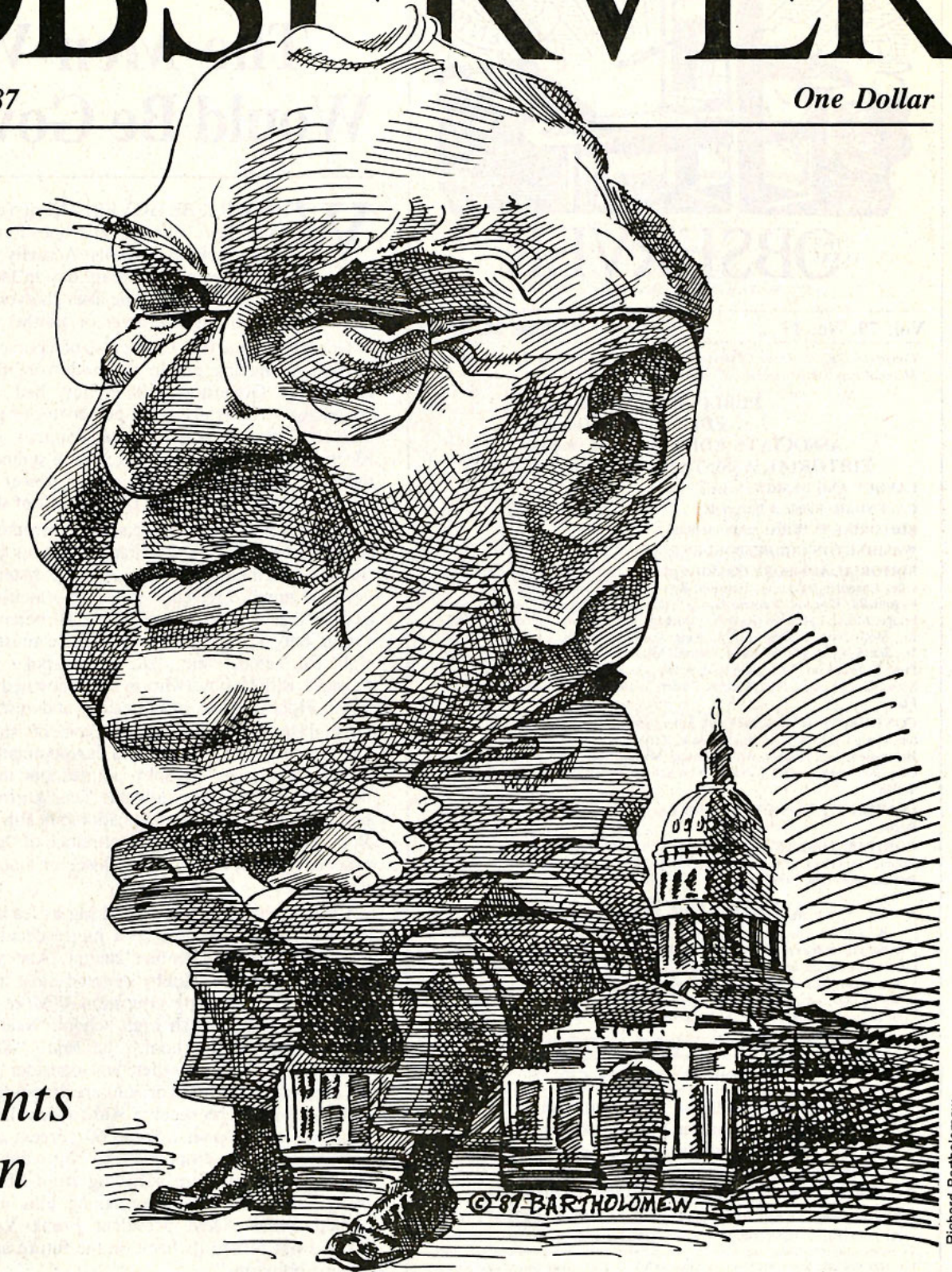


THE TEXAS **OBSERVER**

June 26, 1987

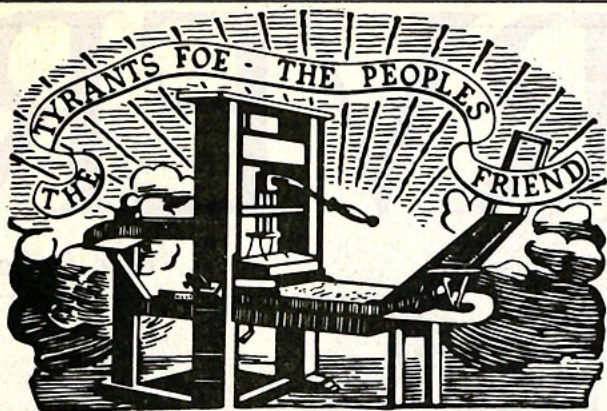
One Dollar



Richard Bartholomew

*The  
Bill  
Clements  
Session*

Obstruction of Progress in the 70th Legislature



## THE OBSERVER

© The Texas Observer Publishing Co., 1987

Vol. 79, No. 13

June 26, 1987

Copyright 1987 by Texas Observer Publishing Company. All rights reserved. Material may not be reproduced without permission.

**PUBLISHER** Ronnie Dugger  
**EDITOR** Dave Denison

**ASSOCIATE EDITOR** Louis Dubose  
**EDITORIAL ASSISTANT** Kathleen Fitzgerald

**LAYOUT AND DESIGN:** Valerie Fowler

**CALENDAR:** Kathleen Fitzgerald

**EDITORIAL INTERN:** Stephanie Roth

**WASHINGTON CORRESPONDENT:** Richard Ryan

**EDITORIAL ADVISORY BOARD:** Frances Barton, Austin; Elroy Bode, Kerrville; Chandler Davidson, Houston; Bob Eckhardt, Washington, D.C.; Sissy Farenthold, Houston; Ruperto Garcia, Austin; John Kenneth Galbraith, Cambridge, Mass.; Lawrence Goodwyn, Durham, N.C.; George Hendrick, Urbana, Ill.; Molly Ivins, Dallas; Larry L. King, Washington, D.C.; Maury Maverick, Jr., San Antonio; Willie Morris, Oxford, Miss.; Kaye Northcott, Austin; James Presley, Texarkana, Tx.; Susan Reid, Austin; Geoffrey Rips, Austin; A. R. (Babe) Schwartz, Galveston; Fred Schmidt, Fredericksburg, Robert Sherrill, Tallahassee, Fla.

**CONTRIBUTING WRITERS:** Bill Adler, Betty Brink, Warren Burnett, Jo Clifton, Craig Clifford, John Henry Faulk, Terry FitzPatrick, Bill Helmer, James Harrington, Jack Hopper, Amy Johnson, Michael King, Dana Loy, Rick Piltz, Gary Pomerantz, Susan Raleigh, John Schwartz, Michael Ventura, Lawrence Walsh.

**CONTRIBUTING PHOTOGRAPHERS:** Vic Hinterlang, Bill Leissner, Alan Pogue.

**CONTRIBUTING ARTISTS:** Eric Avery, Tom Ballenger, Jeff Danziger, Beth Epstein, Dan Hubig, Pat Johnson, Kevin Kreneck, Carlos Lowry, Miles Mathis, Ben Sargent, Dan Thibodeau.

### A journal of free voices

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

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

**Managing Publisher** Cliff Olofson  
**Subscription Manager** Stefan Wanstrom  
**Office Manager** Joe Espinosa Jr.  
**Publishing Consultant** Frances Barton  
**Development Consultant** Hanno T. Beck

600 West 28th Street, #105, Austin, Texas 78705 (512) 477-0746

The Texas Observer (ISSN 0040-4519) is published biweekly except for a three-week interval between issues in January and July (25 issues per year) by the Texas Observer Publishing Co., 600 West 28th Street, #105, Austin, Texas 78705, (512) 477-0746. Second class postage paid at Austin, Texas.

Subscription rates, including 5 1/8% sales tax: one year \$23, two years \$42, three years \$59. One year rate for full-time students, \$15. Back issues \$2 prepaid. Airmail, foreign, group, and bulk rates on request. Microfilm editions available from University Microfilms Int., 300 N. Zeeb Road, Ann Arbor, Michigan 48106.

Copyright 1987 by Texas Observer Publishing Company. All rights reserved. Material may not be reproduced without permission.

**POSTMASTER:** Send form 3579 to: 600 West 28th Street, #105, Austin, Texas 78705.

## • EDITORIAL •

# The Men Who Would Be Governor

**W**HO WILL BE GOVERNOR of Texas? Many people may have thought this question was decided last November at the polls. Actually, the campaign was just getting underway on a dreary day in January on the south steps of the state Capitol, long after the voters had performed their duty by pulling one lever or another.

Governor-elect Bill Clements, of course, had the nominal advantage, having gotten the nod from the electorate. But Lieutenant Governor Bill Hobby had the constitutional advantage — he is given the power to preside over the Senate and to control much of what happens in the legislature. Elections are often useful exercises in symbolism, but they are not necessarily the final arbiters of power. The 70th session of the legislature would be the real test of who would govern.

They shared the same inaugural ceremony on the Capitol steps, Hobby standing up first to offer his vision of the state's future, and then Clements. An idle listener may not have detected much difference in the two men's speeches, except to note that Clements used about 80 percent more platitudes ("Our only standard of performance must be to do what is right for Texas." etc., etc.), and spoke so ponderously as to make Bill Hobby (who is not renowned as an orator) look good. Hobby spoke of education and research as "tools for the high-technology frontier." Clements spoke of establishing "new frontiers in research and development" and of "creating new technologies." Hobby pointed out that "the sectors of the economy that are now the fastest growing are defense, biotechnology, telecommunications, health care and finance." Both officials spoke of the importance of "quality education," especially to serve the business sector's need for an educated workforce.

Clearly both men were speaking as leaders of the business community, with visions of a future decided by the captains of big finance and venture capital. And yet something was slightly discordant. Hobby devoted most of his speech to the importance of funding education. "More than one third of our adults don't finish high school. Nearly one fifth don't finish junior high school," he said. "Those figures have ominous implications when you consider that 85 percent of the inmates in the Texas prisons are dropouts. About 63 percent of the parents who receive Aid to Families with Dependent Children are dropouts. Some 60 percent of those below the poverty level are dropouts." Hobby went on to say that the state's universities are suffering from "brain drain" — too many faculty members are taking jobs in other states. He quoted Texas A&M president Frank Vandiver as saying "Texas has turned its back on the future and marched firmly toward oblivion."

The connection between an insufficient educational system and society's ills was one Clements did not make. Hobby's message was that his agenda for the 70th session would be to preserve government spending, especially for education. Clements revealed, more explicitly in his State of the State address two weeks later, that his priority was quite different:

it was to avoid a new tax increase at all costs. He attacked those who "want to constantly raise taxes and make government bigger and more expensive," and he said the state's economic difficulties "give us an opportunity to change the nature of our state government and strike out in a new direction." From there, Clements and Hobby continued to head in different directions, so that by the end of the session the two were hardly on speaking terms. Nor did it do much for mutual trust and good will that Hobby had let it be known early in the session that he intended to run for governor in 1990. "Hobby is the problem," Clements told the press in May, by which time it was obvious that the session would end in failure and the budget stalemate would last into a summer session. Hobby's criticisms of the governor were comparatively understated — he called Clements's statements "puzzling" — but everyone knew that if he were not speaking for the record he would find stronger words, perhaps reflecting a harsh judgement on the governor's mental competence and fitness for the job.

The differences between the two Men Who Would Be Governor amount to more than a personality conflict. The Hobby/Clements split is *the* story of the 70th session because it shows how deeply divided is the business community in this state — and the business community is what the Texas legislature is all about. Two years ago, the 69th session was remarkable in its deviation from this tradition. Major battles erupted between the well-moneyed forces of reaction (such as the Farm Bureau and the Texas Chemical Council) and the new vocal citizens' lobby, especially the Industrial Areas Foundation groups that pressed for an expanded indigent health care program. A surprising amount of progressive legislation somehow survived that session, and dramatic floor fights were led in the House — and won — by the Mexican American Caucus and the Black Caucus. This session the battle lines weren't drawn over social reform. (Farmworkers won passage of three significant bills: the state minimum wage bill, the right-to-know bill for hazardous chemicals, and a bill to curb stoop labor, the latter to be vetoed by the governor after the session's end. See page 10.) Instead, the session was distinguished by battles among well-financed heavyweights — on insurance reform and "tort reform," on telephone and trucking deregulation, and even on the ongoing Texaco/Pennzoil court fight. The business community couldn't seem to agree on anything, least of all which direction the state should go in budget and taxation matters. In the one corner, you had Bill Hobby and a sizeable gang of high-profile corporate leaders, such as Democratic financier and Board of Regents head Jess Hay, along with computer magnate and education reform proponent H. Ross Perot, giving their blessing to higher taxes and government spending. In the other corner, you had a group of Republicans wedded to Reaganistic cant about the evils of big government, led by a mercurial and sometimes bizarre former oil drilling executive who seemed to be marching to a drummer even his followers sometimes couldn't hear.

**T**HAT WOULD BE Bill Clements. What an irony that Clements began the session by constantly claiming that he stood for a departure from the status quo, only to lead the legislature to the very same state of affairs in which it opened in January. Through 140 difficult days, in a time that called for action, Clements ensured that nothing would change — and with each passing week the status quo became the enemy of good sense and good government.

It didn't help the governor's leadership that he seemed to be losing credibility and respect from the moment he took office. He began his term saddled with the Ponygate scandal,

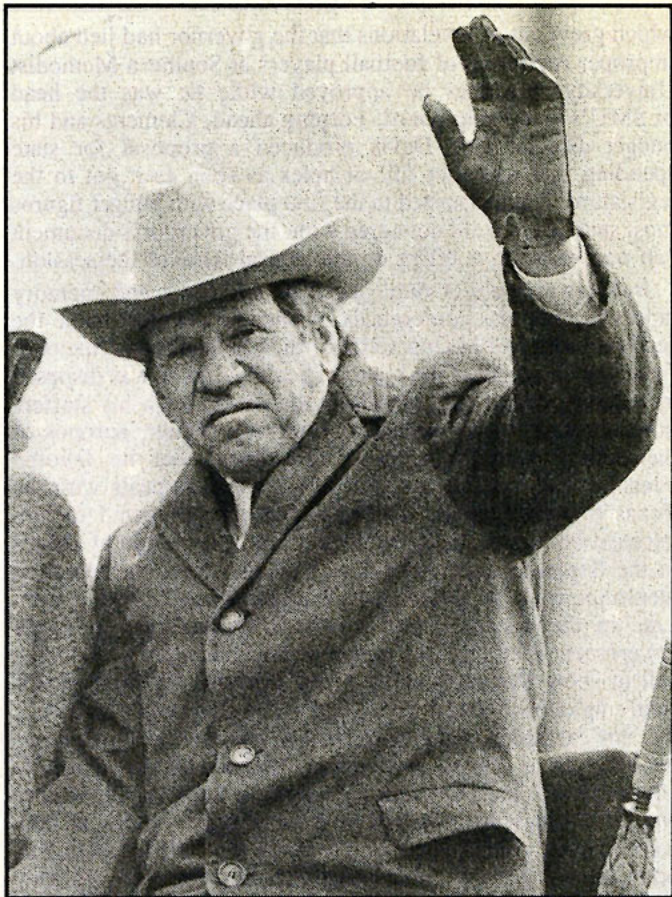


Photo by Vic Hinterlang

Lt. Gov. Bill Hobby at inaugural parade, January 20.

## CONTENTS

### FEATURES

- |                                      |              |
|--------------------------------------|--------------|
| 2 The Men Who<br>Would Be Governor   | Dave Denison |
| 5 Miami Vice                         | Louis Dubose |
| 7 The Speaker's S&L Dilemma          | Richard Ryan |
| 8 Civil Justice Reformed             | Louis Dubose |
| 10 Victories and Vetoes              | Dave Denison |
| 11 Key Votes                         |              |
| 14 A Legislative Roundup             |              |
| 18 Great Moments of the 70th Session |              |

### DEPARTMENTS

- |                           |                 |
|---------------------------|-----------------|
| 4 Dialogue                |                 |
| 21 Political Intelligence |                 |
| 22 Social Cause Calendar  |                 |
| <b>Afterword:</b>         |                 |
| 23 A Gentle Reformer      | Harry Middleton |

Cover Art by Richard Bartholomew

which grew out of revelations that the governor had lied about improper recruiting of football players at Southern Methodist University, practices he approved while he was the head of SMU's leadership board. Forging ahead, Clements and his budget director Bob Davis produced a proposal for state spending that was shot full of holes as soon as it got to the legislature. Having started in the first place with budget figures most state leaders did not agree with, the governor's document had no constructive effect on the central issue of the session.

But it was weirder than just that. Clements had memory lapses in his press conferences — once he couldn't name the responsibilities of his top staffers, then he couldn't remember firing the chairman of the board of health. And he was disposed to making off-the-cuff proposals that made even his staffers gulp. One day he surprised reporters by saying, apropos of the debate over the election of judges, that he favored consolidating the state's Court of Criminal Appeals with the Texas Supreme Court. The idea probably occurred to him because he is dissatisfied with the election of liberal judges to the Supreme Court, but it was unclear how consolidation would improve the already overloaded dockets of both courts. Late in the session, after endless diatribes against higher government spending, the governor announced on a television call-in show that he favored a two percent pay increase for state employees. Jaws dropped open. The governor's insistence that any extension of the sales taxes to cover service industries be done in a "revenue neutral" manner didn't win him admiration for incisive thinking; everyone knew the legislature wouldn't stand up to the heat from service groups if they weren't even going to gain any revenue for their trouble. This point briefly got through to Clements and for a day in May he was willing to agree to an expanded sales tax base that would bring in more money. His change in stance recalled earlier days in the session when he decided to support the "temporary" sales tax hikes passed under former Gov. Mark White. "I can't be in granite in a changing panorama," Clements said then. But maybe he could. After dogmatic Republicans in the House chided him for his one-day flirtation with the sales tax expansion, he stood rock-solid for the rest of the session against new tax revenue.

One day toward the end of the session, when reporters were crowding around Clements, one of them accidentally bumped him. The governor threw an elbow and demanded "Quit pushing me." More people were beginning to realize that not only was Clements a hard man to follow, he might be just a bit dangerous.

**T**WO WEEKS AFTER the session's big fizzle, Lt. Gov. Bill Hobby called a closed-door meeting to discuss the budget conundrums with about 50 of the state's top business leaders, most of them Democrats. Attending were the likes of Walter Mischer, Sr., the Houston developer; Jess Hay, the mortgage banker from Dallas; Robert Lanier, the Houston businessman and highway commissioner; H.B. Zachry, the San Antonio builder; Ron Kessler of the Dallas Chamber of Commerce; as well as Republican chums of Bill Clements such as Secretary of State Jack Rains and Dallas investor Peter O'Donnell.

In Hobby's prepared remarks made available to the press, he spoke mostly about the importance of educational spending and of luring industry. As an example of his vision of development, he described the economic benefits if the government's 52-mile atom smasher — the Superconducting Supercollider — were to be located in Texas. The project would generate "up to 15,000 jobs and as much as \$2.7 billion a year" for the state's economy, Hobby said. But the contest for the Supercollider will only be won, according to Hobby,

"if Texas can offer infrastructure, support facilities and a quality of life superior to other contenders. It must demonstrate that its climate for research and innovation is second to none." The lieutenant governor added that "More and more, decisions about locating and relocating businesses are based on the quality of education and the quality of life."

Hobby also spoke of the increased burdens on the state's "very conservative human service system." He said programs such as Aid to Families with Dependent Children, unemployment compensation and state aid for nursing home care are expected to add \$300 million in social spending over the next two years and concluded that "we cannot afford to balance our budget at the expense of human services and public and higher education."

Though he was advocating a budget that would cost roughly \$6 billion more than the state has available to spend, Hobby used the word "tax" only once in his speech. In the discussion that followed, business leaders discussed various tax alternatives. According to several who emerged from the meeting, Frank McBee, head of Tracor, Inc. of Austin, suggested the eventual need to move to an income tax system. Jess Hay agreed that personal and corporate income taxes "ought to be considered." Republican Jack Rains, seeming a little scandalized by Hobby's talk of needing an extra \$6 billion, said of Hobby: "I don't know if he used the word 'inevitable,' but he said an income tax is coming." At a press conference afterward, Hobby said it was clear that the state had to seek other means than the sales tax for raising revenue. Asked about income taxes, he said, "It's something that increasingly comes up at these meetings."

The lieutenant governor was not suggesting that sweeping tax changes would be enacted in this summer's special session. Hobby, Clements, and Speaker of the House Gib Lewis all seem to expect the tax restructuring decisions to be postponed until after a Select Committee on Tax Equity created this session begins to make recommendations. The committee is made up of appointees of the three top state leaders and is charged with making a four-year study of the tax system.

What kind of solutions can the 13-member committee be expected to bring forth? Chaired by Dan W. Cook, III of Goldman, Sachs & Co. in Dallas, the group can be expected to be receptive to business interests. In addition to seven businessmen, there will be two House members (Rep. Dan Morales, D-San Antonio, and Rep. Stan Schlueter, D-Killeen) and two Senators (Bob Glasgow, D-Stephenville, and Grant Jones, D-Temple), as well as Comptroller Bob Bullock and Clements's budget director Bob Davis. One of the lieutenant governor's appointees is Frank McBee, the business leader who brought up the income tax discussion at Hobby's meeting. Rep. Stan Schlueter, who this session carried a constitutional amendment to ban income taxes, and most other members, can be expected to frown on an income tax.

In public hearings around the state the committee will undoubtedly hear from the vocal anti-tax groups and characters such as San Antonio's C.A. Stubbs, who repeatedly urged Schlueter's Ways and Means Committee to ban the income tax. "Hang in there and God Bless," Stubbs told the committee in February when it created the tax equity committee. "If we can do anything to help, well, we're available" — and you can bet they will be.

Late in May, when the Senate was debating the only tax bill to come to life this session (the continuation of the "temporary" sales and motor fuels tax increases), some Senators noted that more sweeping solutions will be discussed two years from now when the next regular session begins. Senator Eddie Bernice Johnson, D-Dallas, asked her colleagues

"Do you really believe it's going to take two years to decide what's an equitable tax on the people? I believe I can almost tell you right now what's equitable." Senator Bob Glasgow, D-Stephenville, responded, "I can tell you what's equitable; I can't pass it."

There is some question whether anyone will be able to pass fair and equitable tax reform, as long as the current Republican occupies the Governor's Mansion. But progressives need to come into the tax debate, armed with facts and figures, and with a clear conception of tax justice, to prevent a business-tailored tax scheme on the one hand or a reactionary tax revolt on the other. What has been happening as the oil industry has no longer been able to prop up state government is that more of the tax burden is being shifted to the consumer in the form of sales taxes. In arguing against this most regressive form of tax, Senator Hugh Parmer declared in May that it is time to stop taxing the people who are least able to pay. He claimed that Texas is 46th in the nation in total tax load on the business sector, even though the state ranks third in business wealth.

We are at a point when that kind of inequity can be addressed; the enlightened business leaders and Bill Hobby are willing to spread the tax burden more evenly within the

business community, knowing that business has a lot to gain from partnership with the government. After all, we are talking here about a small redistribution of resources, certainly not a redistribution of power. Politicians such as Bill Hobby are able to envision a decent and humane public sector as an advantage to the business environment.

Bill Clements, on the other hand, is stuck in a time that has faded away. Trained in the oil industry, he is the perfect representation of Texas' past. He doesn't think much of government. He seems to expect a solution to money woes to come suddenly out of the ground, making him a successful and respected executive. He picked up on a few lines that Ronald Reagan has been using since 1963 and substitutes them for political thinking. Ultimately, Clements is bound to lose. The pressure from business leaders such as H. Ross Perot, Peter O'Donnell, John Connally, Trammell Crow — all of whom have urged him to boost funding for higher education — will become overpowering. But until Clements (to borrow a phrase from his revered leader) "cries uncle," almost all reform, big and small, will be ignored. Politicians will be preoccupied with averting fiscal disaster, the people will be on the defensive, and the time for planning will be wasted in chaos. **D.D.**

## Miami Vice

**O**N ONE PARTICULARLY cold June evening in 1985 Edén Pastora, in the company of his wife, walked out the street level exit on the House side of the U.S. Capitol. His short visit to Washington had, he told me, been *un gran éxito*, a great success. Pastora had been lionized from the floor of the House by Denton Republican Dick Armeý. "At this very moment," Armeý said, pointing toward the foreign visitors' gallery, "his sons are fighting for freedom in the jungles of Nicaragua." The Pastoras and Armeý's aides had sat in the gallery watching as the House voted \$100 million to resume funding of the contra war. At the end of the record vote Pastora flashed a victory sign to his congressman on the floor and then embraced his wife.

In retrospect Pastora's appearance must be considered one of the more cynical and amoral moments in recent legislative history. For here, as Congressman Armeý's guest, was a man who only one year and 12 days earlier had been seriously injured when a camera case filled with plastic explosives was detonated at a press conference in a place called La Penca, deep in the rain forest of southern Nicaragua. And recent, hard evidence strongly suggests that the C-4 plastic explosive and perhaps even the detonating device tucked into the camera case had been manufactured in the United States. And that the Libyan terrorist, and former employee of the Chilean secret police, Amac Galil, who was video-taped leaving the camera case a few feet from where Pastora was to stand, was working with agents of the U.S. Central Intelligence Agency in Central America. Whether Armeý was aware of the CIA's role in the attempt to assassinate Pastora, and earlier harassment of his contra forces in the field, or whether he, like Pastora was a duplicitous accessory to a foreign policy run amok is not yet known. And it isn't likely that the Select Congressional Committees investigating the Iran-contra scandal will further consider the issue of the La

Penca bombing where eight people, including American journalist Linda Frazier of Religious News Service, were killed.

Most of what has been disclosed about the CIA's attempt to remove Pastora from the ranks of contra leadership is a result of a lawsuit filed in a Miami federal court by the Washington-based Christic Institute. The civil suit filed by the public policy lawfirm demands that 29 defendants, including such recent notables as Richard Secord, Albert Hakim, Theodore Shackley, Robert Owen, and Thomas Clines pay damages to plaintiffs Tony Avirgan and his wife Martha Honey. Avirgan, an NBC cameraman, was seriously injured in the May 1984 bombing at La Penca. The Christic lawsuit was filed in Miami in May of 1986, six months before the Iran-contra story broke in the national news media to make Richard Secord a household face.

**T**HE TRAIL THAT LEADS through Central America into the courtroom of Judge James L. King begins in Brownsville, Texas in 1984 where Christic Institute General Counsel Daniel Sheehan was preparing to defend sanctuary worker Stacey Lynn Merkt. A statement from a Protestant minister in Brownsville had raised Sheehan's concern about the extent of the federal government's efforts to discredit and subvert the sanctuary movement. The minister informed Sheehan that he had been cautioned, by an FBI agent, to avoid the sanctuary movement because movement workers were smuggling communist terrorists across the Mexican border and into the U.S. where they would attack military and communications centers in the event of an invasion of Nicaragua or El Salvador. The trail of informants, drug dealers and arms dealers, right-wing political organizers and investigative journalists that Sheehan followed led him to a network of private and quasi-public, fervent anti-communists who were working with the U.S. government to overthrow the current government of Nicaragua. Many of them, Sheehan discovered, had been involved in drugs, arms and covert U.S. foreign policy schemes since the Cuban revolution in 1959.

Institute attorneys have used the federal anti-racketeering RICO Act to file the suit on behalf of Avirgan and Honey. The statute allows private citizens to file for damages when they have been victimized by organized criminal activity. For the statute to be used, a federal judge must be presented with

sufficient evidence of such acts as murder, kidnapping, drug-trafficking and mail-fraud, which Christic attorneys claims have been used to finance the current contra war in Nicaragua. In Miami, Judge King —a Nixon appointee— was sufficiently convinced that he granted Christic attorneys subpoena power and the right to interrogate witnesses under oath. In a sense, they now become private attorneys general. In January, King denied defendants' motions to dismiss and the case will be tried before a jury next year. Documents filed in federal court in Miami charge that the contras, aided by U.S. citizens:

- financed military operations with the profits of cocaine sales in the United States and that the cocaine-for-guns scheme used secret airstrips on the ranch of U.S.-Costa Rican citizen John Hull. (Hull has sued Avirgan and Honey for libel in a Costa Rican court and lost.)
- hired a professional terrorist to eliminate contra leader Edén Pastora. The bomb detonated by the terrorist killed 38-year-old American journalist Linda Frazier.
- planned to assassinate Lewis Tambs, U.S. ambassador to Costa Rica (to collect a one million dollar reward offered to Tambs' killers by a Bolivian cocaine dealer also named in the suit) and bomb U.S. embassies in Costa Rica and Honduras. Profits from the Tambs assassination would be used to buy contra weapons, and it was assumed that attacks on American embassies would be blamed on the Sandinista government.

Each of the defendants is being sued as a private citizen. That these acts were ordered or orchestrated by the U.S. government is not an immediate issue in the lawsuit as attorneys for the plaintiffs argue that the government can not authorize a person to commit a crime.

In a recent speech at the State Bar Association building

in Austin, Christic Institute attorney Lanny Sinkin —a Texan who previously organized opposition to the South Texas Nuclear Project — suggested that the Honey-Avirgan lawsuit could ultimately reveal as much about CIA-contra drugs and arms deals as the current Congressional hearings.

Members of the select committees, Sinkin said, appear transfixed by presidential involvement and have avoided exploring many events that occurred in the field. Events such as Robert Owen's arrival in Costa Rica five days before the May 30, 1984 bombing and his departure on May 31. Yet members of the intelligence community, concerned about fellow agents who have "gone rogue" —and the use of criminal means to achieve foreign policy goals— continue to leak information to the Christic Institute, according to Sinkin. And it is often information in which the Iran-contra committees have shown little interest.

But the select committees might not have the final word on the Iran-contra story. Five congressional committees previously investigating the Iran-contra affair did not relinquish their authority to conduct separate investigations. One of those committees is led by Beaumont Democrat Jack Brooks, one of a few select committee members to express any sense of moral indignation with what is now unfolding in Washington. As the House-Senate Select Committee hearings grind to a conclusion Brooks should be watched closely. And the Christic lawsuit, as it moves through discovery and toward trial also deserves our careful attention.

L. D.

**A NOTE TO OUR READERS**  
*We are taking our annual summer breather. We'll be back July 17.*

## ● DIALOGUE ●

### Union's Due

For many years the AFL-CIO has provided assistance to democratic trade unions abroad. We are proud of our role of opposing both right and left dictatorships.

In Nicaragua, the AFL-CIO shunned contact with Somoza's company unions and helped the independent CUS federation, which helped promote strikes in opposition to the dictatorship. CUS called for a worldwide boycott of Somoza shipping in 1979, and the AFL-CIO was the first union movement outside of Nicaragua to support their call. Shortly thereafter, the leader of CUS was gunned down by Somoza's National Guard.

Immediately after the revolution — long before there were any contras and before Ronald Reagan became a candidate for president — the new Sandinista government began to harass and jail CUS members in an attempt to herd all Nicaraguan workers into a Sandinista-controlled union. The Sandinista union basically takes the government's side against the workers. It even opposes the right to strike on the grounds that such

a weapon is only appropriate in capitalist countries. The CUS has tried to keep its independence. The AFL-CIO continues to show solidarity, as it did during Somoza's time, by publicizing government repression against the CUS.

In El Salvador, the AFL-CIO has helped several struggling campesino unions to seek land reform and democracy. Two AIFLD staffers, along with numerous Salvadoran unionists, were killed by the right-wing death squads. The far right, along with the far left guerrillas and their union fronts, continue to demand the expulsion of the AFL-CIO from El Salvador. Both extremes know that democratic unions, like those gathered under the umbrella of the UNOC confederation, may block their quest for undemocratic power.

Some critics, such as Bill Chandler writing in your May 29 issue [Dialogue], apparently want the AFL-CIO to abandon the Nicaraguan CUS and the Salvadoran UNOC. They prefer to help the Central American union groups associated with the April 25th Mobilization in Washington and San Francisco. That is certainly their right. The AFL-CIO, however, does not think

it wise to legitimate governments and political movements that deny the very basis of trade unionism.

Nicaraguan Comandante Bayardo Arce once described the role of workers this way:

"In Nicaragua, workers have learned to know and respect the revolutionary doctrine of work. . . . Now workers don't walk around thinking about asking for wage increases, nor asking for shorter hours, nor asking that they be paid this or that extra or that they get longer vacations. Now Nicaraguan workers support the philosophy of voluntary labor, like true revolutionaries." (*Rumbo Centro Americano*, Aug. 15-21, 1985)

The AFL-CIO believes it is a violation of trade union rights for a company to secretly control and manipulate a workers organization to serve its own purposes. Is it not also a violation when totalitarian political movements or governments do the same thing?

David Jessup  
American Institute for  
Free Labor Development  
Washington, D. C.

# The Speaker's S&L Dilemma

By Richard Ryan

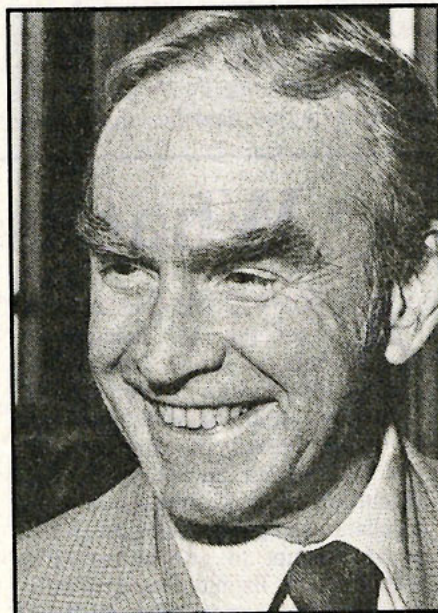
Washington, D.C.

**T**HE RECENT imbroglio over refinancing the Federal Savings and Loan Insurance Corporation (FSLIC) ought to teach Jim Wright an important lesson on how not to wield the prerogatives of power. As Congress spent most of the spring wrestling with this urgent legislation, Wright changed horses in midstream, only to find himself, last month, on the losing side of the issue.

The Speaker's bungle came about like this: earlier in the year, Wright used his considerable prestige as Speaker by personally testifying, in a closed banking committee caucus, against the administration's request for \$15 billion to aid the virtually bankrupt FSLIC. The Treasury Department claimed the FSLIC needed at least \$15 billion in order to restructure, and if necessary, close savings and loans (S&L's) that have become insolvent. The S&L lobbyists in D.C. had been pushing for a lower figure of \$5 billion they said would give the FSLIC more than enough funds to act against those institutions that genuinely deserved to be shut down.

Across the country hundreds of S&L's have found their assets depleted far below the level of their liabilities. Because of the fall of agriculture, oil, and land prices, Texas institutions were especially hard hit: by this spring the Federal Home Loan Bank Board, which administers the FSLIC, listed 80 Texas thrifts as officially insolvent. To illustrate the magnitude of the problem, consider these figures: nearly 10 percent of Texas thrifts are hopelessly indebted, and their delinquent loans total \$5 billion dollars. Since the situation in Texas is only a magnified version of the financial crisis throughout the industry, it's not hard to understand why failing S&L's were cropping up faster than the FSLIC could close them. At the beginning of the year the FSLIC, which insures deposits at S&L's, found itself so cash-poor that it couldn't afford to shut down the unsalvageable thrifts, because it couldn't cover the money these institutions owed to their depositors.

To complicate matters for Texas congressmen, many of the state's thrift executives insisted their wobbly companies could be restored to health, if the FSLIC would only give the Texas economy time to turn around. Wright and other Texas pols plugged the concept of forbearance, a policy under which potentially profitable S&L's would be given time to balance their books. The House Banking Committee voted out a \$15 billion recapitalization plan, a figure that particularly horrified the S&L's (which are assessed for the



Speaker Jim Wright

money to finance FSLIC, as it so happens). The industry lobby immediately went into high gear, sending thrift executives from around the country to Washington to smooze with their congressmen. Then, in a move that surprised everyone, Wright announced he had changed his position, and was ready to support the higher, \$15 billion limit. Not that it mattered: in the face of industry pressure the House passed the \$5 billion bill, by a wide margin.

Interestingly, the final vote divided the Texas delegation almost evenly. Supporting the \$15 billion plan in the face of industry opposition were not only such liberal stalwarts as Henry Gonzalez and Mickey Leland, but also arch-conservatives like Steve Bartlett and Bill Archer. According to Congressman Bartlett the FSLIC would need many

times the requested \$15 billion to close any but the most catastrophically indebted S&L's. The real solution, says Bartlett, is to enact some clear standards under which some hopelessly indebted S&L's would be closed and other, more viable companies granted forbearance, while at the same time making sure the FSLIC has enough money to protect ordinary investors.

So why did Wright change his mind and end up pushing the higher limit? Rep. Bartlett courteously asserts that the Speaker simply rethought his position after receiving better information about the serious condition of the FSLIC, but one Congressional staffer suggested to me that the cascade of articles in the national press implying the speaker had acted as an errand boy for the S&L's also must have influenced his policy reversal. Whatever Wright's personal feelings on the matter, his willingness to use the influence of the speakership in the service of narrow special interests showed surprisingly poor judgment — and Lord knows there are already enough Texas congressmen willing to carry water for various industry lobbies in any case.

There looms, however, a higher good above all this. In remarks included with the Banking Committee's final version of the bill, Rep. Gonzalez argues that "the thrift industry has been the mainstay of home ownership in this country," and that leaving the FSLIC severely under-financed eroded an already destabilized industry which millions of Americans depend on for credit.

Such an unstable situation cannot long prevail. Rep. Bartlett told me that even the allies of the S&L's admit that with only \$5 billion available the FSLIC will soon have to be refinanced, and Congress will go through the same process yet another time. (Sources say this could happen in as little as six months.) If that's the case, Wright is going to have to try and think through his position on the savings industry a little more clearly. In the meantime, his office says he doesn't care whether the FSLIC gets \$5 billion or \$15 billion; "he just wants the bill passed." □

**ANDERSON & COMPANY**  
COFFEE  
TEA SPICES  
TWO JEFFERSON SQUARE  
AUSTIN, TEXAS 78731  
512 453-1533

Send me your list.

Name \_\_\_\_\_  
Street \_\_\_\_\_  
City \_\_\_\_\_ Zip \_\_\_\_\_

Richard Ryan is the Observer's Washington correspondent.

# Civil Justice Reformed: It Could Have Been Worse

By Louis Dubose

**P**UBLIC INTEREST lobbyists knew that tort reform was going to be hard to control when it appeared on the horizon a year-and-a-half before the 70th legislature convened in January. In the legislative process as it's played out in Texas, if you don't have the big money to spend, broad public interest in an issue can still make some difference. And there are issues that create that interest, personal issues around which advocacy groups can marshal their forces — issues like high school football, education funding, teacher-testing, and a state income tax. But public interest lobbyists such as Rebecca Lightsey knew that tort reform wasn't going to be an issue that would jump up and grab the attention of the public. "It was just too impersonal," Lightsey said, at the end of the session. "People had a hard time understanding how it related to them. It was perceived as a technical legal issue and the only people immediately interested were the ones who had a financial stake in it." And the people with the biggest financial stake in it were the captains of corporate America, men — and the occasional woman — fed up with jury decisions that cut into margins of profit.

And while the statutes approved bristle with technicalities and the terms of debate were arcane, the broad underlying issue of tort reform was straightforward. "Tort reform is basically about redistribution of income, or avoiding the redistribution of income," Southwest Consumers Union Director Carol Barger said. "It was another effort to protect corporate profits." Though tort reform began as an issue raised by the "insurance boys" looking for an excuse for exorbitant rates that were a result of the business cycle and poor investments rather than jury awards, once the ball was rolling, it was picked up by the quarterbacks of corporate America. Not even the public admission by state insurance board chairman Lyndon Olson that the courts were not responsible for high insurance rates could slow the drive for tort reform.

Glenn Vickery, a Baytown plaintiffs' attorney who followed tort reform through the recent session, says the tort reform package included significant

gains for corporations. According to Vickery, who now serves on the Board of Directors of the Texas Trial Lawyers Association, the cap on punitive or "exemplary" damages prevents attorneys from dealing with large corporate defendants. "The purpose of exemplary damages is to punish a defendant," Vickery said. "And if you can't unload on a big corporate defendant, you can't punish him. You can't bring a corporate defendant to his knees when you're limited to four times the actual damage." As vindictive as this argument sounds, framed in the workaday language of a personal injury lawyer, it is through punitive damages that private

lawyers do the greatest public good. A company negligently and knowingly producing a hazardous or defective product faced the risk of considerable and unpredictable loss of profit, should the product cause personal injury or death. Now that company faces only limited — the code word in the legislature was "predictable" — loss. The individual plaintiff collects his damages (possibly times four), but society does not realize any benefit because the defendant — as did Ford Motor Co. until it paid huge punitive settlements for its exploding Pinto gas tank — can "cost out" potential losses. The value of human life becomes a simple entry in a ledger of profit and loss statements. In a sense, it is through these huge and relatively rare punitive awards, of which attorneys admittedly earn up to 40 percent, that lawyers, in the literal sense work *pro bono publico*. Apologists for tort reform will argue that defendants remain subject to criminal prosecution. But such prosecution is rare. The civil justice system in Texas, prior to the last vote cast by the 70th legislature, allowed

## What is a Tort?

**A** TORT IS DEFINED AS: a wrongful act, damage, or injury done willfully, negligently, or in circumstances involving strict liability, but not involving breach of contract, for which a civil suit can be brought. The recent tort reform campaign in state legislatures might better be described as an attempt to reform the civil justice system. Its intent has generally been directed toward limiting large judgements in civil suits. The following *tort reforms* were drafted in the regular session and approved by the legislature in a two-day special session:

- Punitive or exemplary damages in civil suits will be limited to four times the actual damages or \$200,000, whichever is larger. No limit is imposed on actual damages, and in cases of injury that results from intentional or malicious action, no limit is placed on damage awards.

- Plaintiffs can not recover damages from personal injuries caused by drugs if the drug was approved by the federal Food and Drug Administration.

- Joint and several liability (liability where each member of a group of defendants is held liable for

100 percent of damages to an injured party so that the claimant can collect 100 percent of damages if some of the defendants are insolvent) was amended. An injured party can now recover damages only if they are responsible for no more than 50 percent of the personal injury or property damage (60 percent in cases of product liability). And only if defendants are found to be responsible for 20 percent of the injury or property damage can they be held jointly responsible for what other defendants are unable to pay.

- Municipal governments' liability for damages is limited in 33 specific public interest functions. Limits placed on these 33 *governmental* functions are \$250,000 per person and \$500,000 for each occurrence of personal injury. A \$100,000 limit is placed on property damages. Limits do not apply to "ultra-hazardous functions" — properties such as the South Texas Nuclear Project. Non essential city-owned properties such as amusement parks are exempt from the limits.

- Attorneys filing frivolous or groundless lawsuits will be reported to the State Bar Association by presiding judges and sanctions can be imposed. □

an injured party to recover damages and punish the injurer: a fundamental and radical populist principle that did considerable public good.

**A**S VICKERY explains it, the new laws do not place limits on the individuals' rights to recovery of actual damages. "The blockbuster cases," he said, "are less than a tenth of one percent of cases tried." So the individual plaintiffs' right to recover — but not to punish except in case of malicious intent — remains intact. It could have been worse. Included in the original proposals carried by the reformers was language that would abolish "open court provisions" and establish certain prerequisites to the public's access to the courts. "That's a provision that's established in the Magna Carta and they were out to change it," Vickery said.

The reform package also imposes certain arithmetical restrictions on claimants' rights to collect damages. The argument that insists a defendant be at least 20 percent responsible for an injury before he can be held fully liable in "joint and several" liability claims sounds reasonable, in abstract terms. It is intended to keep plaintiffs from going for the "deepest pockets" of a collective group of defendants. But in the future a case tried in a Texas courtroom, where five of six defendant *et als* are no longer in business and perhaps bankrupt, the remaining defendant, even if he is the fattest of the fat corporate cats, must be proven more than 20 percent liable if the plaintiff is to recover full damages. Other percentages include a 60 percent responsibility requirement in product liability claims. Vickery defined that percentage in practical terms. In rollover cases where a driver causes the injury or death by turning a car over, even if the car roof that caves in is defective, "the manufacturer walks," because he is less than 60 percent liable when the cause of the injury is considered. "Or if a drunk hits you," Vickery said, "and causes a defective Ford gas tank to explode, the company is less than 60 percent responsible. Again, Ford walks."

Lightsey, who spent a good part of the past five months talking to legislators on the issue of tort reform, raises other concerns: "I think that the drug provisions, next to the caps on punitive damages could be the worst part of the whole thing. What they are saying is that everything that is approved by the standard government tests is exempt from damage claims. If this law had been in effect, victims of DES [a drug prescribed to pregnant women in the

1960s that was found to cause birth defects] would have never collected. And how long has it taken the government to act on asbestos?" Lightsey conceded that the predicament of drug manufacturers who are afraid to develop new products because of unforeseen long-term consequences is understandable. Yet she maintains that the public has lost an important right to recourse. And such shifting of responsibility to the Food and Drug Administration could further delay the approval of urgently needed new medications as a historically prudent and conservative agency comes to perceive itself as the final arbiter of the public's health.

And there is more in this package that was the centerpiece of the regular and two-day special sessions of the 70th legislature. But the consensus is that it could have been worse. Reform of the civil justice system has been at the top of the business lobby's national agenda for years. As Lightsey observed, Texas advocates and legislators had a certain small advantage: they had seen this played out earlier in almost every state in the nation. As the Consumers Union's Barger pointed out, the tort reformers came on with a lot of money and were able to frame the terms of the debate. It was a simple proposition to raise the specter of soaring insurance rates — which even the industry has now admitted are not caused by casualty losses but by swings in the business cycle and poor investments — and point to greedy lawyers pushing clients into court. To inform the public what tort reform would cost them was not so simple. So tort reform was contained rather than stopped. And already, insurance industry combines are explaining why rates will not go down. At best, we are advised, they will stabilize. Toxic torts — personal injury claims against chemical companies — remain exempt from the arithmetical restrictions imposed on joint and several liability cases. This represents a major victory for plaintiffs. The parade of victims brought to Austin by Texans for Civil Justice and the Center for Rural Studies convinced senators that chemical companies can be held jointly liable, just as the comingled toxins that they jointly distribute work their effects on victims. That one provision will mean a great deal in the state that produces the largest volume of toxic waste in the nation. And it represents a big loss for the Texas Chemical Council, a lobby group that usually has its run of the legislature.

In the end, it just appeared to many in the legislature — and particularly in the lobby-dominated House — that this was an idea whose time had arrived. A

few guerrilla fighters like Reps. Debra Danburg, D-Houston, Clint Hackney, D-Houston, Steve Wolens, D-Dallas, and David Cain, D-Dallas, tried to hold off a cadre of legislators led by Houston Republican Mike Toomey, who carried the water for the swarm of corporation lobbyists pressed against the double doors at the east entrance of the House chamber. But in what was literally the eleventh hour of the final day of the regular session, House members approved by voice vote a bill that they couldn't read; amendments scrawled in the margins of the bill during a series of conference committee hearings didn't appear on the circulated photocopies. Only Senator Craig Washington's prudent midnight filibuster provided legislators with another day to read the bill.

And the fat lady might be singing on tort reform but Mike Toomey hasn't heard her. He's already said that he will be back for more; he will be pushing the medical lobby's bills to impose constitutional limits on malpractice awards in this summer's special session. When all of this is over, will your insurance rates be coming down? As Dallas Senator Eddie Bernice Johnson said, "Don't count on it." □

## East Dallas Printing Company

Full Service  
Union Printing

**(214) 826-2800**

211 S. Peak • Dallas, Tx 75226



*A Walk on the Beach,  
A Breath of Fresh Air,  
A Discovery of A Shell,  
And Yourself . . .*

**(512) 749-5555**

P.O. Box 8

Port Aransas, TX 78373

# Victories and Vetoes

## As Usual, Farmworkers Get 'Half a Loaf'

By Dave Denison

**I**N A SESSION in which most progressive groups were on the defensive, fighting off big-spending lobbyists, farmworker advocates emerged from the 70th session on the upswing — they got their legislative program enacted. But with a Republican governor in power, they soon realized, negotiating their way through the legislature is only half the battle. Like a sudden slap in the face, a governor's veto reminded activists that the political equations are not what they were under Governor Mark White. Two weeks after the end of the regular session, Governor Clements spiked a farmworker bill that had moved through the House and Senate with not just a minimum of controversy, but with the agreement of conservative farm interests.

The bill sought to eliminate unnecessary stoop labor for farmworkers. Coming six years after a law was passed outlawing the short-handled hoe, the present bill would have prevented the use of other short-handled implements, especially knives, that require farmworkers to endure back-breaking work. The law was specifically directed at crews involved with thinning and weeding, which can be done just as well with long-handled hoes — not at workers cutting lettuce, cabbage, and other vegetables.

The Governor's veto came on June 11, with Clements explaining that the "availability of workers' compensation to Texas farmworkers makes this bill unnecessary." United Farm Workers director Rebecca Flores Harrington called the governor's reasoning "absolutely off the wall." Using Clements's logic, she said, the governor might just as well abolish all health and safety regulations if an employer had a workers' compensation policy. Harrington also said relying on the workers' compensation system would put the burden of proof on farmworkers to show many years later that the use of certain tools was responsible for their injuries. The bill's sponsors, Senator Hector Uribe, D-Brownsville, and Rep. Lena Guerrero, D-Austin, also blasted Gov. Clements. "I can't believe Clements supports stoop labor," said Uribe.

Harrington speculated that the

governor's real reason for the veto was that the Texas Citrus and Vegetable Growers — who went along with the legislation during the session— decided they were not satisfied with the outcome and asked the governor not to sign it. At *Observer* press time, the UFW was nervously waiting to see if the governor would kill their other legislative accomplishments from the session.

**A** FARMWORKERS' minimum wage bill and a bill giving workers the right to information about pesticides in their midst were, like the stoop labor bill, agreed upon by opposing interests, and passed late in the session. But the road to compromise on these two bills was more arduous.

Senator Bill Sarpalius, D-Canyon, was the chief obstacle in getting the "right-to-know" bill passed. Last session the legislature passed a bill giving most workers the right to information on hazardous materials, but farmworkers were specifically denied coverage under the act. Jim Harrington, legal director of the Texas Civil Liberties Union, had challenged the exclusion in court, as he had successfully challenged previous exclusions from the workers' compensation and unemployment compensation acts. Most concerned groups saw another court victory for farmworkers coming, and were prepared to negotiate on a right-to-know bill eliminating the exclusion. But Senator Sarpalius, who is not known in the legislature as a "quick study," got involved in the negotiations, even threatening to filibuster in May if the bill didn't suit him.

A requirement in the bill for records of chemical use to be kept for 30 years almost killed the legislation, according to Senate sponsor John Whitmire, D-Houston. Whitmire said such record keeping is necessary because many of the diseases caused by pesticide exposure don't show up for many years. The final agreement provided for the state Agriculture Department to keep the records, despite Sarpalius's objections. "We fought over and over about that," Whitmire said May 29, after a late-night session with Sarpalius. "We had to drag him," he said. "I have literally been

pulled apart," Whitmire said. "It has been awful."

The bill also requires training programs for farmers and farmworkers, to be offered in some areas by the Agriculture Department and in some areas by the Agriculture Extension Services. When the bill reached the Senate floor four days before the close of the session, Whitmire told the Senate the bill was "the most far-reaching, most progressive piece of legislation that we've seen come out in a long time."

**T**HE FARMWORKER minimum wage bill also encountered some legislative roadblocks and hair-pin turns. For the last 16 years the state minimum wage for agriculture workers has remained at \$1.40 an hour. The federal minimum wage of \$3.35 does not apply to farmworkers at small and midsized farms. Carried by Rep. Alex Moreno, D-Edinburg, and Senator Tati Santiesteban, D-El Paso, the bill changed the state law to raise the minimum wage to the federal level and to cover most farms (but not ranches and feedlots).

The bill was amended on the floor of the Senate by conservative Dallas Republican John Leedom so that if the federal government raises the minimum wage, the state wage would not automatically go up. Curiously, the push for Leedom's amendment was led in the Senate by the moderate Democrat Chet Edwards of Duncanville. Edwards made a "state's rights" argument that Texas should not be bound to raise the rate, just because the federal government does. Edwards and Leedom succeeded in amending the bill, by a 16-14 vote. Rebecca Harrington and other farmworker advocates were disappointed to see Edwards arguing for the amendment. Harrington said that it will force farmworkers to come back to the legislature the next time the federal wage goes up and to go through another difficult fight. "This is exactly what happened to us 16 years ago," she said.

Edwards told the *Observer* he made the argument because of the agricultural interests in his district. "Farmers are hurting," he said. "You have to balance two factors — one is the legitimate need of farmworkers to be paid a decent wage, and secondly the economic problems of our farmers in Texas." He also contended that without the amendment the bill would not have passed the House. "It's better to get half a loaf than no loaf," he said.

House sponsor Alex Moreno, agreed that the bill may not have passed the House without the change. But he said

he was surprised to see Edwards siding with Leedom. "I thought Chet would be more understanding of the problems of farmworkers," he said. As it turned out, the bill encountered a major problem in the House when it was effectively gutted by an amendment by conservatives Jerry Clark, D-Buna, and Gerald Geistweidt, R-Mason, who struck everything from the bill except one section dealing with the hourly wage. Both Moreno and the UFW's Harrington said that the bill was intended to do more than just raise rates. "The heart of the bill was the piece rate

provision," said Harrington — the part of the bill that would allow the state Agriculture Department to establish piece rates that would result in minimum earnings of \$3.35 an hour. Even though Clark's amendment passed 84-61 in the House, it turned out to be improperly drawn, and so Moreno was able to amend it again three days later and win passage of a restored bill on a voice vote.

Harrington calculates that the increased piece rates will bring a farmworker who now earns about 60 cents for a sack of onions an extra 10 to 15

cents a sack. Said Moreno of the bill, "This is going to make a real impact on people's lives."

But in the weeks after their legislative victories, farmworker advocates were worrying about the new twist the Clements era seems to have brought. It is now possible for conservative farm interests such as the Farm Bureau and the growers to go along with legislative compromises to make themselves look generous, and then to kick up their feet and wait for the governor to take care of things. □

## Key Votes

**T**HE 70TH SESSION saw key votes on a number of important consumer issues, including telephone deregulation and insurance and civil justice legislation ("tort reform"). As usual, the *Observer* takes an interest in a number of votes that tested legislators' social consciences — or lack thereof. Votes on farmworker issues, indigent health and other minorities' issues seem to us a measure of the legislature's willingness to extend the promises of democracy to all members of society. In the following table we present key votes in the House and Senate. These votes and issues are explained in the following paragraphs. A "★" beside a legislator's name indicates that the *Observer* agrees with the position. A "○" indicates that the *Observer* disagrees. ("P" means present; "A" means absent.)

### 1. Tort Reform

There were two significant civil justice votes in the House. Vote "A" is on an amendment by Rep. Cain of Dallas that would have substituted a Senate compromise (SB 287) that contained stronger protections for citizens to recover damage awards in liability suits. Rep. Toomey of Houston, the leading advocate for the interests of insurance companies and corporations, said the Senate plan offered by Cain "is not significant tort reform." Rep. Gibson of Godley moved to table the amendment and won 88-60. The *Observer* votes No. Vote "B" is on a constitutional amendment (HJR 37) that was devised to protect the tort reform law from being struck down by the state

Supreme Court, which has not looked kindly on legislation that hinders citizen rights to sue in "open courts." The amendment was adopted 101-39. The *Observer* votes No.

In the Senate a key tort vote occurred on an amendment by Sen. Washington of Houston. Washington proposed that punitive damages against a defendant not



House Speaker Gib Lewis

exceed ten times the amount of actual damages, but that in cases of huge awards some of that money would go to the state. Sen. Montford of Lubbock moved to table the amendment and won 25-6. The *Observer* votes No.

### 2. AT&T

AT&T Communications ran into

problems in the Senate in its well-funded attempts to escape regulation by the state Public Utilities Commission in the setting of long-distance rates. Sen. Parmer of Fort Worth amended the bill (SB 229) to allow AT&T to lower rates without approval, but not to raise them. The Senate adopted Parmer's amendment 16-15. The *Observer* votes Aye.

When the bill went to the House, Parmer's amendment was removed and the bill was once again a deregulation bill for AT&T. The vote shown is on passage of the bill in its weakened form. It passed 108-36. The *Observer* votes No.

### 3. Farmworker Minimum Wage

A bill (SB 601) raising the state minimum wage for farmworkers from \$1.40 an hour to equal the federal minimum wage of \$3.35 survived the Senate, with only one damaging amendment. Sen. Leedom of Dallas proposed that if the federal minimum wage goes up, the state's would not automatically follow it. Sen. Santiesteban of El Paso moved to table the amendment and lost 14-16. The *Observer* votes Aye.

In the House, the bill was gutted by Rep. Clark of Buna, who amended it to leave in the wage increase but to take out other provisions important to farmworkers. The vote is on the adoption of the amendment, which won 84-61. The *Observer* votes No. Three days later the bill was restored to its original strength and it passed the House by voice vote.

### 4. Privatization of Prisons

Both the House and Senate passed by overwhelming margins a bill (SB 251) allowing private companies to contract with the state to build and operate medium and minimum security prisons. The votes shown are on final passage of the bill; in the House it passed 122- (Continued on Page 14)

# House Record Votes

	Tort Reform		AT&T	Fmrwrk Min. Wage	Private Prisons	S. Af. Divest	Appropriations	Indgmt. Health	Chem. Cast.	Lottery
	1. A	1. B	2.	3.	4.	5.	6. H	7. H	8. H	9. H
Agnich										
Aikin										
Arnold										
Barton										
Beauchamp										
Berlanga										
Betts										
Blackwood										
Blair										
Burnett										
Cain										
Campbell										
Carriker										
Carter										
Cavazos										
Ceverha										
Clark										
Clemons										
Colbert										
Collazo										
Connelly										
Cooper										
Craddick										
Criss										
Cuellar, H.										
Cuellar, R.										
Culberson										
Danburg										
Delco										
Denton										
Durton										
Earley										
Eckels										
Edge										
Edwards										
Evans, C.										
Evans, L.										
Finnell										
Garcia										
Gavin										
Geistweidt										
Gibson										
Givens										
Glossbrenner										
Grannif										
Perry										
Pierce										
Polunho										
Price										
Rangel										
Repp										
Richardson										
Riley										
Roberts										
Robinson										
Robnett										
Rodriguez										
Ruud										
Russell										
Saunders										
Schlueter										
Schoolcraft										
Seldits										
Shaw										
Shea										
Shelly										
Shine										
Smith, A.										
Smith, R.										
Smith, T.										
Smithee										
Staniswallis										
Stiles										
Sutton										
Tallas										
Taylor										
Telford										
Thompson, G.										
Thompson, S.										
Toomey										
Uher										
Valligra										
Vowell										
Waldrop										
Wallace										
Warner										
Waterfield										
Watkins										
Watson										



19, and in the Senate 24-2. The *Observer* votes No.

## 5. Divestment from South Africa

Sen. Washington of Houston attached an amendment to a resolution (HJR 3) creating a Texas Growth Fund that would prohibit the funds to be invested in companies doing business in South Africa. The amendment was adopted 24-4. The *Observer* votes Aye.

In the House, Rep. Evans of Houston led a move to concur with Washington's amendment. The motion failed to pass 71-71. The *Observer* votes Aye.

## 6.H. Appropriations

Leading the charge for Gov. Clements, Rep. Toomey of Houston declared that after months of work on the appropriations bill the spending level was too high. He urged his colleagues to send the appropriations bill (SB 123) back to committee. (This is a vote that only occurred in the House.) The question occurred on a move to table Toomey's motion to recommit. The *Observer* votes Aye. The motion was tabled 95-54. Many people saw this as a test vote on whether the House could override a Clements tax veto, which would require 100 votes.

## 6.S. Minority Contracts

Sen. Washington of Houston amended a bill (HB 4) creating a Texas Department of Commerce to provide that state agencies set aside ten percent of the contracts awarded for minority or disadvantaged businesses. Sen. Glasgow of Stephenville moved to table the amendment and lost 17-13. The *Observer* votes No on the motion to table.

## 7.H. Indigent Health

Rep. Robinson of Gonzales busied herself for much of the session trying to get various hospitals out of responsibilities for indigent health care. This vote is on a bill (HB 147) that would have let eight city hospitals out of indigent health care responsibilities. Before the bill was later improved in the Senate, it passed the House 100-43. The *Observer* votes No.

## 7.S. Seasonal Employees

Sen. Sims of San Angelo carried a bill in the Senate (SB 582) that was the work of Rep. Rudd of Brownfield in the House. The bill would have excluded some seasonal workers — West Texas cotton gin workers as well as many farmworkers — from unemployment benefits in some cases. The Senate

refused to consider the bill by a 16-12 vote (it needed two-thirds). The *Observer* votes against consideration.

## 8.H. Chemical Castration

For sheer backwardness and ignorance there was nothing to rival the vote in the House on an amendment by Rep. Whaley of Pampa to a bill (HB 484) providing for counseling for sex offenders in TDC. Whaley's amendment allowed for chemical castration instead. The Panhandle Democrat told a reporter he had experience castrating cattle. "If they want someone to do the castrating, I'll do it myself," Whaley said. "I'll do a beautiful job on them." The amendment failed for lack of a two-thirds majority, but the record vote was 66-64 in Whaley's favor. The *Observer* votes No.

## 9.H. The Lottery

Speaker Lewis had been figuring on extra revenues for the state from a lottery and Rep. Wilson of Houston thought he had close to the 100 votes he needed for approval, but when the vote came to the floor, the lottery was rejected 73-72. The vote was actually on the question of whether to put a constitutional amendment (HJR 7) on the ballot for voter approval. The *Observer* takes no position on the lottery *per se*, but many of our readers do.

— *Key votes tallied by Kate Fitzgerald*

# • A LEGISLATIVE ROUNDUP •

## Abortion

Once again this session the legislature found itself grappling with the issue no one wants to vote on: abortion. Traditionally, Right-to-Life forces have ended up disappointed as their anti-abortion bills stalled in the Senate in the final days. But, for the first time since the 1973 *Roe v. Wade* case legalizing abortion, an abortion regulation bill has passed the legislature. Championed by Ted Lyon, D-Rockwall, in the Senate and by Mike Millsap, D-Fort Worth, in the House, the bill effectively outlaws most third trimester abortions. But as originally drafted, the bill would have gone further; it would have required parental consent for minors to obtain abortions and would have established criminal penalties for doctors performing late-term abortions. "What we have here," said Gara LaMarche of the Texas Civil Liberties Union, is "unnecessary and offensive legislation, but [it is] the minimal possible intrusion on reproduc-



tive freedom that could still be called an abortion bill."

The bill passed both chambers on non-record votes. In the Senate the threat of a filibuster by Craig Washington, D-Houston, was instrumental in modifying the bill. By May 28, when it came to the Senate floor, Washington had made his peace. But before it was done, several Senators had their say, most notably Eddie Bernice Johnson, D-Dallas. "There is no woman who takes abortion lightly," she said, directing her comments to the men in the chamber. "Nobody tells you and your physician what to decide about your body," she

told them. "I don't think anybody ought to tell any female — especially a body of males — what they ought to do about their bodies."

"I'm not coming at this from the standpoint of trying to regulate women," Lyon responded. "I'm coming at this from the standpoint of trying to preserve the lives of those children that would have the potential to live." After the bill passed (with Senators Caperton, Glasgow, and Washington registering against it), Lyon told reporters the effort had been so difficult that "I do not think I'll be bringing an abortion regulation bill back in the next session of the legislature." He paused and then added that he might, however, be interested in looking again at requiring parental consent for young women's abortions.

## Crime and Punishment

Several bills relating to the death penalty were introduced in the 70th

session, but in the end, nothing changed. Efforts to expand the crimes that would qualify a person for the death penalty were unsuccessful. On the other hand, a bill that some opponents of the death penalty saw as the most meaningful chance at striking a blow against capital punishment also did not survive the session. The bill would have shielded convicted accomplices from the death penalty unless they had directly participated in a murder. It slipped quietly through the House, but died in a Senate committee in the final days of the session.

Debra Danburg, D-Houston, remained an outspoken opponent of capital punishment; she commented at an Amnesty International press conference in February that although many people do not realize it, "the State of Texas does in fact kill people who have never killed people." Asked about capital punishment in a March press conference, Gov. Bill Clements said, "I'm in favor of the death penalty — always have been."

"The death penalty will go forward," the governor said.

## Affordable Housing

Although it got little notice, a resolution on affordable housing may become important in influencing the agenda of the 71st session in 1989. Passed by Rep. Juan Hinojosa, D-McAllen and Senator Hugh Parmer, D-Fort Worth, the resolution creates an interim task force charged with studying the state's housing problems and making recommendations to the governor and legislators.

The task force will consist of 18 members — eight legislators and ten members from the general public, according to Karen Langley of the Texas Alliance for Human Needs, which initiated the resolution on the task force. "Nobody in government is dealing with housing problems at the statewide level," said Langley, even though census statistics say Texas has the second highest number of substandard housing units in the nation. She said one goal of the task force should be to bring the housing problems to the attention of the public at large — to do for housing programs what "big names" such as H. Ross Perot and Helen Farabee did for public education and indigent health care, respectively.

## Homestead Protection

The lending lobby came forward with its standard plan to eliminate the 148-year-old Texas homestead protection guarantee and immediately got the

attention of Agriculture Commissioner Jim Hightower, among others. The sponsors of the proposal to amend the constitution claimed that homeowners deserve the right to borrow against their equity. Hightower described it as another threat to the family farmer and homeowner. In Texas only the lending institution that holds a lien or mortgage or the government that holds a delinquent tax notice can take a person's home. Homes can not be lost because a person can not pay other debts. The provision was carried in the House by Charles Evans, R-Hurst and Debra Danburg, D-Houston. Consumer groups, labor organizations, senior citizens, and realtors joined forces to protect the family homestead and Reps. Bruce Gibson, D-Godley; Hugo Berlanga, D-Corpus Christi; Steve Carriker, D-Roby and Orlando Garcia, D-San Antonio, held off the lending lobby and assured that the anti-homestead act died in committee.

## Women's Rights

After three sessions, Houston Democrat Debra Danburg finally won passage of legislation against spousal rape. The bill, according to Debbie Tucker of the Texas Council on Family Violence, goes a long way toward giving women in Texas control over their own bodies by sanctioning their right to say no. In the Senate the bill was opposed by Carl Parker, D-Port Arthur, and Bob Glasgow, D-Stephenville. Glasgow at one time threatened to filibuster but Tucker suspects that he reconsidered because "it's not easy to stand up and speak on behalf of rape." Women's rights advocates give high marks to Cindi Krier, R-San Antonio, who introduced the bill in the Senate and worked to persuade Senators like J.E. "Buster" Brown, R-Lake Jackson, who just couldn't quite come to terms with the concept of spousal consent.

Another important piece of women's rights legislation was passed by Rep. Juan Hinojosa, D-McAllen, and Senator Chet Brooks, D-Pasadena, who carried bills to limit fees that counties can charge for protection orders — lower court orders to protect women from batterers by denying access to homes, workplaces, and schools. Protection orders were established in a previous session but the legislature relinquished to counties the right to set fees beyond the \$16 established in the original legislation. Cass County's \$253 fee and Harris County's \$177 fee for protective orders effectively denied protection to many women. The Houston Patrolman's Association (an AFL-CIO affiliate) testi-

fied on behalf of the bill and Hinojosa and Brooks successfully argued for a \$36 maximum for women's protection from abuse, threats and harassment.

## Open Meetings

Senator Kent Caperton, D-Bryan, and Rep. Juan Hinojosa, D-McAllen, successfully broadened the state's open meetings law. The law now requires governmental bodies to keep records of all that occurs when they meet behind closed doors. The bill is intended to limit abuse of "executive sessions" by which governmental bodies often exclude the public from discussion of controversial issues. Certified agendas or tape recordings are now required of all official meetings of public officials. Tapes or agendas must be made public to citizens who challenge actions taken by governmental bodies. John Hildreth of Common Cause praised the efforts of Caperton and Hinojosa and the advocacy group Texas Media. The bill faced early opposition from groups such as the Texas Municipal League, The Texas Association of School Boards, and the University of Texas.

## Groundwater

Senator Tati Santiesteban, D-El Paso introduced most of the session's groundwater protection legislation. Santiesteban's bill to regulate underground tanks requires leak-detection systems and careful monitoring of point sources. The bill imposes a fee on tank owners to provide for agency monitoring. Rick Piltz, a groundwater specialist at the Department of Agriculture said that the bill represents the first effort to regulate underground tanks in Texas. Piltz praised another Santiesteban bill that provided the Water Commission the authority to set minimum standards for regional water districts. The bill makes it more difficult for county and local governments to establish non-functioning water districts to avoid state regulation.

Another Santiesteban bill that would have created an interim committee, with members appointed by the governor and the legislature, to study water quality and make recommendations for future regulation failed. Austin Democratic Senator Gonzalo Barrientos's Edwards Aquifer protection legislation passed but in watered-down form. The conservation district that it proposes to create by a confirmation election has no taxation power and no power to regulate land use. The bill represents a compromise to keep developers from lining up against the local election. □



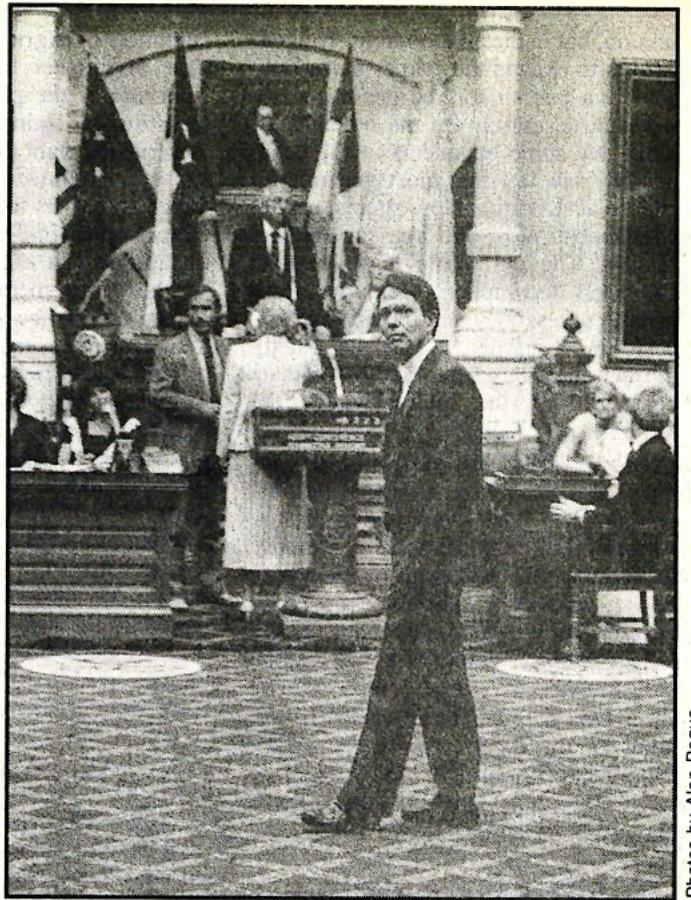
### CHAMPION OF DISSENT

Without Senator Craig Washington in the Senate, the place would probably sink hopelessly into the mindset of white, upper class men — “the most exclusive club in the state of Texas,” as Senator Roy Blake described it on sine die night. Washington’s mere presence has an effect on the place; bad bills are modified in the final weeks to avoid triggering a Washington filibuster (as was this session’s abortion bill) and rare is the politician who relished having his bill become the target of the Houston Democrat’s oratorical stricture. Washington fought persistently this session for measures important to minorities — such as a measure to give preference to minorities in contracts with the state. He carried sensible legislation against AIDS discrimination and got restrictions on testing and provisions for confidentiality amended to an AIDS bill that passed both houses. Washington’s most dramatic moment was his courageous midnight stand against final consideration of the complex tort reform bills as the final moments of the session ran out. The governor had to call an immediate two-day special session to allow enough time for exhausted legislators to consider the tort reform bill. The next day, Washington was on the floor of the Senate cross-examining the bill’s sponsor Senator John Montford, D-Lubbock. It was 3:30 in the afternoon and Washington was worrying about general negligence, exemplary damages, the “but for” principle, percentages of recovery and percentages of fault . . . “and then on subsection C of the same page,” Washington told Montford, “I suggest you may need a semi-colon or a comma . . .” “Right,” said Montford. But Washington’s influence goes far beyond matters of punctuation.

### BEST IN THE SENATE

Hugh Parmer, Democrat of Fort Worth, has had his hand in just about every issue of major importance to consumers and working people of this state. In April he successfully pushed for an amendment to the bill proposing to deregulate AT&T’s long distance rates that gave the telephone giant the freedom to lower their rates without approval, but not to raise them. AT&T lobbyists were shaking their heads the next day, feeling much worse for the wear. When the House removed Parmer’s amendment and the bill came back to the Senate, Parmer stayed with it and (along with Senator Chet Edwards, D-Duncanville) helped to ensure that the final bill was not a setback to

consumers. He also strengthened the Office of Public Counsel, which represents ratepayers, with an amendment to the AT&T bill. Parmer had a good bill that would have allowed state employees to take parental leave after the birth or adoption of a child, but it failed to pass, under the threat of a filibuster by Dallas Republican John Leedom. As Chair of the Senate Democratic caucus, Parmer took a high profile in responding to Gov. Clements’s persistent bunkum on matters of taxing and spending, organizing a Democratic response to the governor’s State of the State address, and leading a “truth squad” around the state to challenge Clements’s budget figures. He speaks out for a fairer tax system that doesn’t soak the poor and the middle class.



Photos by Alan Pogue



### IN CAPABLE HANDS

Senator Kent Caperton, Democrat from Bryan, proved himself a solid and progressive legislator this session. He was good on issues important to minorities and women — he carried a temporary alimony bill for displaced homemakers, making the point that Texas is the only state that requires no such form of financial support. He also sponsored a bill strengthening the state’s Open Meetings Act by providing for greater public access to governmental proceedings. It was lucky he has an exceptionally able staff, because he spent uncountable hours negotiating through the session on tort reform legislation. Due to his skillful efforts, the Senate bill on torts emerged without doing significant damage to the balance between citizens and business in liability matters. Unfortunately, Caperton couldn’t entirely hold the line against the more business-oriented House members and the final tort reform product was a mixed bag.



### MAJOR-DOMO FOR THE BUSINESS LOBBY

Senator Ray Farabee, Democrat of Wichita Falls, consistently carries the legislation favored by business groups — this session he passed a Republican-style "privatization" bill that would allow private firms to contract with the state to build and operate prisons. He voted with the industry positions on tort reform and AT&T deregulation and even cast at least two bad votes against farmworkers, though he is well-regarded for his usually progressive stands on social issues. He carried a bill for the utilities on "nuclear prudence" that would have allowed costs to be passed on to consumers, though the Senate didn't go for it.



Photo by Alan Pogue

### A LOST SOUL

Senator Ted Lyon, Democrat from Rockwall, has become a major disappointment in the Senate. He has continued downhill in each of his three sessions and shows no sign of bottoming out. His main preoccupation has been an abortion regulation bill, which finally passed this session in modified form. Lyon originally wanted minors to be required to get parental consent before an abortion, a stand that gives little consideration to real life problems of young women in trouble. Lyon has frequently taken demagogic stands on prison and crime issues, moving to the right of Republican Senator Bob McFarland, who carried an early release bill to ease prison overcrowding that Lyon referred to distastefully as "this liberal legislation." In a Senate committee in March, Lyon amazed people who follow prison issues by seeming to be still fighting the Ruiz decision, a court case the state lost almost 15 years ago. Lyon also seized the AIDS issue to pander to the know-nothings of his district, who seem to ever more affect his consciousness.



### A TALE OF OBSESSION

Senator Bill Sarpalius, conservative Democrat from Canyon, was his usual muddled and befuddled self this session, up to no good on bills that had to do with farm labor and seeming to have an unshakeable preoccupation with his bete noire, Agriculture Commissioner Jim Hightower. Sarpalius caused such delay trying to weaken the farmworker right-to-know bill that by the time he was done, it ended up with more money allocated for training programs than farmworker advocates would have dared ask for. In a committee hearing Sarpalius asked if farmers would have to disseminate information "in Spanish, or American."

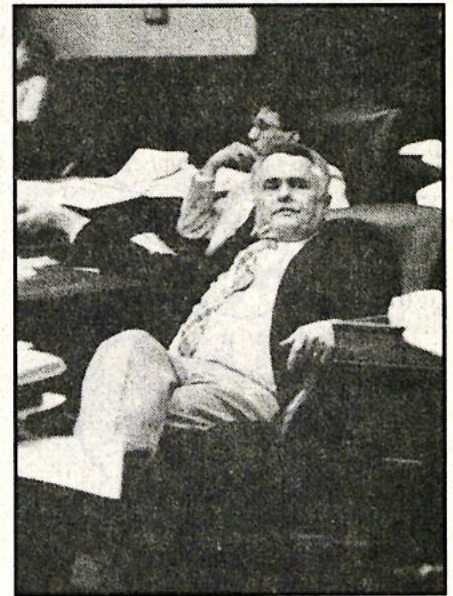


Photo by Debra Harkness

### A PERENNIAL GOAT

Senator Bill Sims is said to be one of the nicest men in the Senate with one of the meanest agendas. The director of the Texas Sheep and Goat Raisers Association, Sims votes with a single-minded concern about his often reactionary West Texas farm interests, forgetting that his constituency also included thousands of farmworkers. He carried a bill attempting to cut some seasonal workers from unemployment benefits, but seems to usually take his cues from an aide to Senator Sarpalius. He gives the impression sometimes of not even understanding his own bills.

# Great Moments of the 70th Session

Art by Michael Krone

## He Played Real Good For Free

Before Gov. Clements decided to stop submitting himself to weekly press conferences, he was plagued with questions about his involvement in the Southern Methodist University recruiting scandal. One day, Dallas television reporter Carole Kneeland probed back in time to the governor's own college days.

Governor, you played football for SMU, didn't you?" she asked.

"Yes I did," replied the governor.

"Were you ever offered anything?"

"No, never."

As quick as a quarterback sneak, Kneeland pressed him, "Were you any good?"



## Severe P.R. Awareness

Within a month of his inauguration, the governor stepped forward and proclaimed that the week of March 1-7 would be Severe Weather Awareness Week in Texas. But as the troublesome session wore on, the governor's weather awareness diminished — when the West Texas town of Saragosa was flattened by a tornado in May, many people noted that several days went by before the governor publically acknowledged

the disaster. After comments appeared in the press, Clements hastily arranged a trip to Saragosa.

## Just Slightly Ahead of His Time

Speaker of the House Gibson D. "Gib" Lewis may have been trying to send a subtle message to Governor William Clements on where the power in the legislature traditionally resides when, at Clements's inaugural ceremony in the House, he said, "Admit the honorable Governor William P. *Hobby*, Mr. Doorkeeper."

Or he might have just gotten mixed up.

## Just Another Mexican American With a Motion

By the end of the session, when former House member Frank Tejeda had already been serving in the Senate for nearly five months, Speaker Lewis saw San Antonio Rep. Frank Madla approach the podium and said "Chair recognizes Mr. Tejeda for a motion." (Madla responded, "Thank you, Speaker Clayton.")

## Long May He Wave

Gib Lewis, more famous for his mixed metaphors than his ideas on how to solve state problems, amused reporters when he announced a proposal to balance the state's budget. As reported by the *Houston Chronicle's* Anne Marie Kilday, Lewis explained, "As the old boy says, 'You just run it up the flagpole and see who salutes that booger.'"

## The 140-Day Itch

Best name for a lobbyist: Marilyn Monroe, who worked for the Texas Society of Association Executives.

## Capturing the Whelk Vote

Senator J.E. "Buster" Brown of Lake Jackson, once thought to be a promising Republican candidate for attorney general, was but a shell of

his self this session, so it was fitting that one of his main legislative crusades was on behalf of the lightning whelk, a seashell found along the Gulf Coast. Brown and House member John Willy, R-Angleton, (another legislative powerhouse) succeeded in getting the whelk named the "official state shell."



## Lazy Thinking

The wisdom of 25-year House veteran Bill Hollowell, D- Grand Saline, as told to *Dallas Morning News* columnist Sam Attlesey: "Overspending" is the simple reason for the state's budget crisis. "And all these social welfare programs are eating us up. We have an obligation to care for the helpless, the lame, those that are physically and mentally incapable of being able to care for themselves."

"But we have no obligation to the lazy," Hollowell said.

## Time To Get Your Heads Examined

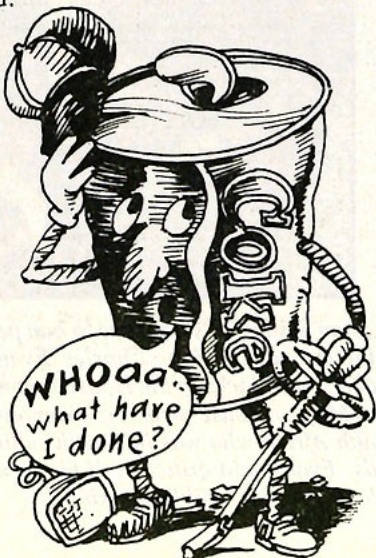
Long arcane discussions on the state's civil justice laws and "tort reform" were held in the House State Affairs Committee and very little of the testimony was what you would call poetic. But when Dr. Charles Neblett, a Houston neurosurgeon, stepped up before the committee to discuss the relationship between medicine and the tort system, he invited Representatives to imagine themselves hospitalized with a brain

tumor. Speaking without notes or text, Neblett metamorphosed into a committee-room Flaubert. "Your doctor orders a few diagnostic tests, and you know in the next few hours a diagnosis will be made," he began. "As you lie motionless in the magnetic-resonance imaging scanner, your thoughts fluctuate from the sublime of your life to the absurdity of diagnostic tests. It seems incredible that one out of every six tests is done not because of medical need, but because of the demands of our legal system." Neblett moved his imaginary patient to the operating room. "You are lying on the operating room table and you realize that you are surrounded by the magnificent machinery of the miracles of modern medicine," he said. He alluded to EEGs and EKGs and surgical microscopes and wended his way to a happy ending. "The bad tumor cells are vaporized away most delicately and precisely with the magic of the light of the laser," he said.

Thoughts fluctuating, no doubt, from the sublime of their lives to the absurdity of tort reform, the legislators seemed impressed.

### With Liberty and Cold Ones For All

"It's a liberty that shouldn't be taken away from them," argued Deer Park Rep. Ed Watson. To no avail. Only Erwin Barton, D-Pasadena, joined in with Watson to vote in defense of another Texas tradition lost, the fundamental right to pop the top on the way home from a long day at the office or refinery. "I don't see any more wrong with drinking a beer going home than drinking a coke, lighting a cigarette or combing their hair [while driving a car]," Watson said.



### And On the Third Day Gib Created a Tax Bill

During debate on the bill to extend last summer's "temporary" taxes, Corpus Christi Democrat Eddie Cavazos complained, "this bill came to life in three days. . . . It took the Lord seven days to make the world!" Cavazos shook his head and concluded, "The Speaker has a lot of power."

### Shortest Comment on Tort Reform

"Fuck you Senator," snapped usually affable House Speaker Gib Lewis when a colleague from across the rotunda launched into a conference-committee homily on the civil justice system in Texas. Lewis turned and led his group of Representatives and fellow travelers back toward friendlier ground before the Senator could respond.

### The Republican Way of Dialogue

Houston Republican Robert Eckels was in the process of explaining his position on a bill when Harold Dutton, D-Houston, stepped to the back microphone to ask a question. While Dutton was unwinding his interrogative, Eckels was listening to another House member whisper in his ear. Dutton stopped. Eckels looked up and encouraged him, "Keep speaking, Mr. Dutton, I'm not listening."

### It's a Wonderful Life

A press release from the office of an elated Amarillo representative:

"Next to my re-election, this is the happiest moment of my life." That was the comment this afternoon from State Representative Chip Staniswallis, R-Amarillo, upon receiving confirmation from the Speaker of the House Gib Lewis as the official liaison between the Speaker, members of the Texas House of Representatives, and the United States Department of Energy."

### So Nice to Have A Man Around the House

Rep. Foster Whaley's amendment to provide for chemical castration of sex offenders provided many a weird moment in the House. Besides

Whaley's much noted statement about his willingness to march right down to the state pen to do the honors with a "darn good stock knife," there were other comments that seemed to be made under the influence of a testosterone high. Rep. Gerald Geistweidt, for example, suggested that those who were worried about repeat offenders could vote for a bill to loosen handgun controls, "and we'll blow them away."

### So Nice to Have A Vet Around the House

Rep. L.B. Kubiak, a veterinarian from Rockdale, drew on his professional experience to urge the House that counseling programs for sex offenders wouldn't do any good. "You can't teach an old dog new tricks. You can't lead a horse to water and make him drink," he said.



### Pearls Before Swine

For one ol' boy/Representative, physician/Representative Mike McKinney's eloquent effort to explain — in the course of abortion-law debate — when human life begins, was more than he could endure. "Just tell me," the ol' boy asked of veterinarian/Representative Steve Holzhauser, "what do veterinarians think on this conception and life business?"

### Politics?!

Senator Bob Glasgow, who was often at odds with Gov. Bill Clements on matters of taxation, said he was appalled that the governor would veto the gasoline tax to get back at the Senate for not making the sales tax hike permanent. "I just think that's crazy," said Glasgow. "That stinks a little to me of politics."

### BEST IN THE HOUSE

In a session in which few House members distinguished themselves, Rep. Juan Hinojosa, D-McAllen, was a standout legislator. A rock-solid progressive, Hinojosa knows the legislative ropes as well. He passed a bill insuring women's access to court protection from violent husbands and boyfriends. He sponsored the Open Meetings Act improvements. He led the fight against the AT&T deregulation bill. And his stature improved this session when he was named head of the Criminal Jurisprudence Committee. He doesn't mince words about the Republican-led efforts to cut the budget and avoid difficult tax decisions. "The problem with Governor Clements is that he's trying to save face. He made all these campaign promises without any basis for making them. He couldn't keep them."

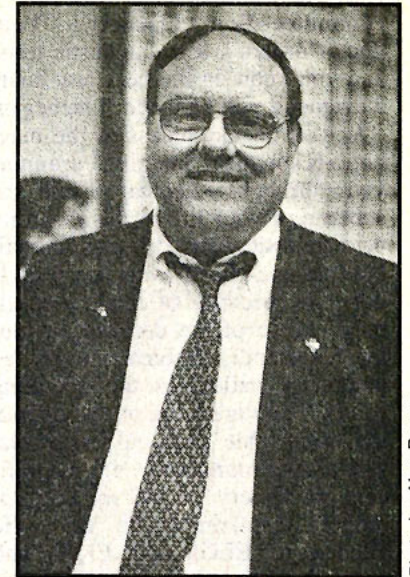


Photo by Alan Pogue

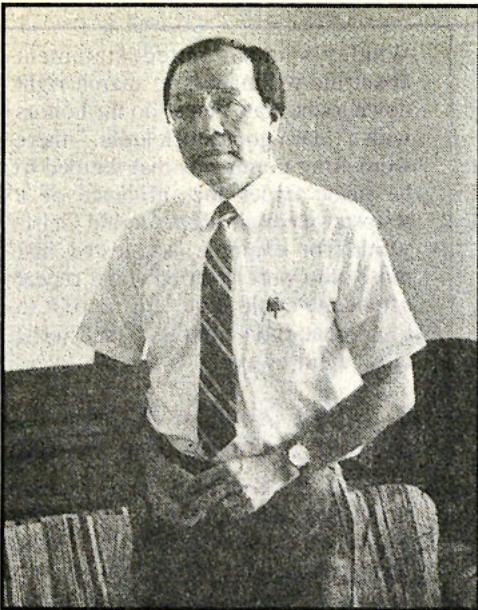


Photo by Dave Denison

### LABOR'S LEADER

Rep. Lloyd Criss, Democrat from LaMarque, is consistently involved with legislation important to labor and working people, especially in his capacity as chair of the Labor and Employment Relations Committee. He passed 23 bills and resolutions this session, including one on worker safety and one on removing asbestos from public buildings. Not one to think of himself as a "liberal," Criss nevertheless had a resolution against English as an official language, which he said "brings out the worst in people."

### DEPENDABLE AND RESPECTED

Rep. Ernestine Glossbrenner, Democrat from Alice, is consistent, progressive, always seeming to be on the right side of the issues. She carried important legislation on worker safety, chaired the Elections committee, and sponsored legislation to make voter registration easier. She had a resolution for a comparable worth interim study, unfortunately killed by Republican Rep. Bill Ceverha. Glossbrenner's moving speech in favor of women's reproductive freedom was a high point of the session.

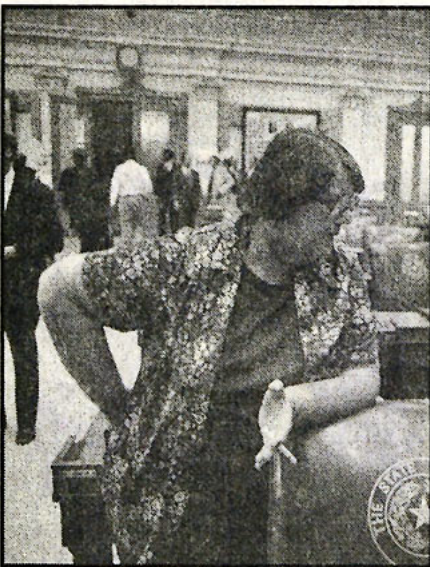


Photo by Alan Pogue

### HARSHEST CONSERVATIVE

Rep. Mike Toomey, Republican of Houston, was Gov. Clements' hit man in the House. Ideological, hellbent on stopping social progress, Toomey began the session by saying the chairman of the Department of Human Services, in attacking the governor's budget cuts, "is just trying to get a bunch of people in wheelchairs all stirred up." In debate on the appropriations bill in the House, Toomey said "I think the Department of Human Services deserves to be viewed harshly," and contended that the appropriations bill "addresses more than the needs of the state." Toomey was the chief hardliner in the House in protecting business interests on tort reform.



Photo by Danna Byrom

### SCATTERSHOTS

Rep. Ron Wilson, (left), Democrat from Houston, has a consistently liberal voting record but proved himself somewhat of a loose cannon, pushing an utterly unnecessary bill to loosen handgun restrictions. Even Gov. Clements frowned on the bill, saying "I think we shoot enough of each other already." Wilson was also prone to siding with anti-tax ideologues supporting Rep. Stan Schlueter's measure to ban personal and corporate income taxes. Rep. Charles Evans, (right), R-Hurst, offended some blacks in the House (but not Wilson) with a memo in May to House members promoting a friend of his from South Africa who was in Austin selling South African diamonds. Evans said criticism of his memo was "utterly ree-diculous . . . incredible thinking."

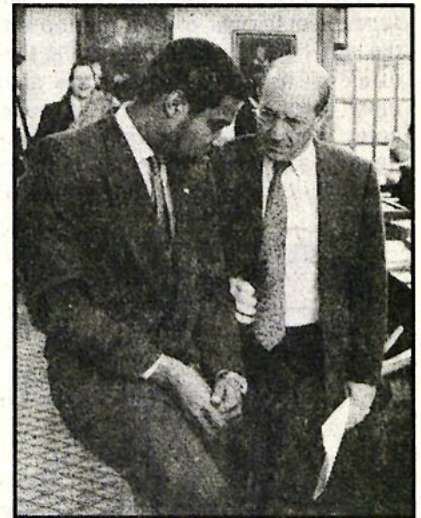


Photo by Dave Denison

# POLITICAL INTELLIGENCE

✓ While San Antonio Mayor Henry Cisneros continues to encourage Central Texas groups on the issue of protection of the Edwards Aquifer, his city council presses on with the issuance of permits for development over that part of the recharge zone controlled by the city. City council member Maria Berriozabal, still at odds with the Mayor over her exclusion from a city council committee, charged with drafting new guidelines for aquifer protection, described two recent council permits as irresponsible. "The last two votes (June 4, authorizing projects over the aquifer) are a sign of where we're going," Berriozabal said in a telephone interview. "Why did the Mayor appoint a committee, if we're just going to go on with zoning as usual?" she asked.

"In one of the cases, they justified it by saying that he was a good developer. We're back to the good ol' boy system. If that's the criteria, then what's the purpose of the public hearings, the debate?" Berriozabal demanded. Berriozabal said that she is concerned that there are already seven more applications for projects over the recharge zone "in the hopper, and one is a service station." Berriozabal, now in her fourth term, first ran in 1981 on an environmental platform and has been a perennial critic of unregulated development over the recharge zone. In early May Cisneros publicly raised the issue of protection for the aquifer and said that he would appoint a committee that would include representatives of the business community, developers, environmentalists and neighborhood organizations. Cisneros later limited membership on the aquifer committee to himself and three council members. Two of the council members voting for the permits criticized by Berriozabal are members of the aquifer committee. The Mayor and aquifer committee member Nelson Wolff were not present for the vote. Berriozabal suggested that the fight to protect the aquifer now shifts to community organizations. She continues to work with a coalition that includes: the Audubon Society, the Aquifer Protection Association, the San Antonio Round Table and the Sierra Club. Asked if she attributed a change in the mayor's response to public pressure to Cisneros's interest in a statewide office, Berriozabal insisted that the Mayor's future is not an issue. "Right now he's mayor of San Antonio and that's what's important," she said. "And I expect, and hope, that he will run for mayor

again." The Edwards Aquifer provides drinking water for San Antonio and a large number of smaller Central Texas cities.


✓ When the Department of Energy goes public with the extent of site contamination at all of its weapons production facilities, Amarillo alone will include more Superfund cleanup sites than does the entire state of Texas. Using DOE documentation, Bob Alvarez of the Washington-Based Environmental Policy Institute disclosed that 46 potential Superfund sites are located in Amarillo on the Pantex nuclear weapons assembly plant. The sites are designated "potential" because the DOE is seven years behind in complying with EPA disclosure regulations. Alvarez, using federal Environmental Protection Agency documents, also disclosed that while some DOE plants are scheduled for installation of as many as 44 pollution abatement projects, only one \$20,000 project has been approved for Pantex during the 1988 fiscal year. The DOE has already identified 860 Superfund sites in its plants and researchers for the Environmental Policy Institute observe a direct correlation between DOE money spent on toxic cleanup and local public pressure around the 19 individual nuclear weapons related plants operating in the country.

✓ Organized labor leaders in Houston were recently encouraging the short-lived mayoral candidacy of developer Joe Russo and again municipal labor leaders are at odds with Mayor Kathy Whitmire, this time over the issue of the Mayor's revised rules for layoffs of city employees. The new plan, approved by a 12-3 city council vote, provides a layoff hierarchy based on a seniority and job-performance rating. Richard Shaw, executive assistant for the American Federation of State, County, and Municipal Employees opposed the new plan before city council and claims that the revised ordinance is unfair. "When you include job performance," Shaw said, "you bypass the due process provided by the city's civil service system." According to Shaw, employees can be labeled as poor performers and laid off without appeal. "They have no recourse. This circumvents the whole system. Discipline and performance rating should be handled through the city's civil service commission," Shaw told the *Observer*. Shaw also argued that by factoring in job performance the administration can protect new employees brought in by political administrators

during the past five years, at the expense of "old hands." The issue of a layoff plan becomes more important as city budget restraints in the coming fiscal year will require another round of layoffs of at least 300 employees.

✓ City hall labor types are still angered over the suspension of public works dispatcher Wilma Washington after a supervisor searching Washington's locked desk drawer discovered a gun in her purse. Washington was suspended without pay and, after a civil service commission hearing, could be fired. She insists that she carried the pistol to protect herself when walking to an unsupervised city parking lot. Shortly after the incident, Richard Parris, director of the city's municipal court system, pulled a holstered gun from a drawer and laid it on his desk top as he joked with employees during a meeting. "Both (Washington and Parris) were in violation of city policy, and discipline should be uniform," Shaw said. Parris, who earns \$54,000 a year was reprimanded by the Mayor. Washington who earns \$16,000 a year was ordered fired by Whitmire.

✓ A telephone call to the *Houston Chronicle* that warned of benzene contamination of a Shell product led to the disclosure that wax produced in Shell's Deer Park Plant is contaminated with a cancer-causing chemical at levels that pose "no measurable health risk." Shell spokesman Tony Canino reported one batch of coating wax that had been mysteriously contaminated with 10 to 20 parts per billion of benzene. Though Shell publicly reported that it was informing customers to whom wax had been shipped, a spokesman for the James River Corp. of Richmond, Va., learned of the contamination when contacted by a *Chronicle* reporter. When officials at James River (where Shell wax is used to coat Dixie Cups) contacted Shell they were informed of "traces of benzene, a few parts per billion in some of the Shell shipments." Shell wax is used for coating products such as candy bar wrappers and drinking cups. The caller who provided the tip to the *Chronicle* said that an employee at the Shell plant at Deer Park was concerned about benzene levels. □



**El Azteca**  
2600 E. 7th St.  
Austin, Texas  
477-4701  
vegetarian food

# SOCIAL CAUSE CALENDAR

## FORT WORTH PEACE VIGILS

First Saturday Peace Vigils will be held on **July 1** and **August 1** in the Peace Garden outside Carswell Air Force Base in Fort Worth. The vigils begin at 9:30 a.m. and continue until early afternoon featuring speakers from all over the world. In addition, volunteers are needed during the week to water and tend the Peace Garden. If interested or for more information on the vigils please call (817) 927-1988.

## JOHN HENRY FAULK IN AUSTIN

John Henry Faulk's one-man show, "Deep In the Heart," will open the first week in **July** at Live Oak Theater in Austin. The show premiered last October in Houston and is being directed in Austin by Albert Marre. Tickets are \$15 and \$17.50; for more information call (512) 472-7134.

# SUBSCRIBE TO THE TEXAS OBSERVER

Send the Observer to —

name \_\_\_\_\_

address \_\_\_\_\_

city \_\_\_\_\_ state \_\_\_\_\_ zip \_\_\_\_\_

- this subscription is for myself
- gift subscription; send card in my name
- \$23 enclosed for a one-year subscription
- bill me for \$23

*price includes \$1.12 sales tax*

My name & address (if different)

name \_\_\_\_\_

address \_\_\_\_\_

city \_\_\_\_\_ state \_\_\_\_\_ zip \_\_\_\_\_

The Texas Observer  
• 600 West 28th •  
Austin, Texas 78705

## OBSERVANCES

**June 26, 1947** — Department of Defense created.

**June 27, 1869** — Emma Goldman born.

**June 27, 1905** — Industrial Workers of the World (IWW) founded.

**June 27, 1969** — Stonewall Rebellion in New York City marks the birth of the modern gay rights movement.

**July 1, 1946** — Atomic bomb test at Bikini atoll in the Pacific.

**July 2, 1976** — U.S. Supreme Court declares death penalty "not unconstitutionally severe."

**July 5, 1935** — National Labor

Relations Act passed, recognizing workers' rights to organize and bargain collectively.

**July 7, 1981** — Sandra Day O'Connor appointed as first woman Supreme Court justice.

**July 9, 1951** — Dashiell Hammett sentenced to six months imprisonment for refusing to cooperate with anticommunist inquiry.

**July 9, 1958** — First U.S. invasion of Lebanon.

**July 9, 1955** — Albert Einstein, Bertram Russell and seven top scientists state that the issue is between war and survival of the human race.

## WOMEN AND THEIR WORK

Spaces in the Heart of Texas, an exhibition of 60 photographs by ten Central Texas women photographers will be presented **July 1-31** at Women & Their Work Gallery, 1501 West 5th Street, Austin. An opening reception is scheduled for Wednesday, **July 1**, from 6-8 p.m. Photographers participating in the exhibition will be Kathy Vargas, Ave Bonar, Carol Cohen Burton, Mary Lee Edwards, Meri Houtchens-Kitchens, Amy Kwalwasser, Phyllis Liedecker, Cybil Miller, Julie Newton, and Nancy Scanlan.

Women & Their Work is one of very few arts organizations that promotes and exhibits the work of women artists. For information call Cynthia Noe at (512) 477-1064.

Bill Smith and Associates   
1117 West 5th Street  
Austin, Texas 78703  
Representing all types of properties  
in Austin and Central Texas  
Interesting & unusual property a specialty.  
477-3651



# ONE YEAR

May 5, 1987 was a big day for us. Our first anniversary passed with a quiet pride in a successful year. Now we're ready to move forward and build upon our solid foundation. The employee-owners of Futura want you as a satisfied customer. Call us at 442-7836 for a prompt quote on your next project.

Employee Owned and Managed

*Futura*  
**COMMUNICATIONS, INC.**  
AUSTIN, TEXAS

1714 S. Congress

442-7836

Data Processing • Typesetting • Printing • Mailing

# A Gentle Reformer

By Harry Middleton

*Wilbur J. Cohen, professor at the LBJ School of Public Affairs who served as Secretary of the Department of Health Education and Welfare from 1968-69 died last month in Seoul, South Korea. Cohen, the son of a Milwaukee variety store owner followed a former professor from the University of Wisconsin to Washington, D.C. in 1934 to work on the Committee for Economic Security. There Cohen played a major part in designing the Social Security system and then, for 21 years, worked at the Social Security Administration that he had helped create. In the '50s Cohen worked with progressive congressmen to pass legislation — opposed by the Eisenhower administration — that would provide for social security disability benefits. In the '60s Cohen helped design and enact the Medicare program that today provides health care for the elderly. In 1968 Lyndon Johnson appointed him Secretary of HEW. While with the Kennedy and Johnson administrations Cohen had a hand in the creation and passage of 65 New Frontier and Great Society proposals. On May 17 Wilbur Cohen died in his sleep in a hotel room in Seoul, where he was attending a conference on aging and welfare. He was 73.* — Editors

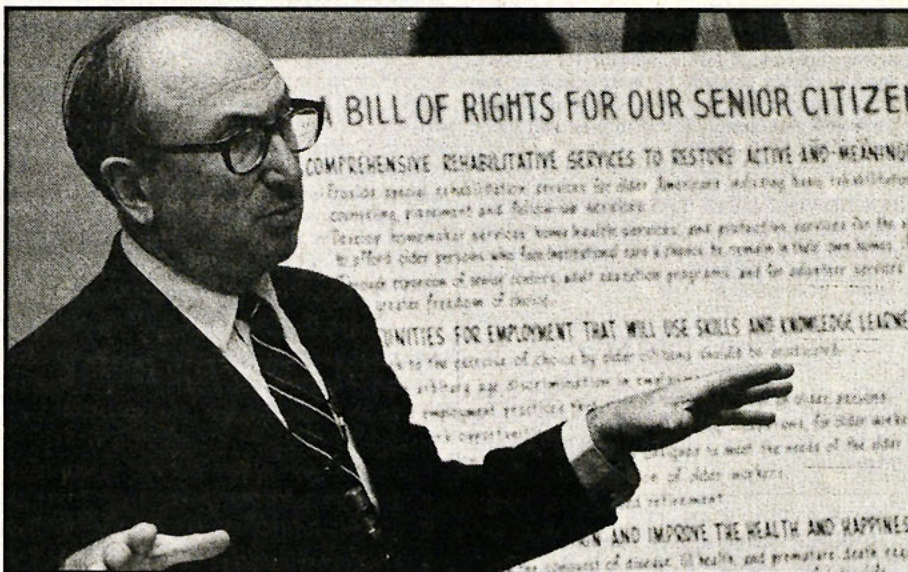
**A**T A MEMORIAL service for Wilbur Cohen that was held at the LBJ Library in Austin, Lady Bird Johnson said: "I think of Wilbur as having a long love affair with government." And what a joyous, zestful and compassionate affair it was. From the time he helped draft the Social Security act in the 1930s until he shepherded Medicare through Congress three decades later, his courtship of government coaxed from it a long string of legislative reforms that changed the way Americans live, irrevocably and for the better.

In that 30-year span, Wilbur Cohen was in the bureaucracy more often than he was out, starting his career as a bright 21-year-old fresh out of college in Franklin Roosevelt's New Deal, and ending it as Secretary of Health Educa-

*Harry Middleton is the director of the LBJ Library in Austin.*

tion and Welfare, one of the most powerful and influential cabinet posts in Lyndon Johnson's Great Society. Along the way he learned and mastered the machinery of government. He knew how it worked and how to make it work. But more to the point, he knew how to make it work for the well-being of people. Effective, professional and brilliant, he was the very model of a public servant. And it was the combination of those two attributes, progressivism and know-how that defined Wilbur Cohen.

His interest was intense and infectious. "Coleridge's ancient mariner held



*Wilbur Cohen*

his audience with his eye," Bob Hardesty said at the memorial service. "Wilbur held it with his enthusiasm." Reverend Matthew McNaught of the First Unitarian Church in Austin, where Wilbur and his wife Eloise often attended, recalled: "I never talked to Wilbur Cohen without feeling that there was great work to be done, tasks still to be accomplished for the country's good." When he died, he was in Korea, making a contribution to that nation's social welfare system.

He was a gentle-spirited man, who treated his adversaries with unflinching respect. He could be a dogged battler, but when he lost he simply fought on

another day, secure in a towering optimism. The dream that animated him most in his later years was of a national health insurance program. And recently he had begun predicting that we would have one by 1995. There are those who think it just might happen — because it will be put in place by the students to whom Wilbur communicated his enthusiasm for the idea in the two decades he spent teaching, after he left public service and other colleagues and associates that he had inspired. And there are those who *know* that if it does come, it will be part of Wilbur Cohen's legacy.

That legacy is already larger than any but a handful of men are privileged to leave. It is a legacy of comfort and serenity and dignity experienced by Americans who now grow old with at least a floor under their incomes and a guarantee of health care in their declining years, men and women that Wilbur Cohen never knew, and who in

turn — most of them — never even heard his name.

That memorial service in the library was a quiet and joyful one, filled with warmth and a little laughter, for Eloise wanted it to be the celebration of Wilbur's life. It seemed particularly appropriate at the end when we sang the English words to Schiller's "Ode to Joy," the chorale finale of Beethoven's Ninth Symphony, for it is a magnificent and swelling anthem of delight. But our throats caught as one when we came to the line, "All mankind shall be as brothers," for we knew we were saying goodbye to someone who had made the earth a better place. □

Photo by Y. R. Okamoto

A cassette from Texas . . .

# To Secure the Blessings of Liberty

## JOHN HENRY FAULK

An eye-opening and entertaining jaunt two hundred years into America's past . . . with one of our most stimulating, colorful, and acclaimed public speakers . . . to uncover the roots and meaning of the United States constitution.

John Henry Faulk as our tour guide takes us on a 35-minute trek into our nation's history—revealing the genius and wisdom of our founding fathers and of the basic documents that underpin the great republic in which we live.

"John Henry Faulk will occupy a niche in the permanent history of American journalism and in the life and times of the First Amendment. . . . He knows, and we all have to remind ourselves, that liberties can be defended only as long as we still have them."—Eric Sevareid

\$9.95 cassette recording

*Charge orders welcomed.  
\$1 shipping on all mail orders*

Now in bookstores  
or from

**University of Texas Press**

BOX 7819 AUSTIN, TEXAS 78713  
(800) 252-3206 TOLL-FREE IN TEXAS



## CLASSIFIED

### BOOKS

**MA BELL** by Bryan Sloan is a book explaining their deceptive accounting practices and how Bell has averaged over 42% profits annually for 25 years, and has already received far more telephone rate raised than due. \$7.50 at your book store or order post paid from Vantage Press, 516 West 34th Street, New York, N.Y. 10001.

**BOUND VOLUME OF 1985 OBSERVERS.** Handsome binding, hardcover. Perfect addition to any progressive or Texas home library. Send \$30 to the Texas Observer, 600 W. 28th #105, Austin, Texas 78705.

### MERCHANDISE

"GEE, I MISS GOV. WHITE — NO LIE" Bumper Stickers. \$1 and SASE. Send to NoLie Stickers, P.O. Box 11611, Fort Worth, Texas 76109.

"VOTE REPUBLICAN, IT'S EASIER THAN THINKING" bumperstickers. Blue on white. Send \$2 each and SASE to L. Ross, c/o Box 49019, Austin, Texas 78765.

**FREEWHEELING BICYCLES.** 2404 San Gabriel, Austin. For whatever your bicycle needs.

100 years of Great Democrats — actual voices. 120 minute cassette with transcript. \$13 prepaid. Denton Democrats, 105 West Oak, Denton 76201.

### ORGANIZATIONS

Lesbian/Gay Democrats of Texas — Our Voice in

the Party. Membership \$15. P.O. Box 190933, Dallas 75219.

**JOIN THE ACLU.** Membership \$20. Texas Civil Liberties Union, 1611 E. 1st, Austin 78702.

**CASA MARIANELLA, A SHORT-TERM SHELTER IN AUSTIN** for refugees from oppression in Central America, needs volunteers for clerical tasks, tutoring, stocking and storing food and clothing, and legal and medical help. Financial contributions and donations of food, clothing, and household items are welcome. Call (512) 385-5571.

### SERVICES

**DRAFT REGISTRATION QUESTIONS?** Draft counseling available from American Friends Service Committee, 1022 W. 6th, Austin 78703. (512) 474-2399.

**LOW COST MICROCOMPUTER ASSISTANCE.** Tape to diskette conversion, statistical analysis, help with setting up special projects, custom programming, needs assessment. Gary Lundquest, (512) 462-9955, 905-C West Oltorf, Austin, Texas 78704.

### TRAVEL

**BACKPACKING — MOUNTAINEERING — RAFTING.** Outback Expeditions, P.O. Box 44, Terlingua, Texas 79852. (915) 371-2490.

**VISIT NICARAGUA:** Intensive Spanish courses, family living and community work in Esteli. Scholarships available. Apply now for 1987 sessions. NICA, P.O. Box 1409-VV, Cambridge, Mass. 02238. (617) 497-7142.

**CLASSIFIED RATES:** Minimum ten words. One time, 50¢ per word; three times, 45¢ per word; six times, 40¢ per word; twelve times, 35¢ per word; twenty-five times, 30¢ per word. Telephone and box numbers count as two words; abbreviations and zip codes as one. **CLASSIFIED DISPLAY:** Minimum one inch. One time, \$30 per column inch; three times, \$28 per column inch; six times, \$25 per column inch; twelve times, \$23 per column inch; twenty-five times, \$20 per column inch. *Payment must accompany order for all classified ads.* Deadline is three weeks before cover date. Address orders and inquiries to Advertising Director, *Texas Observer*, 600 West 28th #105, Austin, Texas 78705, (512) 477-0746.