capital punishment should be outlawed because it is not equally applied. As long as I talked about the death penalty being "cruel and harsh" no one paid any attention to me.

I even intimidated, not really meaning it but wanting to see the reaction, that the death penalty should be expanded to include presidents who put us into a war in violation of the Constitution, businessmen who make dresses for little girls knowing that they might cause cancer, or union bosses who steal vast pension funds.

I am against the death penalty, but if it is good for "niggers" and poor "honkies" who, say, kill a single individual, it is also good for elitists who quantitatively do much worse.

Maury Maverick, Jr., 114 Bellview, San Antonio, Tx., 78209.

Bill Stott replies:

Lamar Hankins, Martha McCabe, and Maury Maverick, Jr., are opposed to capital punishment. I respect their view, but I don't share it. Ms. McCabe believes that capital punishment is the same as "murder"; Mr. Hankins believes that a just execution is "no less wrong" than

murder. This view I don't share and don't much respect. I am with the "rank and file" Mr. Maverick talks about: I think there is a basic moral difference between legal and illegal killing.

The point of my article, though, wasn't to support capital punishment. It was to voice my objection to Texas' death-by-injection system of execution as I then understood it. When I wrote, death-by-injection hadn't been used in Texas or anywhere else. Now it has been. The Texas Department of Corrections devised a method of execution that meets the most important objection I raised. The executioner does not lay hands on the condemned person; indeed, the executioner is not in the same room.

To achieve this end, the procedure borrows even more from the medical profession than I had supposed. A nurse or paramedic ("medical technician" was the phrase used in the newspaper story I read) hooks the condemned person up to an intravenous solution, the source of which is in the next room. The condemned person, who has earlier been strapped down to a hospital table and sedated, is then killed, quickly and (we are told) painlessly, when the executioner, in the next room, injects a heart-stopping poison into the intravenous solution. I regret that the procedure uses curing paraphernalia and personnel in the killing of someone. Were I a physician, I imagine I would object.

Ms. McCabe objects to my discussing the symbolism of capital punishment ("symbolism" is my word; the word she

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uses is "esthetics"). As I explained in my article, I believe the proper symbolism is important. (Much less important than whether or not capital punishment is permitted, of course — but, again, that was not the subject I was discussing.) I think the crucial symbolic differentiation between the condemned person and the rest of society, including the executioner, is maintained in the death-by-injection procedure now in effect in Texas.

Still clearcutting

Your October 29 issue has just recently come to my desk. It may be that other readers have already written to correct a statement in Gary Borders' evocative article, "Behind the Pine Curtain." I hope so.

Speaking of the threat of clearcutting to the national forests in East Texas, Mr. Borders states that "a bill was passed in Congress last year that banned clearcutting the national forests." Unfortunately, there is no such bill.

Wholesale clearcutting has already impaired about 25% of the national forests in the Pacific Northwest and the South as well as substantial portions in all other regions and is going on unabated.

At present it appears that the only way to protect the remnants of the East Texas pine curtain is for Congress to designate them as wilderness areas. Concerned citizens' groups have proposed a modest 62,500 acres of the four national forests in Texas (all in East Texas) to be set aside as wilderness. This effort can be helped by alerting legislators to the widespread public demand and the need to preserve some natural areas in this region of rapid urbanization.

From behind the Pine Curtain I congratulate you on the October issue and on Mr. Borders' article in particular.

Charlotte Baker Montgomery, 1703 North Street, Nacogdoches, TX 75961

Ronnie Dugger: "Heard's accounts of the Bees in hiding are the pure gold of real history."

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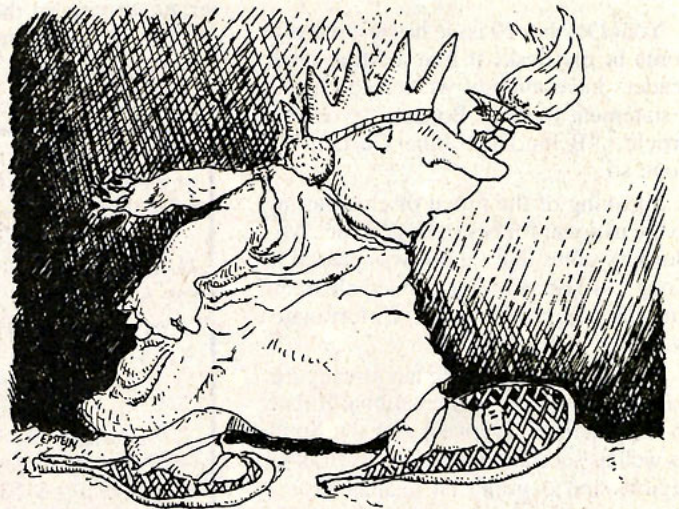
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