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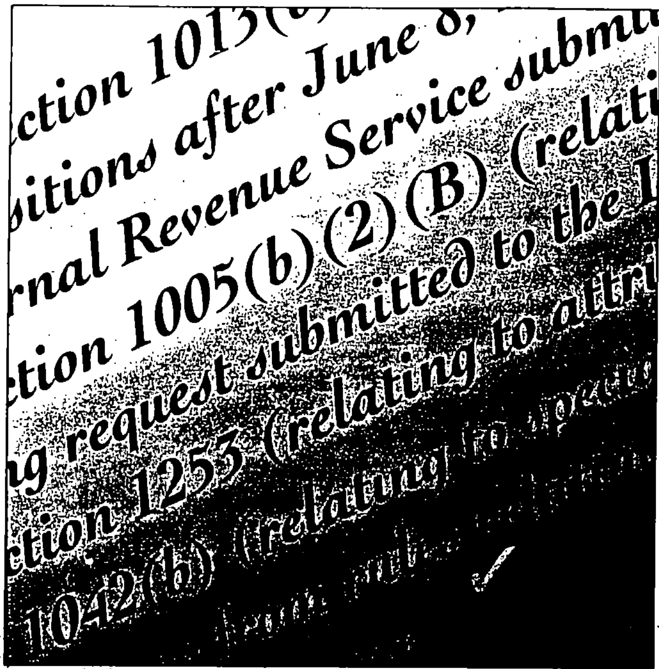

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ENVIRONMENT

Tuna-Labeling Provision Opens a Can of Worms

Canning industry fears environmentalists will use 'dolphin safe' labeling as a tool to push for tougher protections

SCOTT J. FERRELL

An environmental group markets the "Flipper Seal of Approval" to signify dolphin protection but says the seal is not a money maker.

Supporters of a bill to devise a new "dolphin safe" label for tuna cans patted themselves on the back recently after crafting a decisive compromise. The agreement broke a months-long legislative logjam and sent the bill to President Clinton's desk for his expected signature.

But tuna canners are not doing a lot of celebrating. They believe that the bill (HR 408), cleared by the House on July 31, could give environmental groups leverage to roil the marketplace by demanding that canners meet stronger protection standards for dolphins than those required in the bill.

"It just opens up the floodgates for the environmental groups that are never going to accept this 'dolphin unsafe' tuna from coming in," said David G. Burney, executive director of the U.S. Tuna Foundation, which represents domestic canners and tuna fishermen.

For the canners, history may be about to repeat itself. They ended a public relations nightmare in 1990 by signing a truce with environmental groups over applying a "dolphin safe" label to tuna cans, but only after a consumer boycott boosted by startling footage of dolphins being savagely killed on tuna boats.

Under the agreement, canners consented to sell tuna that met dolphin protection standards supported by the environmental groups and followed up by affixing a "dolphin safe" label on cans.

The standard for the dolphin-safe label barred tuna caught with encircling nets, which capture tuna much like pulling the drawstring of a purse, but also can injure or kill dolphins that often swim above tuna schools. Congress gave the definition the force of law that same year.

By Allan Freedman

But the 1990 peace could be broken under the bill cleared last month by Congress.

First, it would implement a 1995 international agreement, known as the Declaration of Panama, to lift the U.S. embargo in effect since the 1980s on tuna imports from Latin American countries whose fishermen used encircling nets.

Second, it would relax the standard for applying the dolphin-safe label to tuna cans as early as 1999, pending the preliminary findings of a scientific study, mandated by HR 408, on the effects that encircling nets have on dolphins' health and safety.

The altered standard would allow encircling nets to be used, though only if tuna is caught without killing or seriously injuring dolphins.

That change angered some environmentalist organizations, particularly those that fought hard for the current definition. In response, they prevailed on lawmakers to amend HR 408 to allow multiple labels, and this is the provision that is particularly troubling to the canners.

The government would be directed to develop a single official label. But canners would be free to affix it or any of a variety of alternative labels to tuna cans. Some of those labels could signify that the tuna in the cans had been caught by fishermen who adhere to a more stringent dolphin-safe standard.

Supporters of multiple labels defend the amendment as a way to protect freedom of expression. Opponents say multiple labels would confuse consumers and perhaps open the way for environmental groups to challenge the federal standard in the future.

"Let us not fool ourselves that there are some people who will oppose this [label] change at all costs," said Democratic Sen. John B. Breaux of Louisiana, a proponent of the single-label definition.

A Delicate Balance?

The bill would allow tuna canners to use the label of their choice, as long as the tuna met protection standards as strong as those in the bill, as well as other requirements, such as not making misleading claims as defined by the Federal Trade Commission Act.

Under the multiple-label provision, the Commerce Department would be directed to design an official dolphin-safe label, but the tuna canners would not be required to use it and could attach any design to their cans. Only one label design could be attached to an individual can.

Mark J. Robertson, a consultant to the Mexican fishing industry, said the provision strikes a good balance between protecting First Amendment rights and guarding against abuses of the label standard that would undercut conservation goals in the bill.

"It's about as tight as you can get without infringing on freedom of speech," he said.

But tuna canners are worried that the provision could open them to pressure from environmental groups. Canners fear that if they use any label that does not have the support of environmental groups, environmentalists will lead a boycott of their product.

Burney said canners are "constantly receiving requests from special interest groups to use their label." For the most part, he said, these are groups that represent themselves as "environmentally concerned."

These groups could push canners to accept stronger protections for dolphins than the law required, Burney said. "We're concerned that they will pressure [retailers] in what products they will accept or will not accept," he added.

Keeping to the no-encirclement definition might win plaudits from environmental groups and some consumers, but canners worry that it could also cede a competitive advantage to companies that are marketing lower-priced tuna caught by Latin fishermen with encircling nets.

Dave C. Phillips, executive director of the environmental group Earth Island Institute, predicted that the big tuna canners would keep the old label definition, rather than risk a flare-up over the new, less stringent definition in HR 408.

"I think that our hope is that we can avoid consumer boycotts and everything else by sticking to the dolphin-safe label that works," Phillips said.

But Phillips, whose organization was involved in the consumer campaign to impose the original dolphin-safe definition in 1990, warned that environmental groups would take aim at companies marketing Latin American tuna that the groups say is not dolphin-safe.

"We have our sights trained on the first company that tries to sell unsafe tuna on the market," he said. "The wrath of God and Earth Island will come down on that company."

Green for Greens?

A big question is whether an environmental group should advocate a tougher label standard while pushing tuna canning companies to accept and pay for use of a label developed by that group.

"We have our sights trained on the first company that tries to sell unsafe tuna on the market. The wrath of God and Earth Island will come down on that company."

—Dave C. Phillips, executive director, Earth Island Institute

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For example, Earthtrust, a Hawaii-based environmental research and educational group, markets a tuna-can label called the Flipper Seal of Approval. Companies that use the label pay a licensing fee to fund a dolphin monitoring program.

The label includes a drawing based on the intelligent dolphin that starred in the 1960s television show "Flipper," and according to Earthtrust signifies a definition of "dolphin safe" that is stricter than the one under current federal law. *(Photo of label, p. 1924)*

Earthtrust officials say the label provides a market-based approach to encouraging the sale of dolphin-safe tuna. But critics contend that groups such as Earthtrust have a financial interest in the multiple-labeling provision and are not simply looking out for the dolphins.

"In the case of Earthtrust, you cannot question that, regardless of what the intent of the label is, it is a money-making business," said Robertson.

Don White, president of Earthtrust, disputes this, saying that the Flipper label has hardly been a bonanza.

The label is licensed to one relatively small tuna canning company, White said.

He asserted that fees from use of the label amount to a few hundred dollars a year and do not come close to covering his organization's overhead. "The whole theory of getting industry revenues just hasn't happened," White said.

He said that proponents of changing the dolphin-safe definition attack his group to deflect attention away from efforts to loosen the standard.

"What they're concerned about is the truth will come out and the public will boycott tuna that's not dolphin-safe," White said.

Earthtrust has ties to the Earth Island Institute, which has threatened to boycott tuna caught under the relaxed definition. Earth Island's executive director, Phillips, sits on the board that oversees the Flipper label.

But White stressed that Earthtrust would not participate in a boycott organized by Earth Island, which might raise conflict of interest questions.

"The scenario being talked about, with a boycott [to pressure for use of] the Flipper Seal of Approval, is not going to happen with our participation," White said.

Trade Matters

The dolphin-safe tuna bill was closely watched as it moved through Congress; for many, it was an example of how the United States balances its pursuit of free trade with its goals for environmental protection.

The legislation divided the environmental community.

Some activists hailed it for implementing the Panama Agreement, which for the first time would bring many countries into a compact to protect dolphins and the ecosystem as a whole.

Others, however, viewed the legislation as a weakening of the dolphin-safe standard that constituted a U.S. sellout to its trading partners.

Trade was doubtlessly an issue. The Latin American fishing industry argued that it should be allowed access to the $1.4 billion U.S. tuna market, and most trade experts said international law backed their claim under the General Agreement on Tariffs and Trade (GATT).

However, critics argued that revisions in the dolphin-safe label should not have been part of trade discussions. They said that the United States should not alter its domestic environmental standards at the behest of trading partners.

They said international trade law speaks to the issue of open markets but does not compel a change in domestic environmental standards. ■

LABOR

Possible Pension Crisis Sparks Calls for System Overhaul

With about 50 million workers lacking coverage, lawmakers focus on issues such as portability, small businesses

Not since Gerald R. Ford occupied the White House and Watergate loomed large as a gripping scandal has Congress produced sweeping legislation to shore up the nation's pension system.

Today, more than two decades later, the statistics and trends are sobering: More than 50 million workers — about half the work force — have no pension coverage whatsoever, neither a traditional, employer-run pension plan to provide monthly checks after retirement, nor a personal tax-deferred savings account such as an Individual Retirement Account (IRA) or a 401(k) plan.

The absence of coverage is particularly acute at small businesses, where, according to Labor Department figures, only about 25 percent of workers are covered by some type of retirement savings plan.

Moreover, workers are uncertain about whether Social Security can handle the increased demand as Baby Boomers reach retirement age beginning in about 2010. These are members of the same group whom analysts expect to retire early and live longer, and the same group that got married and had children later in life, which means money that might have been saved for retirement will go to college tuition.

Then there are horror stories like the recent bankruptcy of Color Tile Inc., a Fort Worth, Texas, company that had 774 stores in 48 states. Eighty-three percent of the company's 401(k) assets had been invested in Color Tile itself. The failure nearly wiped out many employees' retirement savings.

The statistics and the stories have convinced several lawmakers that the time is right to push legislation that will avert what may be a major crisis. They are focusing their efforts on encouraging employers to establish traditional pension plans, as well as fostering the growth of IRAs and 401(k) plans. They will be watching upcoming tax and appropriations bills as possible vehicles for their proposals.

By Donna Cassata

SCOTT J. FERRELL

Lynn Dudley, vice president for an association that lobbies Congress on retirement issues, predicts that next year's tax bill "will have quite a bit of pension in it."

IRAs allow workers of modest income who do not have an employer-sponsored retirement plan to deduct up to $2,000 a year from their taxable income and put the money in a retirement account. Tax-deferred 401(k) plans are savings accounts funded mainly by employee contributions, with a partial employer match. The money is then invested in stocks, bonds or a mix of both.

One proposal introduced in the 105th Congress by Sens. James M. Jeffords, R-Vt., and Jeff Bingaman, D-N.M., would create a privately run pension clearinghouse that would manage and invest employee retirement accounts for employers. Jeffords, chairman of the Labor and Human Resources Committee, plans to hold hearings on the plan in the fall.

Other lawmakers have introduced proposals that may become part of a new tax cut bill in 1998. They deal with issues such as the portability of pensions as workers move from job to job, and the financial and administrative difficulty that small businesses have in establishing savings plans for their employees.

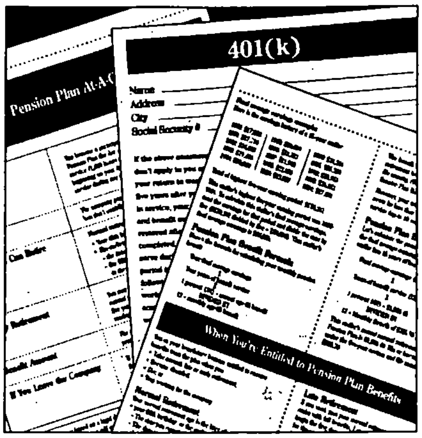
"Next year's tax bill will have quite a bit of pension in it," predicted Lynn Dudley, vice president for retirement policy at the Association of Private Pension and Welfare Plans, which lobbies Congress on retirement issues.

Sen. Judd Gregg, R-N.H., has introduced a bill (S 883) to create a new voluntary pension plan for companies with 100 employees or less, eliminate some restrictions on transferring retirement benefits as workers change jobs, and establish a fully deductible IRA for every American.

The Gregg proposal seeks to build on the step Congress took in 1996 toward helping small businesses create pension plans. The law (PL 104-188), which combined $10.1 billion in business tax breaks with an increase in the minimum wage, included the creation of the SIMPLE (Savings Incentive Match Plan for Employees) retirement plan, which allows businesses of 100 workers or less to create a 401(k) plan eligible for various tax advantages. *(1996 Almanac, p. 2-84)*

In an early sign of Congress' intent to get more workers to save for retirement, lawmakers included several pension-related provisions in the tax cut bill (HR 2014) that President Clinton signed Aug. 5. *(Weekly Report, p. 1859)*

Pension Proposals Offer More Variety



Lawmakers are seeking to act on several bills dealing with pensions before the 105th Congress adjourns in 1998. A plan sponsored by Sens. James M. Jeffords, R-Vt., and Jeff Bingaman, D-N.M., for example, would establish a government-chartered, privately managed retirement security program to administer retirement accounts. Other measures deal with increased access to such accounts, incentives for small businesses to offer pensions, and increased protection for women. Senate Minority Leader Tom Daschle, D-S.D., introduced a retirement security bill (S 14) in January with those aims in mind. Following is a sample of pending legislation:

Pension ProSave

The Jeffords-Bingaman bill (S 957) would create a program called Pension ProSave, under which employers would open retirement accounts for employees, but the accounts would be maintained by a separate, private company. Bingaman, a leading proponent of shoring up the pension system, says he is concerned about the 51 million private sector employees who have no retirement plan.

Under the proposal, first introduced in the 104th Congress, companies would enter an agreement voluntarily to contribute a minimum of 1 percent of employee salaries to the account. Above that, employers could adjust their contribution annually, in accordance with profits and losses. Workers could contribute up to twice as much as their employer, up to $6,000, and they could maintain their accounts when they changed jobs. The funds would be vested immediately, so employees would be entitled to accrued benefits no matter when they left a company.

Graham Plan

Sen. Bob Graham, D-Fla., has introduced a pension overhaul bill (S 889), cosponsored by Sen. Charles E. Grassley, R-Iowa, that Graham says would update laws "written in an era that didn't anticipate this modern mobility of the work force." Like the Jeffords-Bingaman proposal, it would allow for expanded pension portability, including government workers moving into private sector jobs. Several provisions would encourage workers who left their jobs to transfer their pension or their retirement account to a new employer, if the employer agreed.

The bill would make it easier for small businesses to set up retirement plans. It proposes an employee payroll deduction that would go toward financing an Individual Retirement Account (IRA) that would be administered by a third party, such as a bank, rather than by the company.

Several provisions from Graham's bill were included in the tax bill (HR 2014) that President Clinton signed Aug. 5. Conferees accepted a provision assuring that a qualified retirement plan would not lose tax advantages if it accepted rollover contributions from a previous employer's plan that turned out to be tainted, or disqualified for tax breaks. The tax bill also repeals the requirement that businesses file a report with the Labor Department when they make major changes to their pension plans. *(Weekly Report, p. 1831)*

Protecting Women

Sens. Carol Moseley-Braun, D-Ill., and Patty Murray, D-Wash., have introduced legislation (S 320) focusing on pension protection for women. Barbara B. Kennelly, D-Conn., has introduced companion legislation (HR 766) in the House. One provision of S 320, a proposal to require a spouse's consent to cash out the money in a tax-deferred savings plan known as a 401(k), was included in the Senate version of the tax bill, but was dropped in conference.

The bill calls for an end to the process called integration, in which employers can reduce employees' pension benefits by a portion of that employee's income from Social Security. The bill also stipulates that in cases of divorce, benefits accrued during marriage would be evenly divided if the couple was married at least five years.

Also in the House, Nancy L. Johnson, R-Conn., has proposed bipartisan legislation (HR 1656) cosponsored by Earl Pomeroy, D-N.D., aimed at encouraging small businesses to offer pension plans. Such businesses often do not have the resources to offer a plan. The bill would limit the regulations that deter small businesses from setting up pension plans. Under the plan, employees could set up Individual Retirement Accounts, which would be fully funded by a set amount contributed annually by the employer. The accounts, like the ones in the Bingaman plan, would be portable.

Further Protections

Sen. Barbara Boxer, D-Calif., has introduced a series of bills (S 106, S 107, S 108) aimed at protecting pensions. One (S 106) was included in the final version of the tax bill (HR 2014). It stipulates that companies can invest no more than 10 percent of employee contributions into the company's stock or real estate. The bill was spurred in part by high-profile bankruptcies and pension losses such as the 1991 bankruptcy of the California-based Carter Hawley Hales stores, which had more than 50 percent of assets invested in its own stock.

The second bill (S 107) would assure equal benefits to either spouse if one of them (presumably the plan participant) died. Under current law, the survivor who was not in the plan receives half the pension of the participant.

The third bill (S 108) would require 401(k) plans, which allow employees to contribute a portion of their income to a tax-deferred fund, to disclose their investments to plan participants. Federal law dictates that investment reports be made available to participants upon request, but Boxer wants that done automatically.

—Elana Mintz

Pension History

Pension legislation is seldom quick or easy. It took seven years of congressional tries, accompanied by tragic tales of pension benefits wiped out by bankruptcies, mergers and unsavory business practices, before the law commonly known as ERISA established federal standards for private pension plans. *(1974 Almanac, p. 244)*

The Employee Retirement Income Security Act (PL 93-406), which Ford signed in 1974, stipulates that companies with pension plans have to follow certain rules. For example, they have to enroll all employees age 25 and older in the plan after they have been with the company one year. Also, companies must contribute enough money to ensure payment of workers' pensions. The law also allowed individuals who were not in a traditional pension plan to set up their own retirement savings accounts with special tax benefits. That marked the beginning of IRAs.

Congress has difficulty enacting pension laws because most of them include provisions to defer taxes, and this results in lost government revenues. That and other factors could delay legislation in 1998. Pension analysts say several lawmakers want to see if the 1996 legislation aimed at small businesses (the SIMPLE plan) helps them provide more retirement security for their employees before embarking on a sweeping bill. And despite the dire forecast for Social Security, many lawmakers have little sense of urgency.

They think "the retirement crisis is still 20 years away," said Bill Pierron, a public affairs associate with the Employee Benefits Research Institute, a nonprofit, nonpartisan think tank that examines employee benefits and economic security issues.

Pension Proposals

Sponsors of this year's pension bills are hoping to begin the congressional dialogue on what steps are needed to avert a retirement security crisis. The hope next year is that the lure of an election-year accomplishment will transform some of those ideas into reality.

Gregg chaired a Republicans-only task force on retirement security earlier this year and came out with his bill, which aims at increasing the national pension savings rate. A few of his provisions made it into the tax bill (HR 2014), including an IRA for homemakers and simplification of employer paperwork.

Gregg's legislation would make all

Jeffords

Gregg

Americans eligible for fully tax-deductible individual retirement accounts by 2001. "The IRA is becoming the cornerstone of national retirement policy," Gregg said, "and the federal government should not deter anyone from participating by limiting or eliminating the tax deductibility of the option."

Gregg's bill also would create a voluntary pension plan allowing employers to pay workers a minimum guaranteed benefit of 1 percent to 3 percent of pay for each year of service. This would apply to all employees making at least $5,000.

Gregg said his plan, in which employers also could provide retroactive benefits for up to 10 years of prior service, would provide larger retirement benefits than the current 401(k) plan for small businesses (the SIMPLE plan).

Under that plan, which went into effect Dec. 31, employees can contribute up to $6,000 annually into a retirement account. Employers have to match that amount up to 3 percent of the worker's salary, and that contribution is tax-deductible for the employer.

Sen. Bob Graham, D-Fla., has proposed legislation with Sen. Charles E. Grassley, R-Iowa, aimed at expanding coverage for small businesses and increasing the portability of pension plans.

Several provisions would encourage workers who change jobs to transfer their traditional pension plan or IRA to the plan of a new employer, if the employer concurs.

Graham said his legislation responds to recent statistics showing that people change jobs an average of seven times in a lifetime, and to the general feeling among many middle-aged Americans that Social Security will not be available when they retire.

"Americans are changing jobs more frequently and are less likely to be vested," Graham said. Employees typically have to stay at a company five years to be "vested," or entitled to employer-paid pension money. "The mobile status is a particular problem for women."

In the House, Nancy L. Johnson, R-Conn., and Earl Pomeroy, D-N.D., have sponsored similar legislation (HR 1656) that would provide portable pensions and limit the regulations that deter small businesses from establishing pension plans.

Pension ProSave

The Jeffords-Bingaman proposal would create a government-chartered but privately run pension clearinghouse that would oversee retirement accounts and provide the types of investment options often available to employees with 401(k) plans.

Under the voluntary program, known as "Pension ProSave," an employer would start an account and contribute any amount each year, but not less than 1 percent of a worker's salary per year. An employee would contribute up to two times what the employer provided. If an employee left, the employer would have no responsibility for the pension coverage; the clearinghouse would continue to oversee and invest the account.

"You look at the different laws and regulations on the book and nothing privately available provides a hassle-free way for employers to help employees," Bingaman said.

The legislation has the backing of Republican Sens. Connie Mack of Florida, Alfonse M. D'Amato of New York and Christopher S. Bond of Missouri. Bingaman had introduced a similar version in the 104th Congress, but no action was taken on it.

Pierron of the Employee Benefits Research Institute said the Jeffords-Bingaman plan contains some of the same proposals that were offered by a special commission appointed by former President Jimmy Carter to examine retirement policy. That plan, known as the Minimum Universal Pension System, would have been mandatory. It was never more than a commission proposal, however, and it died in 1981 after Republican Ronald Reagan replaced Carter in the White House.

Already Accomplished

Congress also addressed some pension issues in the tax cut bill (HR 2014). For example, Gregg and Graham pushed for a change in the so-called homemaker rule to provide more retirement protection for women who do not work outside the home. Under existing law at the time, if a husband had a traditional pension plan at work and the couple's income exceeded $40,000, a wife who stayed at home could not make a $2,000 tax-deductible contribution to an IRA. In essence, a homemaker would have had no tax incentive to establish an IRA.

The new law allows a stay-at-home spouse to contribute to an IRA even if a partner has an employer-sponsored plan at work.

The law also increases the amount in an employee's pension fund that triggers an involuntary cash-out of benefits. Currently, an individual must take out the money in a lump sum if the pension plan is worth $3,500 or less. If it is worth more, payments are made periodically (usually monthly) — resulting in more paperwork and responsibility for employers maintaining the accounts. The legislation would increase the cash-out payment to $5,000.

And in response to the Color Tile case, Congress and the Clinton administration accepted a provision by Sen. Barbara Boxer, D-Calif., to prevent employers from requiring employees to place more than 10 percent of their 401(k) contributions into company stock or assets, unless the employee agrees. The provision will go into effect in 1999.

Conferees on the tax bill dropped a provision, sponsored by Sen. Carol Moseley-Braun, D-Ill., that would have required workers with 401(k) plans who plan to cash out their benefits to get permission from their spouses on whether the money would be withdrawn in a lump sum or in periodic payments. Current law says consent of a spouse is required only on distribution of traditional pension plans that provide automatic survivor benefits.

Moseley-Braun argued that the increased variety in pension plans has exceeded the protections and that it was only fair to extend the consent requirement to 401(k) plans.

Employers and their representatives lobbied furiously to persuade negotiators to drop the provision, contending it would increase their paperwork and harm working women who would have to get their husbands' permission for access to their own money. (Moseley-Braun argued that homemakers needed the protection.)

"From the standpoint of women, it offers little support and does substantial harm," said Mark Ugoretz, president of the ERISA Industry Committee, a group representing employer benefits plans.

Employer groups succeeded in keeping the provision out of the final bill, but they say the fight is not over. The provision is expected to be the subject of hearings in the fall and could be attached to one of the must-do spending bills or emerge in legislation in the second half of the 105th Congress. ■

APPROPRIATIONS

Resignation of Fund Officials May Smooth Way on Spending

FY 98 VA-HUD

Two Treasury Department officials in charge of a community lending program have resigned amid reports that $11 million in grants were awarded to companies with ties to the Clintons and that documents supporting the selections were written only when a House panel began investigating.

Kirsten Moy, director of the Community Development Financial Institutions Fund, will step down in October following the second round of the program's application process, Treasury Secretary Robert E. Rubin told Congress in an Aug. 6 letter. Moy's deputy, Steve Rohde, will depart Aug. 30.

Congressional investigators and the department's inspector general, Valerie Lau, found that in April, Moy instructed Rohde to write undated, after-the-fact evaluation documents on four of the grant recipients and insert the documents in the program's files just hours before staff employees from the House Banking and Financial Services Subcommittee on General Oversight and Investigations arrived. The grant recipients had been selected in July 1996. *(Weekly Report, p. 1873)*

"Let me state unequivocally that this action was a serious error of judgment and inconsistent with the standards that should govern our relationship with the Congress," Rubin said in a letter to Rep. Spencer Bachus, R-Ala., subcommittee chairman. "I deeply regret this incident."

Four of the grant recipients had some ties to President Clinton and Hillary Rodham Clinton, according to a committee source. But Rubin said there was no political favoritism in the selections and the award decisions were "based solely on merit."

In a statement, Bachus, who had indicated that the program's credibility would suffer as long as Moy and Rohde were in their positions, commended Rubin for his action. "The Treasury Department needed to take strong action, and this was a necessary step," Bachus said.

In announcing the resignations, the department also said it has moved to strengthen its internal procedures and controls, including a conflict of interest policy for reviewers of applications, a numeric worksheet in making assessments of potential recipients and a two-day training session for reviewers.

The fund is a government corporation created by a 1994 community development lending law (PL 103-325) to provide federal grants and aid to local banks, credit unions and other organizations that make loans in inner cities and poor rural areas. *(1994 Almanac, p. 100)*

In the first round of grants in July 1996, the program awarded $37 million in grants, loans and other financial assistance to 32 entities. The losing applicants complained to lawmakers about suspected political preference, prompting the House panel's investigation.

Angered by the subcommittee's discovery, the Senate provided no funds for the program in the fiscal 1998 spending bill (HR 2158) for veterans, housing (VA-HUD) and community development programs, even though the administration had sought $125 million. Sen. Christopher S. Bond, R-Mo., chairman of the Appropriations subcommittee that oversees funding for the program, had sharply criticized the project as "totally without controls." *(Weekly Report, p. 1792)*

The House, when considering the VA-HUD spending bill, struggled with an amendment that would have cut the program's $125 million budget request to the current level of $50 million. Sponsors of the measure abandoned the effort after receiving assurances from senior lawmakers that they would discuss the program with Treasury Department officials.

The departure of Moy and Rohde strengthens the hand of the program's proponents as they seek full funding in House and Senate negotiations on the spending bill, which are scheduled for September. ■

By Donna Cassata

Status of Major Legislation

105th Congress

(as of Aug. 8, 1997)

Bill and Background	House	Senate	Final
Abortion Procedure Ban. (HR 1122, substitute for HR 929; S 6) The bills would ban a controversial abortion procedure that opponents call a "partial birth" abortion, except when the procedure was needed to save the woman's life. Doctors who performed the procedure could be fined and sentenced to up to two years in prison. The woman would be exempt from criminal penalties. *(Weekly Report, p. 1196)*	HR 1122 passed 3/20/97	HR 1122 amended and passed 5/20/97	
Budget Reconciliation for Fiscal 1998. Two bills were used to implement the plan to balance the budget by fiscal 2002 that President Clinton and congressional negotiators agreed to May 2. The outline was adopted June 5 as the fiscal 1998 budget resolution (H Con Res 84 — conference report: H Rept 105-116). Changes in entitlements and other federal spending programs (HR 2015 — conference report: H Rept 105-217) would save about $263 billion over five years, including $115 billion in cuts from projected growth in Medicare costs. Revenue legislation (HR 2014 — conference report: H Rept 105-220) would make $95 billion in net tax cuts over five years by providing a $500-per-child tax credit, reducing capital gains tax rates, increasing estate tax exemptions and offering tax credits for college costs. Those cuts and others would be partially offset by increases in airline ticket taxes ($33 billion over five years) and other adjustments. *(Story, p. 1916)*	HR 2015 passed 6/25/97 Conference report on HR 2015 approved 7/30/97 HR 2014 passed 6/26/97 Conference report on HR 2014 approved 7/31/97	HR 2015 amended, passed 6/25/97 Conference report on HR 2015 cleared 7/31/97 HR 2014 amended, passed 6/27/97 Conference report on HR 2014 cleared 7/31/97	President signed 8/5/97 PL 105-33 President signed 8/5/97 PL 105-34
Defense Authorization. (HR 1119 — H Rept 105-132; S 936; formerly S 924 — S Rept 105-29) Both House and Senate bills would authorize about $268 billion for fiscal 1998 programs, $2.6 billion more than the president requested. Neither bill would authorize the new round of base closings the administration has requested. The House bill would continue production of the B-2 bomber; the Senate bill would not. *(Weekly Report, p. 1882))*	HR 1119 passed 6/25/97	S 936 passed as HR 1119 7/11/97	
Housing Overhaul. (HR 2 — H Rept 105-76; S 462 — S Rept 105-21) The House bill would decontrol public housing, send more authority to local housing officials, repeal the 1937 law that established the framework for the nation's housing authorities and require more community involvement from public housing residents. It would establish block grants to local housing agencies, giving them more control over how they spend their money. The Senate bill would give local officials more authority and require tenants to take more active roles. It would amend rather than repeal the 1937 law. *(Weekly Report, p. 1318)*	HR 2 passed 5/14/97 [illegible]	Banking, Housing and Urban Affairs Committee approved S 462 5/8/97	
Juvenile Crime. (HR 3 — H Rept 105-86; HR 1818 — H Rept 105-155; S 10) HR 3 and S 10 would require the federal government, and encourage states, to try the most violent youth offenders as adults and to adopt measures to curb juvenile crime. HR 3 would authorize $1.5 billion in grants to states in exchange for state efforts to send more juveniles to adult court for trial. HR 1818 would combine several crime prevention programs into a block grant to states. S 10 would authorize $3.6 billion and would expand the federal role in prosecuting juvenile gangs. It also would restructure the Office of Juvenile Justice and Delinquency Prevention, which funds crime prevention programs. *(Weekly Report, p. 1795)*	HR 3 passed 5/8/97 HR 1818 passed 7/15/97	Judiciary Committee approved S 10 7/24/97	
Transportation Law Reauthorization. The main federal law authorizing transportation spending programs, the 1991 Intermodal Surface Transportation Efficiency Act (PL 102-240), expires Sept. 30, setting the stage for battles over policy priorities and states' shares of federal spending. Among bills introduced are bills by President Clinton (S 468; HR 1268); Sen. John W. Warner, R-Va., and Rep. Tom DeLay, R-Texas, (S 335; HR 674); Sen. Max Baucus, D-Mont. (S 532); and Sen. John H. Chafee, R-R.I. (S 586). A proposal calling for a big increase in spending is expected from House Transportation and Infrastructure Committee Chairman Bud Shuster, R-Pa. *(Weekly Report, p. 1868)*		[illegible]	

MEMORANDUM

TO: TOM FREEDMAN, MARY L. SMITH

FROM: DREW HANSEN

DATE: AUGUST 19, 1997

RE: ISSUES FROM WEEKLY AND MONTHLY MAGAZINES

MAGAZINES CONSULTED: *Business Week* (August 25), *Forbes* (August 25), *The New Republic* (September 1), *Newsweek* (August 25), *Time* (August 25).

ATTACHMENTS: tables of contents for all of the above; "Invasion of Privacy," *Time,* August 25, pp. 28-35 (cover story), "A Real Piece of Work," *Newsweek,* August 25, p. 32.

CRIME

"A Beating in Brooklyn," *Time,* August 25, p. 38.

- Recent Brooklyn abuse case punctuates three years of complaints by blacks and Latinos about police abusiveness in New York.

- Civil claims paid by the city to whose who sue charging police brutality have risen from $13.5 million in 1992 to $32 million last year. 90% of all police-brutality cases in New York are filed by nonwhites. Drop in civilian complaints (down by 20% in first half of this year) might be because the Civilian Complaint Review Board is ineffectual: it has received over 20,000 complaints in the past four years, but only one police officer has been dismissed as a result.

"Reach Out and Bilk Someone," *Time,* August 25, pp. 54-57.

- Fraud against the elderly totals $40 billion per year, according to FBI estimates.

- Common schemes: fake telemarketing "prize" calls, fake "lawyers" for those who have already been bilked, overpriced repair services, piggybacking fraudulent investment schemes onto legitimate services (such as income tax preparation).

- Solutions: "Senior Sleuths" (project of Florida attorney general's office, deploys 550 people in sting operations), AARP program calling seniors whose names have appeared on confiscated telemarketing lists to warn them.

EDUCATION

"This is Math?," *Time*, August 25, pp. 66-67.

- Debate over "interactive" or "inventive" math instruction, focusing on trial-and-error problem solving in groups instead of repetition and memorization. Critics charge that the approach degrades basic computational skills and that it has not shown any results.

HEALTH CARE

"In This Drug War, Consumers are the Casualties," *Business Week*, August 25, p. 46.

- Pharmaceutical companies who make brand-name drugs are mounting aggressive efforts to prevent generic drugs from supplanting them.

- Some strategies: lawsuits (On July 28, U.S. district court judge Stanley Sporkin overturned FDA approval of a generic version of Pergonal, a fertility drug), lobbying the FDA, lobbying states to ban FDA-approved generics, lobbying Congress for longer patent terms, producing drugs with poorly understood trace ingredients that companies argue are crucial to the drug's success, lobbying states to pass laws requiring doctor-patient consent for generic substitutions (passed in North Carolina after a drive by DuPont Merck).

"Shortchanging the Psyche," *Newsweek*, August 25, p. 78.

- Managed care plans are often extremely restrictive on mental health benefits. Plans often riddle their mental health coverage with gaps (i.e. attention deficit disorder is often not covered), prescribe drug therapy instead of therapist visits, and require lengthy documentation that might compromise the patient's privacy.

PRIVACY

"Invasion of Privacy," *Time*, August 25, pp. 28-35 (cover story) ***article attached.**

- A catalogue of ways that privacy is being eroded, from the unauthorized browsing of records to the use of medical information in hiring and firing decisions to the practices of tracking Internet browsing and monitoring email.

TOBACCO

"Why Congress Should Stub Out the Tobacco Deal," Robert Kuttner, *Business Week*, August 25, p. 28.

- Current litigation makes tobacco companies even more vulnerable than before; the tobacco deal would grant unwarranted protection to the industry.

- The tobacco industry has always been able to turn apparent "constraints" to its advantage (the ban on TV ads spurred sponsored events and product-placement strategies).

- Also, the deal was 1.) negotiated in secret, and 2.) gives a bizarre product-liability cap to a single industry (the Supreme Court recently threw out the proposed mass settlement of asbestos claims on the grounds that one group of negotiators could not abrogate the rights of the other claimants who did not participate in the negotiations).

"Smoke and Mirrors?," *Business Week,* August 25, pp. 36-37.

- Tobacco companies will profit from the proposed deal: they will gain $50 billion from the budget deal provision allowing companies to deduct the revenues from new tobacco taxes from the settlement, and $140 billion in tax deductibility on the payments under the settlement.

- Uncertainty about how the funds under the settlement will be distributed: Mississippi is currently having difficulty allocating money that it has already won from tobacco companies.

- Antismoking funds in the settlement might not be effective. The funds are too small, and they might go primarily to pharmaceutical companies and the medical industry.

"The New Outcasts," *Forbes,* August 25, p. 52.

- New tobacco taxes under the settlement will disproportionately affect the poor.

UPS STRIKE

"This Package is a Heavy One for the Teamsters," *Business Week,* August 25, pp. 40-41.

- Overview of issues in the strike (part-time jobs, pensions) in a generally labor-friendly article.

"Labor's Deliverance?," *Newsweek,* August 25, pp. 26-30.

- Another generally labor-friendly overview, concluding that because of the strike "a national conversation had begun about whether Americans now deserve higher wages after years of soaring profits and a rising Dow," (p. 30).

WASHINGTON, D.C.

"*Putsch* on the Potomac," *Business Week,* August 25, p. 48.

- Bailout plan might not be successful: deficit will continue, population and tax revenues will fall, city cannot tax suburban commuters or real estate owned by the federal government, nonprofits, or foreign government.

"From the Ramparts," *The New Republic,* September 1, p. 14.

- An argument that Mayor Barry's political success is due to his ability to control "a violence that he can direct against those who stand in his way," (p. 15).

WELFARE

"A Promise Kept," *The New Republic,* September 1, p. 6.

- Wholly complimentary review of welfare reform, arguing that "[Clinton] is the president who will have ended welfare as we know it. If this holds, Clinton will deserve credit for a great historic and moral achievement," (p. 41).

- The only caveat deals with the Labor Department ruling that welfare-to-work recipients are covered by state and federal labor laws, which could make welfare-to-work programs difficult to enact.

"A Real Piece of Work," *Newsweek,* August 25, p. 32. ***article attached.**

- Key to welfare reform is business willingness to hire welfare recipients. Coopers & Lybrand survey of the fastest-growing small companies shows 60% of employers would be willing to hire welfare recipients (26% already have).

- Crucial ingredients in welfare-to-work: basic job readiness skills, state policies that ensure access to child care and transportation.

"Feeding the Flock," *Time,* August 25, pp. 46-48.

- "Charitable choice" provision in the welfare law has built on a growing trend of church-operated social service programs.

- In Mississippi, "Faith and Families" pairs welfare families with churches. In Michigan, two umbrella religious groups work with more than 100 churches on a similar program. A similar program exists in Maryland.

- Critics warn that the provisions jeopardize church-state separation and that government funding might gradually erode the distinctive religious content of church-based programs.

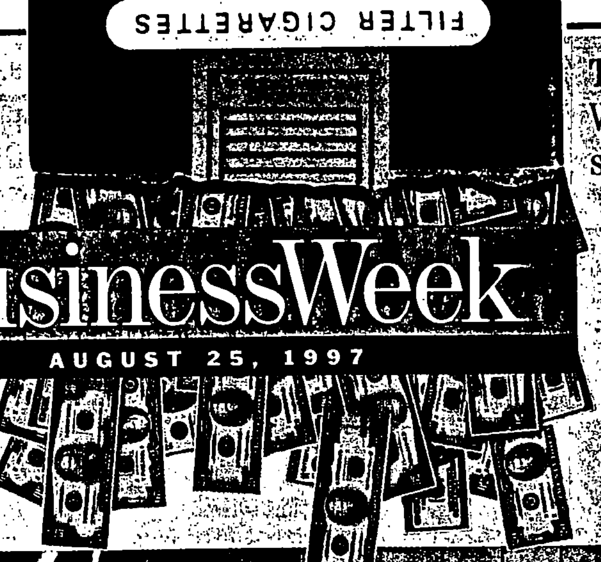
OTHER

"New Freedom in the Sky," *Newsweek,* August 25, p. 16 (Millennium Notebook)

- Current air traffic control system wastes $3.5 billion per year.

- A "free flight" system would equip pilots with information about positions of other aircraft, which they could use to plot their own courses. Air-traffic controllers would manage the system, intervening only around airports and in case of emergency.

- "Free flight" could mean shorter flights and lower fares (as it has in the FAA trial "National Route Program"), but is costly to implement (about $10 billion) and faces opposition from the air traffic controllers' union.



BusinessWeek

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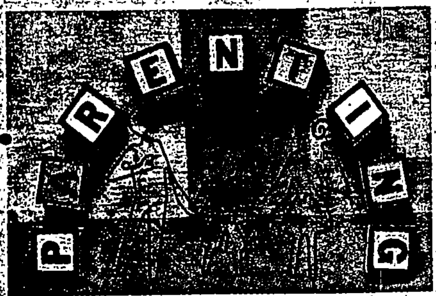
THE TOBACCO DEAL
Will the billions be spent wisely? page 36



KIDS' STUFF
Smart advice for Mom and Dad
page 192

SHINY QUARTER
Even with growth slightly off, the profit picture is bright
page 158

HEAVY PACKAGE
The Teamsters may have chosen the wrong opponent when it struck UPS
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BERNARD ANDRE

INTRODUCTION

HOW IT REALLY WORKS

MOVERS & SHAKERS

THE CULTURE

BEYOND THE VALLEY

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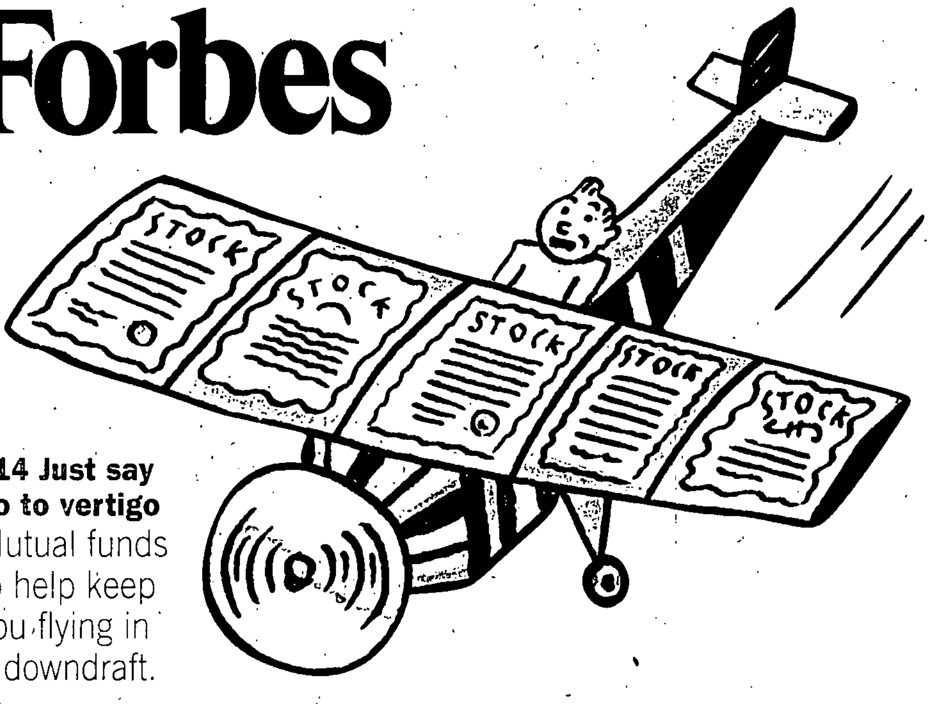
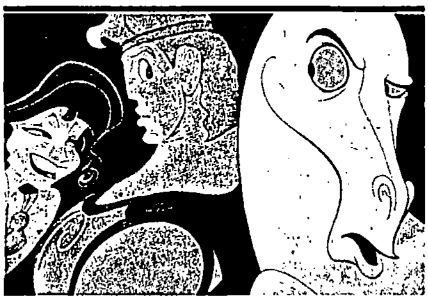
Forbes





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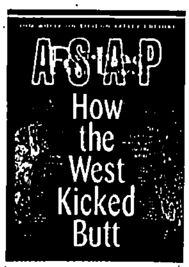

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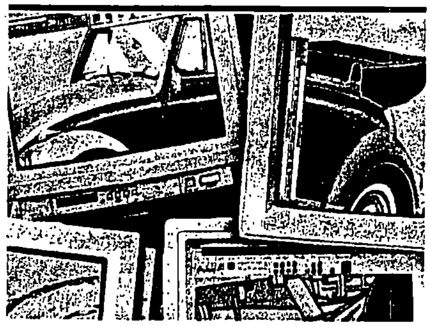
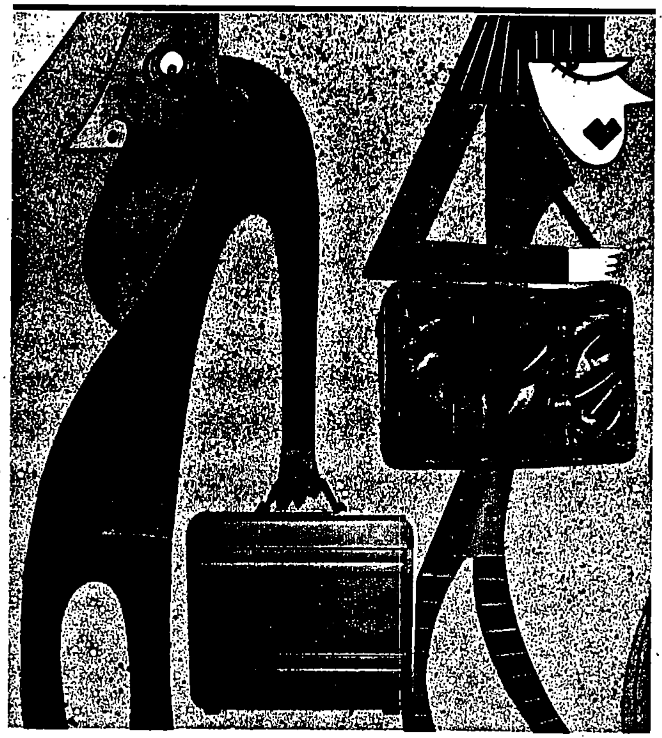
78 Patent medicine
"Companies will pay good money just to get rid of Ronald Katz."



81 Search engines
Need a hard-to-find auto part? Cruise for it on the Web.



283 Cyberluggage
Nothing virtual about these stylish laptop totes—least of all the prices.

THE NEW REPUBLIC

A Weekly Journal of Opinion

SEPTEMBER 1, 1997

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WASHINGTON, D.C.
ISSUE 4,311

Cover by Eric Baker for THE NEW REPUBLIC. Illustration by Michael Dougan. Article on page 19.

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TOP OF THE WEEK

IVO SCEPANOVIC—SIPA

THE COVER: Devotion to Mary is flowering. And, in a radical shift, the pope may soon give the mother of Christ a powerful new role. **Page 48**

MICHAEL J. N. BOWLES

BUSINESS: Stocks slide—and all eyes are on Greenspan. **Page 40**

EAMONN FARRELL—PHOTOCALL

THE ARTS: Author Frank McCourt, the publishing industry's unlikely Cinderella story. **Page 66**

NAJLAH FEANNY—SABA

NATIONAL AFFAIRS: The UPS strike is the harbinger of a growing demand for higher pay. **Page 26**

COVER: *'Virgin of the Annunciation,' by Carlo Dolci; photograph by J. G. Berizzi—RMN.*

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AUGUST 25, 1997

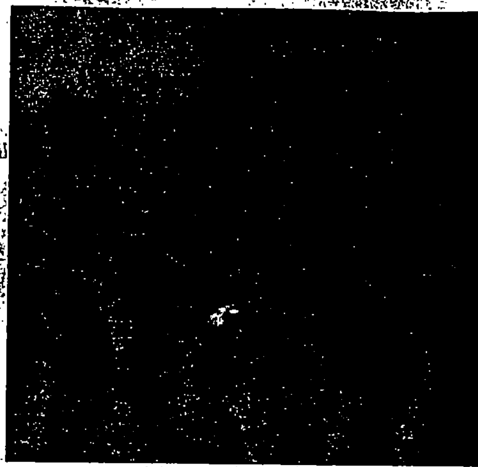
TIME

THE WEEKLY NEWSMAGAZINE

VOL. 150 NO. 8

SUSAN NORTH—WORLD FOOD PROGRAM

Who Will Feed Him? In North Korea the famine grows (*see* WORLD)



MATT MAHURIN FOR TIME

The End of Privacy: Our right to be left alone is gone. What did we get in return? (*see* COVER)

MARK SELIGER—OUTLINE

No More Mr. Bad Boy: But Sean Penn remains a terrific actor (*see* THE ARTS)

NATION

WORLD

COVER: *Photograph for* TIME *by Matt Mahurin*

BUSINESS

SOCIETY AND SCIENCE

THE ARTS

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INVASION OF PRIVACY

Our right to be left alone has disappeared, bit by bit, in Little Brotherly steps. Still, we've got something in return—and it's not all bad

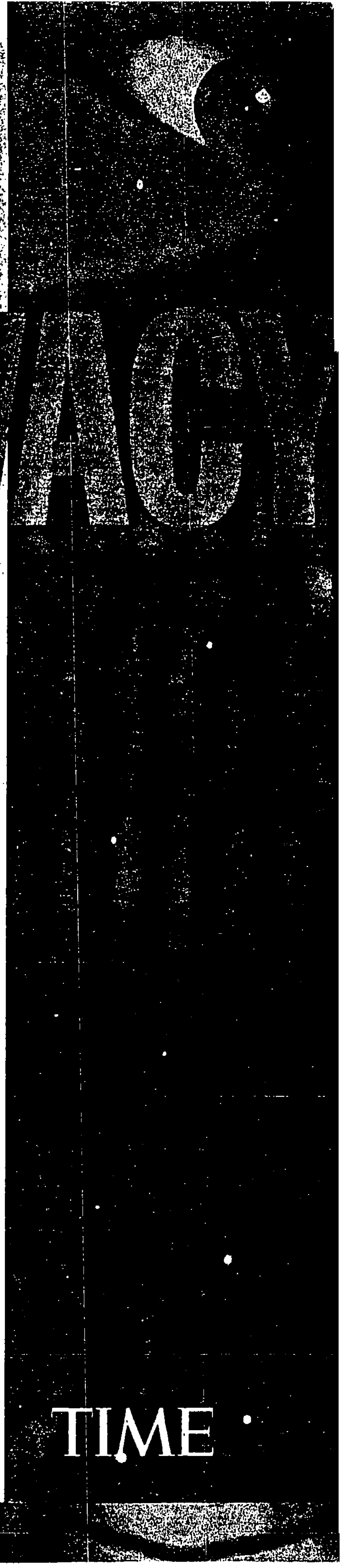
By JOSHUA QUITTNER

FOR THE LONGEST TIME, I COULDN'T GET WORKED up about privacy: my right to it; how it's dying; how we're headed for an even more wired, underregulated, overintrusive, privacy-deprived planet.

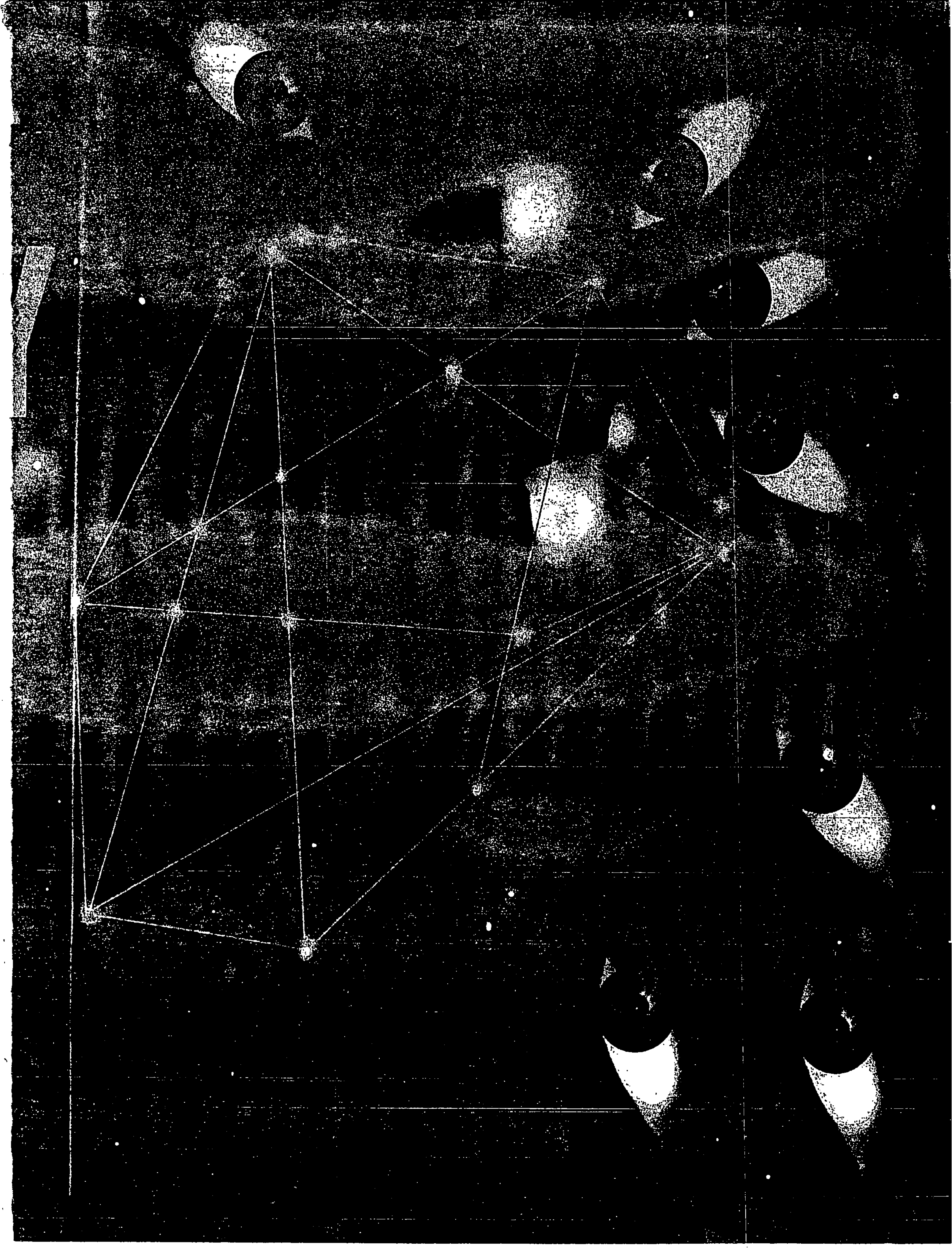
I mean, I probably have more reason to think about this stuff than the average John Q. All Too Public. A few years ago, for instance, after I applied for a credit card at a consumer-electronics store, somebody got hold of my name and vital numbers and used them to get a duplicate card. That somebody ran up a $3,000 bill, but the nice lady from the fraud division of the credit-card company took care of it with steely digital dispatch. (I filed a short report over the phone. I never lost a cent. The end.)

I also hang out online a lot, and now and then on the Net someone will impersonate me, spoofing my E-mail address or posting stupid stuff to bulletin boards or behaving in a frightfully un-Quittner-like manner in chat parlors from here to Bianca's Smut Shack. It's annoying, I suppose. But in the end, the faux Quittners get bored and disappear. My reputation, such as it is, survives.

I should also point out that as news director for Pathfinder, Time Inc.'s mega info mall, and a guy who makes his living on the Web, I know better than most people that we're hurtling toward an even more intrusive world. We're all being watched by computers when-



Illustrations for TIME by Matt Mahurin



ever we visit Websites; by the mere act of "browsing" (it sounds so passive!) we're going public in a way that was unimaginable a decade ago. I know this because I'm a watcher too. When people come to my Website, without ever knowing their names, I can peer over their shoulders, recording what they look at, timing how long they stay on a particular page, following them around Pathfinder's sprawling offerings.

None of this would bother me in the least, I suspect, if a few years ago, my phone, like Marley's ghost, hadn't given me a glimpse of the nightmares to come. On Thanksgiving weekend in 1995, someone (presumably a critic of a book my wife and I had just written about computer hackers) forwarded my home telephone number to an out-of-state answering machine, where unsuspecting callers trying to reach me heard a male voice identify himself as me and say some extremely rude things. Then, with typical hacker aplomb, the prankster asked people to leave their messages (which to my surprise many callers, including my mother, did).

This went on for several days until my wife and I figured out that something was wrong ("Hey ... why hasn't the phone rung since Wednesday?") and got our phone service restored.

It seemed funny at first, and it gave us a swell story to tell on our book tour. But the interloper who seized our telephone line continued to hit us even after the tour ended. And hit us again and again for the next six months. The phone company seemed powerless. Its security folks moved us to one unlisted number after another, half a dozen times. They put special PIN codes in place. They put traces on the line. But the troublemaker kept breaking through.

If our hacker had been truly evil and omnipotent as only fictional movie hackers are, there would probably have been even worse ways he could have threatened my privacy. He could have sabotaged my credit rating. He could have eavesdropped on my telephone conversations or siphoned off my E-mail. He could have called in my mortgage, discontinued my health insurance or obliterated my Social Security number. Like Sandra Bullock in *The Net,* I could have been a digital untouchable, wandering the planet without a connection to the rest of humanity. (Although if I didn't have to pay back school loans, it might be worth it. Just a thought.)

Still, I remember feeling violated at the time and as powerless as a minnow in a flash flood. Someone was invading my private space—my family's private space—and there was nothing I or the authorities could do. It was as close to a technological epiphany as I have ever been. And as I watched my personal digital unfold, it struck me that our privacy—mine and yours—has already disappeared, not in one Big Brotherly blitzkrieg but in Little Brotherly moments, bit by bit.

Losing control of your telephone, of course, is the least of it. After all, most of us voluntarily give out our phone number and address when we allow ourselves to be listed in the White Pages. Most of us go a lot further than that. We register our whereabouts whenever we put a bank card in an

It's a very schizophrenic time. We have very unstable notions about the bound

ATM machine or drive through an E-Z Pass lane on the highway. We submit to being photographed every day—20 times a day on average if you live or work in New York City—by surveillance cameras. We make public our interests and our purchasing habits every time we shop by mail order or visit a commercial Website.

I don't know about you, but I do all this willingly because I appreciate what I get in return: the security of a safe parking lot, the convenience of cash when I need it, the improved service of mail-order houses that know me well enough to send me catalogs of stuff that interests me. And while I know we're supposed to feel just awful about giving up our vaunted privacy, I suspect (based on what the pollsters say) that you're as ambivalent about it as I am.

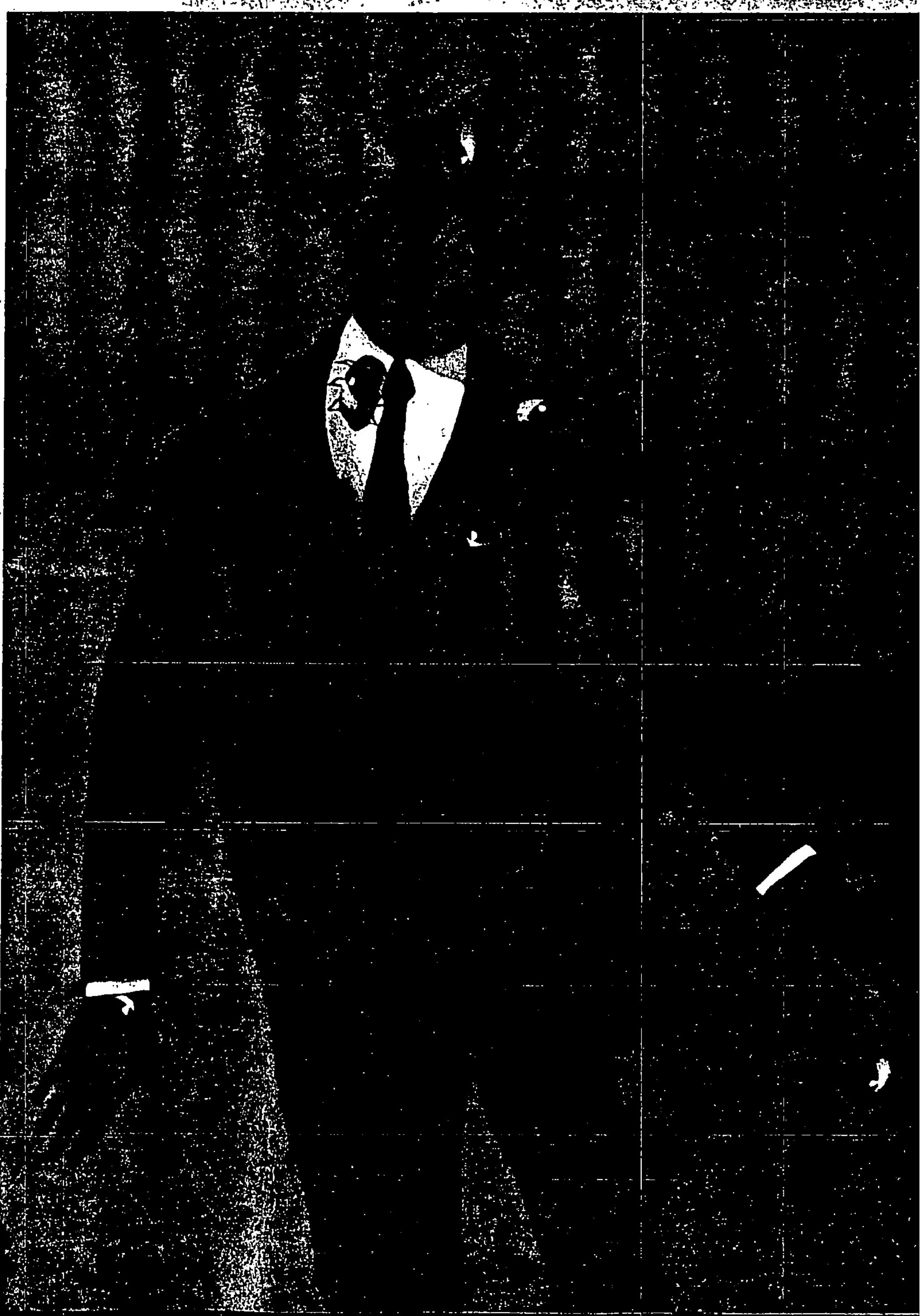
Popular culture shines its klieg lights on the most intimate corners of our lives, and most of us play right along. If all we really wanted was to be left alone, explain the lasting popularity of Oprah and Sally and Ricki tell-all TV. Memoirs top the best-seller lists, with books about incest and insanity and illness leading the way. Perfect strangers at cocktail parties tell me the most disturbing details of their abusive upbringings. Why?

"It's a very schizophrenic time," says Sherry Turkle, professor of sociology at the Massachusetts Institute of Technology, who writes books about how computers and online communication are transforming society. She believes our culture is undergoing a kind of mass identity crisis, trying to hang on to a sense of privacy and intimacy in a global village of tens of millions. "We have very unstable notions about the boundaries of the individual," she says.

If things seem crazy now, think how much crazier they will be when everybody is as wired as I am. We're in the midst of a global interconnection that is happening much faster than electrification did a century ago and is expected to have consequences at least as profound. What would happen if all the information stored on the world's computers were accessible via the Internet to anyone? Who would own it? Who would control it? Who would protect it from abuse?

Small-scale privacy atrocities take place every day. Ask Dr. Denise Nagel, executive director of the National Coalition for Patient Rights, about medical privacy, for example, and she rattles off a list of abuses that would make Big Brother blush. She talks about how two years ago, a convicted child rapist working as a technician in a Boston hospital riffled through 1,000 computerized records looking for potential victims (and was caught when the father of a nine-year-old girl used caller ID to trace the call back to the hospital). How a banker on Maryland's state health commission pulled up a list of cancer patients, cross-checked it against the names of his bank's customers and revoked the loans of the matches. How Sara Lee bakeries planned to collaborate with Lovelace Health Systems, a subsidiary of Cigna, to match employee health records with work-performance reports to find workers who might benefit from antidepressants.

Not to pick on Sara Lee: At least a third of all FORTUNE 500 companies regularly review health information before making



undaries of the individual.

— SHERRY TURKLE
Massachusetts Institute of Technology

HOW YOU'RE SPIED ON Everyday events that can make your life a lit

BANK MACHINES

Every time you use an automated teller, the bank records the time, date and location of your transaction.

PRESCRIPTION DRUGS

If you use your company health insurance to purchase drugs, your employer may have access to the details.

EMPLOYEE ID SCANNERS

If you rely on a magnetic-stripe pass to enter the office, your whereabouts are automatically recorded.

BROWSING ON THE WEB

Many sites tag visitors with "magic cookies" that record what you're looking at and when you have been surfing.

CELLULAR TELEPHONE

Your calls can be intercepted and your access numbers cribbed by eavesdroppers with police scanners.

CREDIT CARDS

Everything you charge is in a database that police, among others, could look at.

REGISTERING TO VOTE

In most states, voter-registration records are public and online. They typically list your address and birth date.

MAKING A PHONE CALL

The phone company doesn't need a court order to note the number you're calling—or who's calling you.

SUPERMARKET SCANNERS

Many grocery stores let you register for discount coupons that are used to track what you purchase.

hiring decisions. And that's nothing compared with what awaits us when employers and insurance companies start testing our DNA for possible imperfections. Far-fetched? More than 200 subjects in a case study published last January in the journal *Science and Engineering Ethics* reported that they had been discriminated against as a result of genetic testing. None of them were actually sick, but DNA analysis suggested that they might become sick someday. "The technology is getting ahead of our ethics," says Nagel, and the Clinton Administration clearly agrees. It is about to propose a federal law that would protect medical and health-insurance records from such abuses.

But how did we arrive at this point, where so much about what we do and own and think is an open book?

It all started in the 1950s, when, in order to administer Social Security funds, the U.S. government began entering records on big mainframe computers, using nine-digit identification numbers as data points. Then, even more than today, the citizenry instinctively loathed the computer and its injunctions against folding, spindling and mutilating. We were not numbers! We were human beings! These fears came to a head in the late 1960s, recalls Alan Westin, a retired Columbia University professor who publishes a quarterly report *Privacy and American Business.* "The techniques of intrusion and data surveillance had overcome the weak law and social mores that we had built up in the pre-World War II era," says Westin.

The public rebelled, and Congress took up the question of how much the government and private companies should be permitted to know about us. A privacy bill of rights was drafted. "What we did," says Westin, "was to basically redefine what we meant by 'reasonable expectations of privacy'"—a guarantee, by the way, that comes from the Supreme Court and not from any constitutional "right to privacy."

The result was a flurry of new legislation that clarified and defined consumer and citizen rights. The first Fair Credit Reporting Act, passed in 1970, overhauled what had once been a secret, unregulated industry with no provisions for due process. The new law gave consumers the right to know what was in their credit files and to demand corrections. Other financial and health privacy acts followed, although to this day no federal law protects the confidentiality of medical records.

As Westin sees it, the public and private sectors took two very different approaches. Congress passed legislation requiring that the government tell citizens what records it keeps on them while insisting that the information itself not be released unless required by law. The private sector responded by letting each industry—credit-card companies, banking, insurance, marketing, advertising—create its own guidelines.

That approach worked—to a point. And

ONLINE BROWSER TRICKS

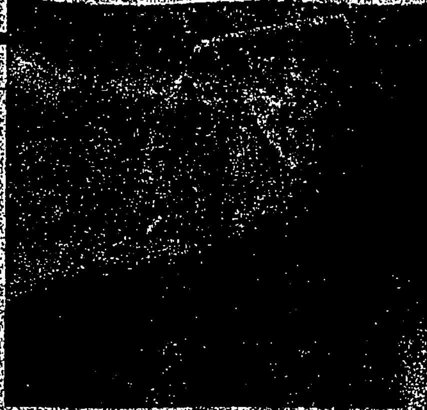
FIND YOUR COOKIE

Your cookie is the string of text that identifies you to cookie-catching Websites. Use your computer's Find command to get any file with the word cookie in its name. You should be able to figure out by its title which one is your "magic cookie." Look at it using a word-processing program to find out who is stashing cookies in your browser.

RIG YOUR COOKIE

Both Netscape's and Microsoft's browsers give you the option of being warned whenever a Website asks for your cookie. That way, you can refuse to proceed if you don't want to reveal anything about yourself.

...little less private



SWEEPSTAKES
These are bonanzas for marketers. Every time you enter one, you add an electronic brushstroke to your digital portrait.

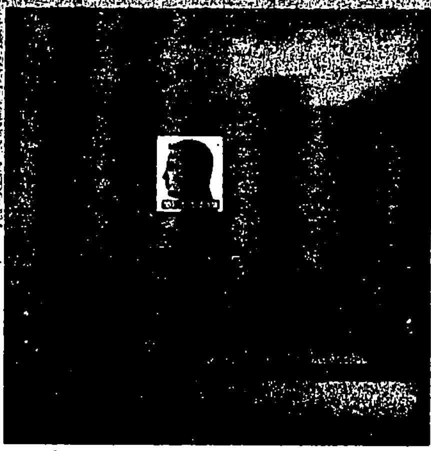
SATELLITES
Commercial satellites are coming online that are eagle-eyed enough to spot you—and maybe a companion—in a hot tub.

ELECTRONIC TOLLS
In many places, drivers can pay tolls electronically with passes that tip off your whereabouts.

SURVEILLANCE CAMERAS
They're in banks, federal office buildings, 7-Elevens, even houses of worship. New Yorkers are on camera up to 20 times a day.

MAIL-ORDER TRANSACTIONS
Many companies, including mail-order houses and publishers, sell lists of their customers. Why do you think you're getting that Victoria's Secret catalog?

SENDING E-MAIL
In offices, E-mail is considered part of your work. Your employer is allowed to read it—and many bosses do.



that point came when mainframes started giving way to desktop computers. In the old days, information stored in government databases was relatively inaccessible. Now, however, with PCs on every desktop linked to office networks and then to the Internet, data that were once carefully hidden may be only a few keystrokes away.

Suddenly someone could run motor-vehicle-registration records against voting registrations to find 6-ft.-tall Republicans who were arrested during the past year for drunk driving—and who own a gun. The genie was not only out of the bottle, he was also peering into everyone's bedroom window. (Except the windows of the very rich, who can afford to screen themselves.)

"Most people would be astounded to know what's out there," says Carole Lane, author of *Naked in Cyberspace: How to Find Personal Information Online*. "In a few hours, sitting at my computer, beginning with no more than your name and address, I can find out what you do for a living, the names and ages of your spouse and children, what kind of car you drive, the value of your house and how much taxes you pay on it."

Lane is a member of a new trade: paid Internet searcher, which already has its own professional group, the Association of Independent Information Professionals. Her career has given her a fresh appreciation for what's going on. "Real privacy as we've known it," she says, "is fleeting."

Now, there are plenty of things you could do to protect yourself. You could get an unlisted telephone number, as I was forced to do. You could cut up your credit card and pay cash for everything. You could rip your E-Z Pass off the windshield and use quarters at tolls. You could refuse to divulge your Social Security number except for Social Security purposes, which is all that the law requires. You'd be surprised how often you're asked to provide it by people who have no right to see it.

That might make your life a bit less

PROTECT YOURSELF

- **Just say no to telemarketers** If you don't want to get an unlisted telephone number (cost: $1.50 a month), practice the mantra "I don't take phone solicitations." Once you buy, you're put on a chump list that's sold to other marketers.
- **Consider removing your name from many direct-mail and telemarketing lists** Write to: Direct Marketing Association Mail/Telephone Preference Service P.O. Box 9008 (mail) or P.O. Box 9014 (phone) Farmingdale, NY 11735
- **Pay cash whenever possible** The less you put on your credit cards, the fewer details anyone has about your buying habits.
- **Be wary about buying mail order** Many mail-order companies sell their customer lists. So call the company to check its procedures (unless you like catalogs).
- **Give your Social Security number only when required by law** Many organizations, from school to work, use it as your ID number. Resist them. (Experts say it often helps if you can tell someone in authority about your concerns.)
- **Think twice before filling out warranty cards or entering sweepstakes** These are data mines for marketers. Besides, most products are guaranteed by your sales receipt. And have you ever won anything in a sweepstakes?
- **Be careful when using "free blood-pressure clinics"** Typically, your data will be used by marketers and pharmaceutical companies.
- **Avoid leaving footprints on the Net** You're being watched even as you browse. And search engines index your postings to public forums such as Usenet by your name.

DISABLE YOUR COOKIE
Go to *www.luckman.com* and get a free "anonymous cookie," a program that disables cookies, among other things.

KNOW WHAT YOUR BOSS KNOWS
On Netscape's browser, in the Location field, type *about:global*. This shows everyplace you've visited, in some cases going back months. In Microsoft's Internet Explorer, you can list every site you've visited for the past 20 days by opening the Go menu and choosing the Open History item. You can erase this stuff by selecting the Clean Cache option on either browser.

SURF THE WEB ANONYMOUSLY
You can browse the Web from behind a privacy curtain by [illegible] connecting to www.anonymizer.com. The free account imposes a 60-second delay on all browsing, a [illegible] that annoying restriction.

Character Assassination at Warp Speed

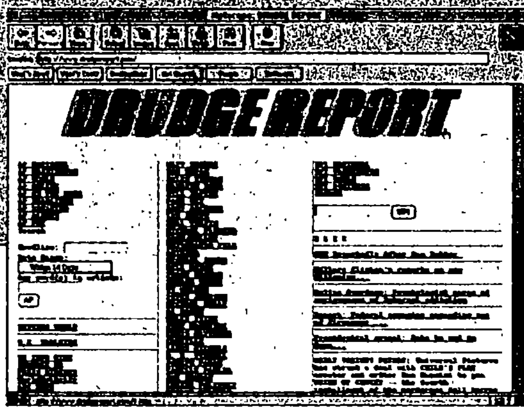
MATT DRUDGE, THE LIZ SMITH OF CYBERSPACE, reported in his E-mail dispatch last week that a White House aide is a wife beater. Bad news for the Drudgester: he now says the story, which initially went out to more than 80,000 readers, is untrue. So he retracted it and apologized. O.K.?

No K., says William McDaniel, the aide's lawyer, who says he's preparing to sue the Wagging Tongue of the Web for libel. "People who use the Internet feel they're not subject to the same constraints as everyone else," McDaniel says. A lawsuit will "deter Drudge and people like him from doing this in the future."

The Net lets anyone with a computer and a modem compete mouse to mouse with mainstream media. (Drudge's publishing empire is the living room of his Hollywood apartment.) But many of the Net's would-be Woodwards and Bernsteins are journalistic novices and wouldn't think, say, to ask court or police sources to confirm a rumor. Character assassination, like everything else online, happens at warp speed, which is why some say there's no way to correct damage to one's reputation—or protect one's privacy.

It's a point that has recently been driven home to a number of celebrity victims of Web smear, such as designer Tommy Hilfiger, falsely accused of racism, film star Brad Pitt, who can be seen online—and nude—in unauthorized photos of his buff vacation, and writer Kurt Vonnegut, who found himself depicted, if not unflatteringly, as the author of a commencement speech he never made. "Once a piece of information is out there, it's nearly impossible to obliterate," says Christine Varney, a former commissioner of the Federal Trade Commission and a privacy crusader.

Nonsense, says Mike Godwin, staff counsel for the Electronic Frontier Foundation, who argues that because all of us have equal access to it, the Net relegates libel and slander suits to the slag heap of history. "People can say bad things on the Net and circulate them to a million of their closest friends," says Godwin. "So what? The Net's a level playing field." In other words, if someone defames you, you can get online and fight right back. After all, Godwin points out, the Net has been around in one form or another for decades, and no libel suits of the *Aide v. Drudge* sort have made it to court. Yet. —*By Joshua Quittner*



comfortable, of course. As in the case of Bob Bruen, who went into a barbershop in Watertown, Mass., recently. "When I was asked for my phone number, I refused to give them the last four digits," Bruen says. "I was also asked for my name, and I also refused. The girl at the counter called her supervisor, who told me I could not get a haircut in their shop." Why? The barbershop uses a computer to record all transactions. Bruen went elsewhere to get his locks shorn.

But can we do that all the time? Only the Unabomber would seriously suggest that we cut all ties to the wired world. The computer and its spreading networks convey status and bring opportunity. They empower us. They allow an information economy to thrive and grow. They make life easier. Hence the dilemma.

The real problem, says Kevin Kelly, executive editor of *Wired* magazine, is that although we say we value our privacy, what we really want is something very different: "We think that privacy is about information, but it's not—it's about relationships." The way Kelly sees it, there was no privacy in the traditional village or small town; everyone knew everyone else's secrets. And that was comfortable. I knew about you, and you knew about me. "There was a symmetry to the knowledge," he says. "What's gone out of whack is we don't know who knows about us anymore. Privacy has become asymmetrical."

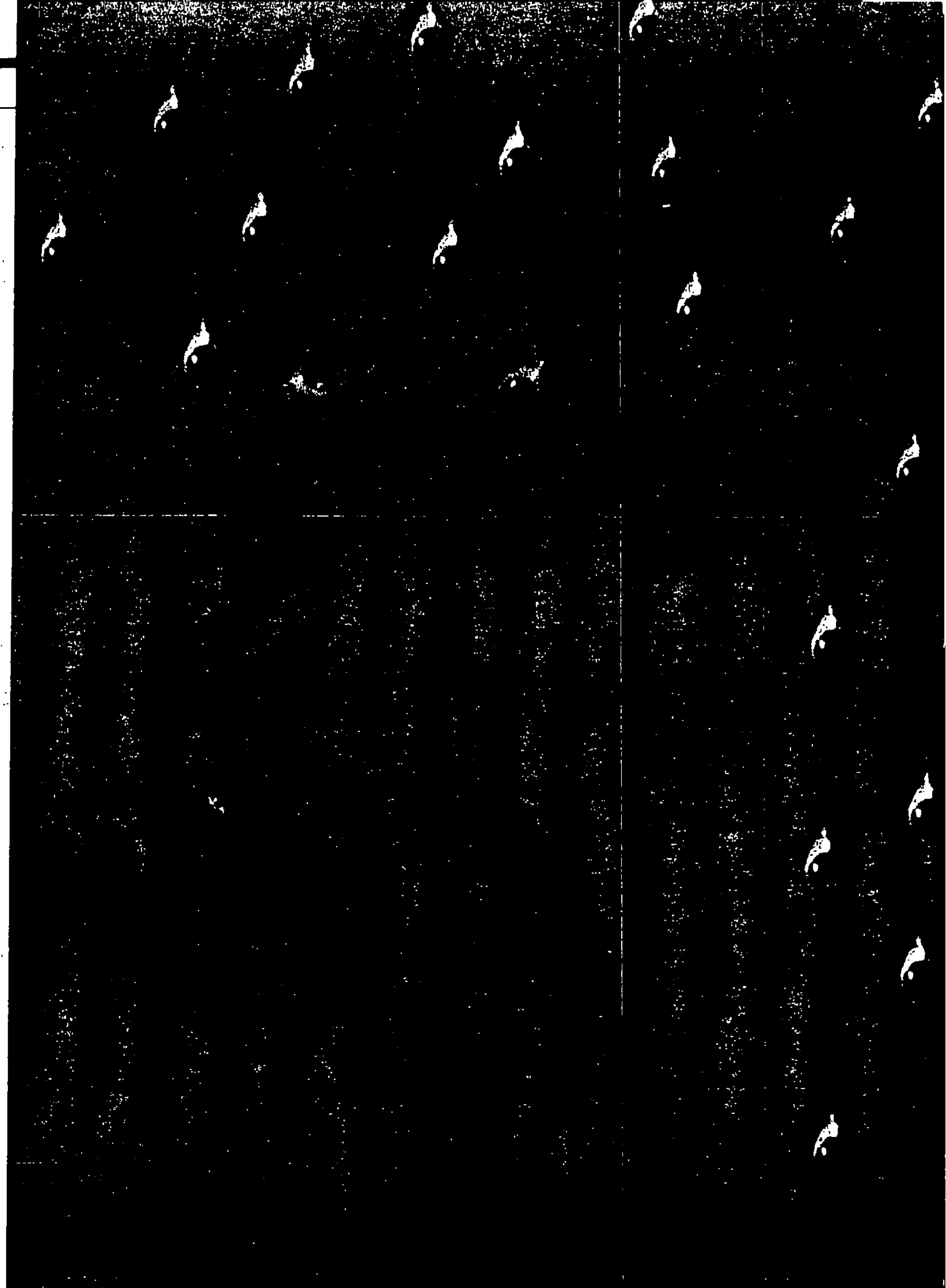
The trick, says Kelly, is to restore that balance. And not surprisingly, he and others point out that what technology has taken, technology can restore. Take the problem of "magic cookies"—those little bits of code most Websites use to track visitors. We set up a system at Pathfinder in which, when you visit our site, we drop a cookie into the basket of your browser that tags you like a rare bird. We use that cookie in place of your name, which, needless to say, we never know. If you look up a weather report by keying in a ZIP code, we note that (it tells us where you live or maybe where you wish you lived). We'll mark down whether you look up stock quotes (though we draw the line at capturing the symbols of the specific stocks you follow). If you come to the *Netly News*, we'll record your interest in technology. Then, the next time you visit, we might serve up an ad for a modem or an online brokerage firm or a restaurant in Akron, Ohio, depending on what we've managed to glean about you.

Some people find the whole process offensive. "Cookies represent a way of watching consumers without their consent, and that is a fairly frightening phenomenon," says Nick Grouf, CEO of Firefly, a Boston company that makes software offering an alternative approach to profiling, known as "intelligent agents."

Privacy advocates like Grouf—as well as the two companies that control the online browser market, Microsoft and Netscape—say the answer to the cookie monster is something they call the Open Profiling Standard. The idea is to allow the computer user to create an electronic

We think that privacy is about information—it's not. It's about relationships.

—KEVIN KELLY
Executive editor, *Wired* magazine



"passport" that identifies him to online marketers without revealing his name. The user tailors the passport to his own interests, so if he is passionate about fly-fishing and is cruising through L.L. Bean's Website, the passport will steer the electronic-catalog copy toward fishing gear instead of, say, Rollerblades.

The advantage to computer users is that they can decide how much information they want to reveal while limiting their exposure to intrusive marketing techniques. The advantage to Website entrepreneurs is that they learn about their customers' tastes without intruding on their privacy.

Many online consumers, however, are skittish about leaving any footprints in cyberspace. Susan Scott, executive director of TRUSTe, a firm based in Palo Alto, Calif., that rates Websites according to the level of privacy they afford, says a survey her company sponsored found that 41% of respondents would quit a Web page rather than reveal any personal information about themselves. About 25% said when they do volunteer information, they lie. "The users want access, but they don't want to get correspondence back," she says.

But worse things may already be happening to their E-mail. Many office electronic-mail systems warn users that the employer reserves the right to monitor their E-mail. In October software will be available to Wall Street firms that can automatically monitor correspondence between brokers and clients through an artificial-intelligence program that scans for evidence of securities violations.

"Technology has outpaced law," says Marc Rotenberg, director of the Washington-based Electronic Privacy Information Center. Rotenberg advocates protecting the privacy of E-mail by encrypting it with secret codes so powerful that even the National Security Agency's supercomputers would have a hard time cracking it. Such codes are legal within the U.S. but cannot be used abroad—where terrorists might use them to protect their secrets—without violating U.S. export laws. The battle between the Clinton Administration and the computer industry over encryption export policy has been raging for six years without resolution, a situation that is making it hard to do business on the Net and is clearly starting to fray some nerves. "The future is in electronic commerce," says Ira Magaziner, Clinton's point man on Net issues. All that's holding it up is "this privacy thing."

Rotenberg thinks we need a new government agency—a privacy agency—to sort out the issues. "We need new legal protections," he says, "to enforce the privacy act, to keep federal agencies in line, to act as a spokesperson for the Federal Government and to act on behalf of privacy interests."

Wired's Kelly disagrees. "A federal privacy agency would be disastrous! The answer to the whole privacy question is more knowledge," he says. "More knowledge about who's watching you. More knowledge about the information that flows between us—particularly the meta information about who knows what and where it's going."

I'm with Kelly. The only guys who insist on perfect privacy are hermits like the Unabomber. I don't want to be cut off from the world. I have nothing to hide. I just want some measure of control over what people know about me. I want to have my magic cookie and eat it too. ***—With reporting by William Dowell and Noah Robischon/New York and Declan McCullagh and Bruce van Voorst/Washington***

BETWEEN THE LINES

A REAL PIECE OF WORK

Welfare reform is one year old and a huge success so far. But will business do its part?

BY JONATHAN ALTER

WHAT A DIFFERENCE A year makes. Last summer, conservatives were arguing that an increase in the minimum wage would absolutely, positively mean fewer jobs. Liberals were arguing that the welfare bill was deeply immoral and would throw a million or more children into poverty. Don't hold your breath waiting for confession of error. But it's worth noting that the success of welfare-reform legislation, signed by President Clinton one year ago this week, blows the doors off even the most optimistic predictions. The caseload is on a path toward dropping by nearly 2 million since the bill was signed—bringing the total reduction since 1993 to nearly 4 million women and children (and a few men), or more than a quarter of all welfare recipients. When you hear the Clintonites bragging, it's more than just spin.

JOHN FICARA FOR NEWSWEEK

Fresh start: *Clinton at a St. Louis program that moves the poor from dole to payroll*

The strong economy obviously helps, but it's not a complete explanation. In the 60-year history of welfare, through many fat economic times, the largest previous caseload drop was 250,000 in a single year. And it's not as if folks are getting routinely booted off the rolls. Only Florida and Wisconsin are doing that now. In other states, the time limits haven't kicked in yet. So what accounts for the change? No one knows for sure. Of course, the threat of a cutoff has a way of concentrating the mind. The most important change, as Clinton domestic-policy chief Bruce Reed puts it, is in expectations. These days, when poor mothers go into state agencies to apply for welfare, they find themselves facing bureaucracies that are structured around work, not merely writing checks. Even the American Public Welfare Association, the advocacy group for case workers, is taking the word "welfare" out of its name.

All the good news is tempered by the knowledge that the hardest part lies ahead. Those who could get jobs on their own have, by now, largely done so. From here on, the government and the private sector will have to be especially innovative. The government's role probably won't be in actually providing jobs; "workfare" hasn't proven a good avenue into permanent work, and the Clinton administration (thanks to union pressure) is making it increasingly impractical with loads of federal rules.

Instead, the action is in government support for stepped-up private-sector efforts. A new Coopers & Lybrand survey of the fastest-growing small companies shows 60 percent of employers would be willing to hire welfare recipients (26 percent already have). Some employers may be responding to what Clinton in St. Louis last week called their "moral obligation" to help, a duty that applies especially to those who bellyached about the old system. But most managers aren't saints; they just need warm bodies for entry-level jobs. The only way companies will get them is if there is state-supported child care, transportation and help for employers with what might be called "the alarm-clock problem"—basic work skills.

I went to St. Louis in advance of the president last week to listen in as nearly 300 local employers gathered in small groups for private discussions about hiring welfare recipients. "To go from cynical to skeptical—that would be tremendous movement," says Eli Segal, who is spearheading Clinton's new Welfare to Work Partnership, which initially targeted St. Louis, a once depressed city now experiencing a 24-year low in unemployment. The partnership (1-888-USA-JOB1) is asking companies there and elsewhere to hire applicants off welfare.

Dennis Drummond of Jefferson Smurfit Corp., a paper-products company, came over the border from Illinois to tell other executives about his experiences in hiring 17 welfare recipients. "The first thing you learn is they come in late. They've often never owned an alarm clock," he explained, echoing familiar frustrations. "You're ready to fire them. They don't know where the bathroom is. But we didn't know where it was when we were new either. If you work with them, give them a 'buddy' at the start, they often turn into outstanding employees."

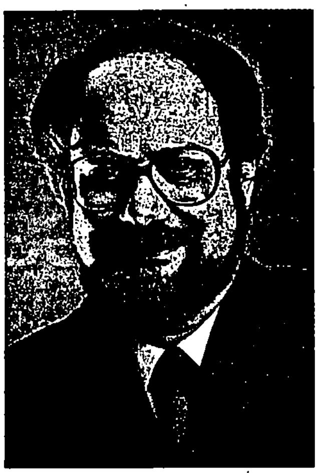
Keith Guller, an oxygen-equipment manufacturer in St. Louis, told me he can't get anyone to answer his help-wanted ads for low-wage work. So he's turned to "job intermediaries" that help screen, train and place the unemployed. Clinton spoke at one such St. Louis program called Mid-Tec. "If they go through Mid-Tec, the odds are better they'll be good," Guller says. They learn technical skills—plus how to behave in a job. These nonprofit intermediaries, sprouting everywhere, may turn out to be the hot charities of the late '90s. They are essential to welfare reform.

Also essential are state officials with their heads screwed on right. Missouri has a transportation-assistance program and guaranteed child care to anyone who meets the income threshold. It's also "seamless" (the new buzzword in policy circles), which means that the child-care state money goes directly to the day-care centers instead of to the worker. So is the program in Illinois, which has nearly doubled the money for child care in one year. Ohio, on the other hand, is actually cutting child-care funding, which is idiotic if you expect poor mothers to actually work.

How far can all of this go? Under Michigan's Project Zero, every single one of the 413 welfare families in Ottawa County near Grand Rapids is now off the dole. The results aren't the same in Detroit, but the signs are encouraging there, too. Yes, the hard-core welfare recipients shall always be with us, beset by personal demons. Yes, homelessness and visits to food banks are rising a bit in areas with the toughest new laws. But if the economy holds up and the private sector does its part, we're on the threshold of the greatest social-policy achievement in a generation.

BY ROBERT KUTTNER

WHY CONGRESS SHOULD STUB OUT THE TOBACCO DEAL



BAD ODOR: The parties met in secret to settle a major issue of public-health policy–not quite what the framers of the Constitution had in mind

RICHARD SCHULTZ

Robert Kuttner is co-editor of *The American Prospect* and author of *The End of Laissez-Faire*

When tobacco executives, state attorneys general, and public-health advocates announced their 25-year deal on June 20, it seemed an extraordinary coup. The industry gave up a $368.5 billion pot for victim compensation and antismoking education. It got a cap on liability and a delay in nicotine regulation. Tobacco stocks rallied.

But the settlement is backfiring on the industry, as well it should. Private deals such as this are a bad way to set regulatory policy. The costs of smoking-related illness were $88 billion in 1995 alone, while the deal covers only about $8 billion a year, adjusted for inflation, according to recent Senate testimony by Jeffrey E. Harris, a physician and economist at Massachusetts General Hospital and Massachusetts Institute of Technology. Tobacco came to the table only because tort litigation against tobacco was at last making headway. It was the litigation that uncovered the most damaging documents on what the industry knew and what it concealed. Courtroom sympathy is shifting dramatically to plaintiffs. Only last week, a Florida trial judge ruled that the industry's favorite defense—that the public was well aware of the hazards of smoking—could not be used in that state's Medicaid reimbursement suit.

The more headway made by litigation, the less reason antismoking advocates have to settle. After all, the industry exists to sell cigarettes. The more insulated the industry is from litigation and regulation, the more tobacco it will sell. The industry has a long history of turning "constraints" to its advantage. Package warnings, hailed as a public-health advance in the 1960s, became the basis for defeating lawsuits. The ban on TV ads spurred a generation of tobacco-sponsored events and product-placement strategies.

PIPE DREAM. The deal, of course, requires ratification by Congress, since only Congress can delay or hobble the Food & Drug Administration's efforts to gain authority to regulate tobacco as a drug, and only Congress can change the product-liability rules. The industry thought state attorneys general and public-health advocates would troop to Capitol Hill to bless the deal—a pipe dream. The proposal smoked out much tougher opposition by former Republican health appointees C. Everett Koop and David A. Kessler, as well as new demands from mainstream health organizations and the Administration.

The $5 billion annual cap on claims, combined with a $1 million ceiling on individual suits, means as few as 5,000 claimants a year could collect. Several arcane provisions would discourage litigation. For example, a special panel of three federal judges would have to approve access to documents that the industry claims are privileged. Litigation would have to pass through the eye of this needle. The deal also bans most class actions.

SACRED TENETS. As the antitobacco side took a closer look at the details, one supporter after another has defected. Apart from its details, the deal was dubious all along on two key grounds of process. The parties got together, in secret negotiations, to settle a major issue of public-health policy. Congress, a bystander, was supposed to sign on the dotted line. This was not exactly what the framers of the Constitution had in mind, nor is it the role Congress fancies for itself. The deal mocks one of the sacred tenets of law and economic theory, which holds that private parties, on their own, will reach efficient bargains. In this case, the absent party was the public, and the deal reached precludes the future use of the common law for future redress.

Second, it is bizarre to design a product-liability cap for one industry. The Supreme Court recently threw out the proposed mass settlement of asbestos claims, on the grounds that one group of negotiators could not properly abrogate the rights of those not at the table. And if the tobacco industry, of all industries, gets a cap on product liability, why shouldn't more deserving groups, such as auto makers or toy manufacturers, get one, too?

Others in the business community are in a quandary. Should they support their tobacco brethren, hoping the pact will set a precedent for similar product-liability agreements? Or should they shun this deal because its obvious failings are giving anticorporate Naderism a boost? Business would be wise to treat Big Tobacco like, well... like a cancer.

This deal is billed as the best trade-off obtainable, but a regulated industry should not be given a veto over the acceptable terms of regulation. Many of the public-health provisions of the deal that step up antismoking campaigns and restrict tobacco marketing are admirable. They should be enacted—and private antitobacco litigation should continue. In a few years, we can revisit a settlement with a deservedly weaker tobacco industry.

BY GENE KORETZ

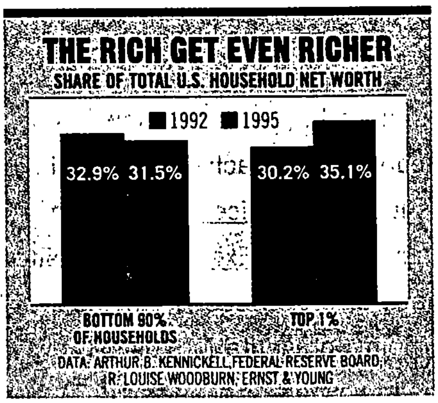
WHERE WEALTH SURGED IN THE '90s

Among a thin slice of households

There's little dispute that incomes have grown more unequal in the U.S. in recent decades. But the question of the distribution of wealth is more controversial. While research by economist Edward N. Wolff of New York University found a sharp increase in the share of wealth held by the top 1% of households in the 1980s, Federal Reserve survey data relying on different statistical adjustments show relatively little change in the concentration of wealth.

The 1990s, however, may be different. A new technical working paper by Arthur B. Kennickell of the Federal Reserve and R. Louise Woodburn of Ernst & Young suggests that the top 1% of the population—especially the top half of that 1%—has been getting a lot richer.

From 1992 to 1995, a period in which household net worth grew by more than



$2.7 trillion, the study finds that the richest 1% boosted their share of the total from 30.2% to 35.1%. What's more, almost all of that gain accrued to the top half of that segment, a group that saw its average net worth jump from $8 million to $11.3 million. (The average for the whole top 1% was $7.2 million.)

Meanwhile, the share held by the bottom 90% of households slipped to just 31.5%, down from 32.9%. Their average net worth: nearly $73,000—but just $39,000 when home equity is excluded.

Interestingly enough, the biggest part of the gain racked up by the wealthiest 1% of the population came at the expense of the next 9%. The average net worth of this group remained around $766,000, but its share of the pie fell by 3.7 percentage points.

What's behind the rising concentration of wealth among the top 1%? A big factor is their growing share of business assets such as private companies, entrepreneurships, and professional corporations, which jumped from 56.5% of the total for all households in 1992 to 71.4% in 1995. And the concentration of stock ownership among the very wealthy means they have reaped huge rewards from the stock market boom, despite the rising number of households investing in mutual funds.

From 1992 to 1995, the value of stocks held by the top 1% surged by a heady 72%. And the group's share of household equity holdings also climbed, from 38.5% to 42.2%, as the share held by the bottom 90% actually fell.

FAST AND LOOSE ON THE MOUND

American League batters beware

Economists call it "moral hazard," and it's a particularly galling problem for insurance companies. It refers to the tendency of persons who are protected from bearing the full costs or negative consequences of particular acts to indulge in such behavior more than they would otherwise do. Those with loss or theft insurance, for example, tend to be more careless about their property than those lacking such security.

But moral hazard occurs in many situations besides insurance. (One often cited example is drivers' tendency to drive more recklessly since seat-belt laws were passed.) In an intriguing study in the current issue of *Economic Inquiry*, Brian L. Goff of Western Kentucky University, William F. Shugart II of the University of Mississippi, and Robert D. Tollison of George Mason University point to a "classic moral hazard problem" created by a rule change in Major League Baseball.

In 1973, the American League introduced the designated-hitter rule, which relieved pitchers of having to come to the plate. The National League never adopted the rule. Since the rule allows American League pitchers to throw at opposing batters with greater impunity than their opposite numbers in the National League (who have to take their turn at bat), the researchers theorized that more American League batters would get hit by pitched balls.

That is exactly what the study shows. From the start of the century through 1972, a batter's chance of getting hit remained roughly the same in both leagues. But since the designated-hitter rule was introduced, American League batters have been hit by pitches 10% to 15% more than National League batters in a typical season.

MORAL HAZARD? *The designated-hitter rule may affect the throw*

Thus, whatever the original intentions of the American League in adopting the designated hitter rule, it has created a clear moral hazard for the game. Freed of worries about having to face personal retaliation from an opposing pitcher, American League pitchers have become far more willing to cut it close—or loose—from the mound.

HELP WANTED BY SMALL BUSINESS

Hiring plans surge to record levels

To July's strong employment report and other signs that the economy is reaccelerating, add the sentiments of the nation's bellwether small-business sector. According to the National Federation of Independent Business (NFIB), small-business optimism in July hit its highest level since late 1994.

"The picture doesn't get much better than this," says NFIB economist William C. Dunkelberg. Reports of sales increases were the second-highest since 1995, profit gains rose, and 45% of companies said they saw rising sales ahead.

But the biggest news came on the job front. Not only was job creation in both June and July the strongest in years, but hiring plans were reported by 18% of respondents in July, the highest level since the NFIB survey began in 1973. And though the number reporting wage increases was high, it was down from its recent December peak, and plans to raise prices were subdued.

Expectations of future economic growth also notched up their best reading since 1995, and capital-spending plans remained robust. "Based on small-business hiring plans," says Dunkelberg, "the unemployment rate should move even lower in August."

PHOTOGRAPH BY STEPHEN DUNN/ALLSPORT; CHART BY ERIC HOFFMANN/BW

SMOKE AND MIRRORS?

If the tobacco settlement becomes law, taxpayers could be the big losers

The best place to glimpse the future of the proposed $368.5 billion tobacco settlement could be Pascagoula, Miss. That's where years of legal battles paid off for tobacco's adversaries on July 15: $170 million was deposited in Pascagoula's SouthTrust Bank, the first installment in Mississippi's $3 billion settlement with the industry.

Now the question is: What should Mississippi, the first state to settle with the tobacco industry, do with the money?

FATAL FLAW. The answer will echo around the nation, if Congress adopts the global tobacco settlement reached by 40 state attorneys general and the tobacco industry on June 20. The agreement will likely undergo extensive revision. But using the present settlement as a framework, a growing chorus of critics is starting to follow the money—and they're finding a fatal flaw: Thanks to vague wording in the settlement, much of the money could be misspent, they say, doing little to meet the deal's supposed goals: to improve public health and compensate tobacco victims. Now those critics are worrying that what first looked like a landmark public-health achievement could become a public-policy nightmare.

Already, tobacco has quietly won an extremely lucrative prize: In the balanced-budget agreement signed into law on Aug. 5, the companies got a $50 billion windfall. That's the amount new cigarette taxes will raise, and the budget agreement says tobacco can deduct that amount from what it will owe if the settlement becomes law. That provision followed a 6-month period in which tobacco companies gave nearly $2 million in unregulated "soft money" to national political parties, according to Common Cause. About $1.6 million went to Republicans. Philip Morris Cos. led the pack, giving $794,500—$673,700 of it to Republicans.

Worse, critics say as much as one-third of the money in the settlement won't come from the tobacco industry at all: Some $140 billion could come out of the pockets of U.S. taxpayers. That's because the agreement says all payments "shall be deemed ordinary and necessary business expenses"—meaning they are tax deductible. So the industry will get a tax break equal to about one-third of what it pays, or roughly $140 billion. "This settlement represents the biggest single subsidy of the tobacco industry ever," says Stanton A. Glantz, a professor in the cardiology department at the University of California at San Francisco.

The pact is being sold as a victory for the nation's health. Mississippi Attorney General Michael Moore, the prime mover behind the deal, has called it "the most historic public-health achievement in history." Moore later broke ranks to settle—but it's not clear he will achieve much for public health. "There are those who say the whole purpose of the suit was to repay the Mississippi taxpayer," says State Senator Dick Hall, chairman of the Mis-

FOLLOW THE MONEY

Tobacco's $368.5 billion proposed settlement with the states is to be distributed to victims, state coffers, and such things as antismoking campaigns and research, in varying amounts from year to year. But it's not clear the settlement's goals will be met:

$25 BILLION
PUBLIC HEALTH TRUST FUND
Decisions about how this will be used for tobacco-related research have not yet been made

$4 BILLION
A YEAR FOR TOBACCO VICTIMS
Details of how victims will be compensated and what the money can be used for are still unclear

PHOTOGRAPH BY MONICA STEVENSON; GRAPHIC BY ALBERTO MENA/BW

sissippi Senate appropriations committee.

The issue is so politicized that Hall can't even move the money from Pascagoula to Jackson, the state capital. "The attorney general is from Pascagoula, and the lead attorney, Dickie Scruggs, is from Pascagoula, and I guess they just wanted it down there," he says. When the money reaches Jackson, he fears that "it will be a feeding frenzy." And as Mississippi goes, so may go the nation.

Tobacco isn't winning every battle. On Aug. 6, a Florida court ordered the release of key industry documents. But the industry's losses are few and far between. Even the deal's defenders are concerned tobacco is winning too much. "A lot of issues still haven't been settled. This is all very murky," says William D. Novelli, president of the National Center for Tobacco-Free Kids, who helped negotiate the deal. He believes the deal's problems will ultimately be solved.

State officials even disagree about whether their share should be used for public health. Some, such as New York Attorney General Dennis Vacco, argue that states should be able to use their awards on anything they like. Others, such as Minnesota Attorney General Hubert H. Humphrey III, a critic, believe the money must be "used for the public health and not fixing potholes," says his spokeswoman, Holly Ziemer.

There are other controversies. The settlement allocates about $1 billion, for example, to antismoking efforts. But the funding may not be effective, critics say. According to one proposal, much of it "would go to pharmaceutical companies and the medical industry" for free chest X-rays and free nicotine patches for smokers who want to quit, says William Godshall, executive director of SmokeFree Pennsylvania.

The agreement provides for $500 million for an antismoking ad campaign and additional money for other tobacco-control programs. But Robin Hobart, co-director of Americans for Nonsmokers' Rights in Berkeley, Calif., says it's not enough. "The $200 million we now spend for tobacco control is just a drop in the bucket."

The ads contemplated in the settlement may also be vulnerable to an industry attack. In Massachusetts, which has an ad program like California's, the industry has lobbied to cut funds for the ads and has even threatened to sue the state for defamation, says Gregory Connolly, who oversees the Massachusetts Tobacco Control Program. "If you think the industry is going to sit back and let opponents run aggressive antismoking ads without fighting back, you're crazy."

MAJOR PROBLEM. The settlement does have its defenders, of course. One is attorney John P. Coale, who represents smokers in 26 state class actions. He notes that the deal could overwhelm the U.S. tort system. Tort payouts now total about $3 billion annually, he says. The settlement could dump $5 billion into the system—dwarfing all other cases. Coale, a lead negotiator in the agreement, doesn't know how the money will be divvied up. But he's confident it will go to "the things that everyone agrees on...in the end the country gets helped."

But not everyone agrees. A major problem with the agreement is that Congress has control over how much the tobacco industry should pay. And Congress has proved remarkably ineffective at taking any punitive action against the industry. Besides, congressional paralysis was precisely what the agreement was supposed to surmount. That's why the state attorneys general took matters into their own hands. Now that their deal has moved to Congı tobacco has already won a $50 billion prize in the congressional halls and cloakrooms it knows so well. That little victory is a warning sign that, settlement or no, the tobacco industry won't fade quietly away.

By Paul Raeburn in New York, with John Carey and Susan Garland in Washington, Amy Barrett in Philadelphia, and Mike France in New York

$1 BILLION

A YEAR FOR TOBACCO CESSATION PROGRAMS
Could be gobbled up by the pharmaceutical industry with little ultimate effect on smoking rates

$600 MILLION

A YEAR FOR FEDERAL HEALTH AGENCIES
Unclear how this money would be spent and who would make the actual spending decisions

$500 MILLION

A YEAR FOR ANTISMOKING ADS
Far too little to establish effective programs like those now operating in California and Massachusetts

UP TO $15 BILLION

THE GRAND TOTAL
States would get the balance of the annual payments and be free to use the money for anything from public health to potholes

NAJLAH FEANNY/SABA

NEW YORK WALK Nearly all 185,000 employees struck union leader Carey's old employer—a company he has longed to take on

UNIONS

THIS PACKAGE IS A HEAVY ONE FOR THE TEAMSTERS

UPS has lots of cash, but the strikers are determined

You can say one thing for Teamsters President Ron Carey: He's got guts. In fact, the strike he called against United Parcel Service Inc. on Aug. 3 is so bold as to seem almost foolhardy.

It's true that the Teamsters drew first blood in the showdown. Almost all of UPS's 185,000 Teamsters have stayed off the job. And UPS is nearly shut down: Its 75,000 managers and nonunion workers are moving less than 5% of the 12 million packages that the Atlanta company typically handles daily, says Chief Executive James P. Kelley.

Still, UPS holds most of the cards. The financially troubled union's strike fund is empty, while the highly profitable UPS, Kelley says, "has enough cash to endure this strike if we have to." And union officers concede privately that it may be difficult to maintain resolve among part-timers, who frequently quit and have little loyalty to UPS or the union. What's more, Carey is weak politically: He won his post by a whisker and may be forced into a rematch against rival James P. Hoffa because of alleged fund-raising abuses in last December's election (box).

BIG RISK. There's a fair chance that the two sides will settle soon. Indeed, on Aug. 6 they agreed to go back to the bargaining table. Union officials say they came close to a deal in secret talks away from the bargaining table the week before the strike. But Kelley ultimately refused to budge, so Carey walked. That leaves the Teamsters chief running a tremendous risk, since an unsuccessful strike could undermine the union's clout. "UPS clearly has the ability to outlast us," says one Teamsters official, "and what scares me is that they may be willing to take a strike simply because they can afford to."

So why is Carey willing to fight against such odds? The answer stems from his years as a militant Teamsters dissident. A UPS driver for 12 years, Carey headed the Teamsters' largest UPS local for 24 years before becoming president of the Teamsters in 1992. He and other dissidents spent much of the 1980s challenging his predecessors for not taking on UPS, the union's largest employer. Carey took a first shot at UPS when the current pact was signed in 1993. He won better pensions but fell short of other goals, largely because he hadn't prepared members for a showdown.

This time, Carey has spent months bracing the troops for battle. He and other top union officers held hundreds of rallies at UPS facilities around the country. And they showered members with pamphlets and videos explaining key issues. The campaign has succeeded, judging by how few workers are crossing the picket lines. "I'm going to stay out as long as it takes," says Benny J. Truesdale, 28, who has worked as a part-time UPS driver in Norcross, Ga., for nine years while he waits for a full-time job.

Truesdale's problem is a key union gripe. Part-timers, who make up 57% of UPS workers, earn half the \$19.95 an hour that full-time drivers make. In 1993, UPS agreed to convert 500 part-time jobs into full-time ones over four years. UPS has agreed to convert an additional 1,000 jobs, and also offered to give part-timers 10,000 full-time jobs that open up from attrition. However,

WHAT'S DIVIDING UPS

PART-TIME WORKERS

UPS has offered to create 1,000 new full-time jobs for the union's 105,000 part-timers and to give 10,000 more part-time workers full-time slots as full-timers retire or quit. The Teamsters want 10,000 new full-time slots now, plus openings from attrition.

PENSIONS

UPS wants to replace the Teamsters' multi-employer pension plan with one just for UPS workers. It would pay full-time drivers \$3,000 a month after 30 years, vs. \$2,000 now. The union wants to keep the Teamsters plan and still lift payments to \$3,000 a month.

Carey believes those jobs will turn full-time anyway, since attrition has opened up 13,000 full-time jobs since 1993. So he wants another 10,000 converted. But converting more jobs would "cut into our flexibility," says Kelley.

UPS did come close to meeting Carey's demands for full-time jobs, say officials, in secret talks during the last week of July between Dave Murray, the company's chief negotiator, and Ken Hall, his Teamsters counterpart. According to union officials, Murray also said UPS might drop its demand to pull out of the Teamsters multi-employer pension plan and set one up just for UPS workers. But when Carey and Kelley met on July 30, Kelley went back to the company's original position. Kelley doesn't deny this but says that Murray and Hall "were making a minimal amount of progress."

Since the strike began, Kelley has insisted that Carey let members vote on the contract the union rejected. But if UPS workers stay solidly behind the union, Kelley may decide that a lengthy strike would be too damaging to morale, even if the company has the financial muscle to win it. If that happens, the two sides likely would pick up where they left off in their secret talks and clinch a deal. And Carey would come out looking like a winner after all.

By Aaron Bernstein in Washington, with Nicole Harris in Atlanta and bureau reports

HOW CLEAN IS MR. CLEAN?

Ron Carey isn't brawling just with United Parcel Service these days. Over the past five years, the Teamsters president has waged a battle to flush corrupt officials from union locals. But now the labor movement's Mr. Clean must defend himself against charges that his reelection campaign last year embezzled union funds. The allegations could well topple Carey, whatever the outcome of his battle with UPS.

Carey was narrowly elected to a second term last December against Detroit lawyer James P. Hoffa, son of former Teamsters head James R. Hoffa. But his victory isn't official until the court-appointed election overseer, Wisconsin lawyer Barbara Zack Quindel, says so. Quindel has delayed her ruling while a Manhattan grand jury probes allegations that union and employer funds wound up in Carey's campaign coffers.

In June, direct-mail consultant Martin Davis was arrested on mail-fraud charges for allegedly masterminding a scheme in which Teamsters vendors overbilled the union for work, then donated the extra payments to Carey's campaign. Federal rules bar using union or corporate money in officers' elections. Davis has pleaded not guilty. A Carey campaign spokesman says Carey had no knowledge of any alleged plan.

But the case has a new twist: The U.S. Attorney for Manhattan is probing whether the Teamsters and the Democratic National Committee skirted election laws in helping each other raise money for their respective campaigns last year. That investigation led to the July 29 resignation of William W. Hamilton Jr., the Teamsters' top lobbyist. In his letter of resignation, Hamilton says he worked hard to reelect President Clinton and Democrats, as well as Carey, but "in neither effort did I knowingly do anything wrong."

What may be fueling prosecutors' suspicions is an Aug. 11, 1996, memo to Hamilton from fund-raiser Davis, whose company worked for both the Teamsters and the DNC. In it, Davis informed Hamilton that the DNC wanted campaign checks from the Teamsters totaling $990,000 made out to 39 state Democratic parties. "I'll let you know when they have fulfilled their commitments," Davis told Hamilton. Investigators want to know if a quid pro quo existed. Says Cornell University labor expert Michael H. Belzer: "It sounds like the Teamsters got caught up in the cesspool that American politics has become." Spokesmen for the Teamsters and the DNC deny a deal was cut.

RON HAVIV/SABA

RON CAREY'S TEAMSTERS WOES

► A New York grand jury is investigating allegations that the Teamsters' president made use of union and corporate funds, both of which would be illegal, in his 1996 reelection campaign. The probe so far has implicated Carey's top political consultants, but not Carey himself.

► The same grand jury is now investigating whether the Teamsters and the Democratic National Committee schemed to raise money for each other in violation of federal laws.

► The Senate Governmental Affairs Committee next month may examine ties between the DNC and the Teamsters. The panel on July 31 agreed to subpoena Teamster officials.

TIGHT SPOT. Under Carey, the Teamsters have become major Democratic boosters, giving $8.5 million to Democratic candidates over the past five years. This means the Justice Dept., which spent $21 million in taxpayer funds overseeing the latest Teamsters election, is investigating one of President Clinton's biggest financial supporters.

Election officer Quindel is in a tight spot, too. If she nullifies Carey's victory, a new election must be held in which Hoffa could win the presidency. A spokesman says she hopes to rule soon and denies reports that she's stalling until the New York probe is complete. Sources close to the election officer say she is reluctant to rule because there have been campaign violations on both sides. Quindel has ruled that Hoffa's running mate had to return more than $50,000 in improper donations.

Indeed, Hoffa's campaign may also be under federal scrutiny. The U.S. Attorney in Detroit in June subpoenaed payroll records of pro-Hoffa Local 337. Hoffa spokesman Richard Leebove says he doubts the subpoenas are "related to the Hoffa effort." But a source says the probe may be focusing on whether raises were improperly awarded—and ended up in Hoffa's campaign. Being able to cite the familiar refrain in fund-raising scandals, "They all do it," may not be enough for the embattled Teamsters boss.

By Paula Dwyer in Washington

COMMENTARY

By Mike McNamee

THE PRODUCTIVITY BOOM IS STILL A MYSTERY

Long before he dreamed of studying economics, Alan Greenspan studied box scores. Growing up in New York, the future Federal Reserve chairman honed his statistical skills on the slugging percentages of the Dodger greats. These days, Greenspan may wish economics was more like baseball. The game has changed—but no one revises 1939's batting averages. In economics, the stats get rewritten every year.

In mid-July, Greenspan went out on a limb. He suggested an upcoming revision of gross domestic product data for 1993-96 would back up his belief that productivity is rising faster than official statistics show. He relied partly on an alternate measure of the economy, gross domestic income, or GDI, which since 1993 has grown much faster than GDP. If the official growth rate were revised to match income growth, the healthy '90s would look even more robust—a clear sign productivity is surging.

FLAWED STATS? Greenspan was not alone on his limb. Weeks before the Fed chief's statement, I predicted in these pages that a large GDP revision would show an acceleration in output sparked by corporate restructuring and technology investment (BW—July 7). And Wall Street seems to accept a new era of growing productivity to support currently high stock valuations.

But the data didn't settle the productivity debate. Statisticians bumped up the GDP's 1993-96 growth rate only slightly—from 2.6% a year to 2.7%. They revised down the income measure a bit but still left a major gap: GDI was $60 billion higher than GDP in 1996, and it has grown at a substantially stronger 3.9% rate since 1993.

New Economy proponents argue that the next GDP revision will support their thesis. And it's still possible that the stats are flawed. But "wait 'til next year" isn't going to work. The July 31 figures increase the odds that official economic data will never capture the productivity growth that Greenspan and Wall

MACIEK ALBRECHT

DEBATE The New Economy may be fueling an output surge, but the data don't prove it

Street so fervently believe in.

The revisions actually bolster the GDP numbers while leaving income figures shaky. The GDP report is missing only final figures on 1996 services spending, while the income report relies on tax data trickling in for 1995. The income side also uses larger and more dubious fudge factors. Take proprietors' income, a $520 billion element of national income in '96. Internal Revenue Service audits in the 1980s showed that farmers and small-business owners report only half their earnings, so Commerce Dept. statisticians double the figure they get from the IRS. But if the agency's increased ability to match income reports and returns is prompting more honesty, the income numbers may be overstated.

DISCREPANCIES. Another example: Many companies have shifted from writing off software the year it's purchased to depreciating costs over several years. That's sound accounting, but it boosts pretax profits and income. "That could explain billions of dollars of discrepancy," says J. Steven Landefeld, director of the Bureau of Economic Analysis.

Details buried in the revisions also undercut some circumstantial evidence for the productivity boom. The earlier GDP numbers didn't show spending keeping up with gains from the surging stock market. This missing "wealth effect" had made the income measure seem more credible. But in the new report, Commerce raised household spending within GDP by $110 billion over 1993-96—which is exactly in line with wealth-effect predictions.

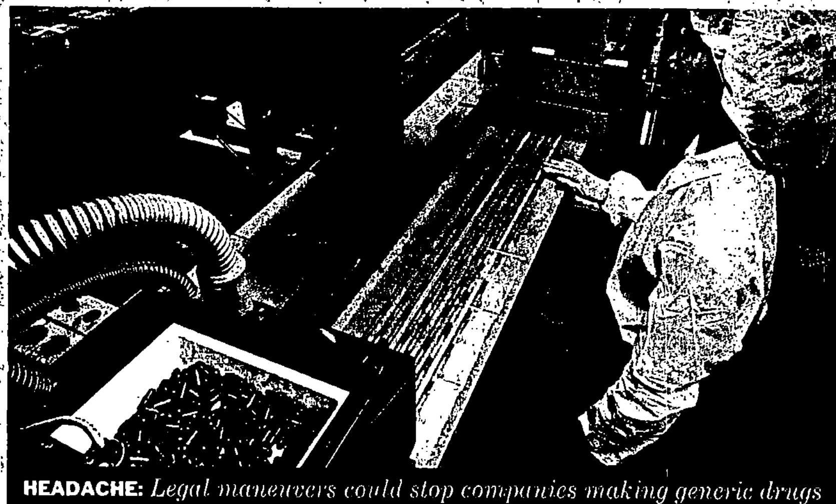
But the biggest puzzle—the productivity paradox—remains. Corporations have poured billions into technology, with no sign of a return on that investment in the productivity stats. It's still likely their bet will pay off someday. But it may be difficult to measure the results with today's flawed data, especially if the productivity boom eventually turns out to be a long, hard slog. In the Greenspan economy, it's singles and bunts—not homers—that will bring in the runs.

McNamee keeps score on the economy from Washington.

COMMENTARY

By John Carey

IN THIS DRUG WAR, CONSUMERS ARE THE CASUALTIES



HEADACHE: *Legal maneuvers could stop companies making generic drugs*

Mention "drug war" and most people think of fighting cocaine or heroin abuse. But there's another big battle under way: Brand-name drugmakers' fight to stop generic copies of their products from hitting the market once their patents expire. With cheaper generic drugs now accounting for more than half of all prescriptions, any brand-name manufacturer that can successfully delay introduction of a new generic rival can reap hundreds of millions of dollars in extra revenue.

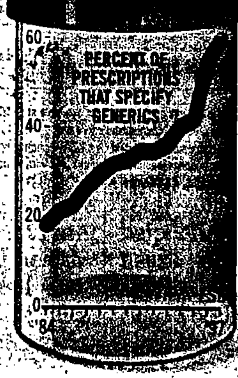
Unfortunately for taxpayers and patients, brand-name companies are winning too many of these rearguard actions. And they're employing a host of tactics. The latest audacious move came on July 28, when drugmaker Serono Laboratories Inc. persuaded U.S. District Court Judge Stanley Sporkin to take an unprecedented step: He overturned the Food & Drug Administration's approval of a generic version of Pergonal, a fertility drug.

REVERSAL. Serono originally petitioned the FDA to deny approval to a generic Pergonal back in 1992, arguing that the generic wasn't an exact match, especially when it came to the inactive proteins and other trace ingredients that make up more than 90% of the urine-derived drug. But the FDA didn't buy it. In January, it approved New York-based Ferring Pharmaceuticals Inc.'s application to make a generic version of the drug. Now Sporkin has issued a preliminary injunction barring Ferring from marketing the generic.

Ferring's president and CEO, Dr. Joseph T. Curti, already has filed an appeal. "We think this judgment is very unfair to patients and to the FDA," he says. He's right. For one thing, it's laughable to think judges are better qualified than the FDA to gauge complex scientific issues. For another, experts have found no proof that generic drugs the FDA has approved differ in any substantive way from brand-name goods. "When people have tried to do studies to show that generics aren't equivalent or that FDA rules are lax, they haven't been able to find any differences," says Leslie Z. Benet, chairman of the biopharmaceutical sciences department at the University of California at San Francisco.

Lawsuits are just one strategy being used by the brand-name companies. Lobbyists for Glaxo Wellcome PLC and G. D. Searle & Co. have wangled longer patent terms through international treaties and amendments to spending bills in Congress. Others have deluged the FDA with arguments that a given generic isn't the same as the brand-name product. Some have been lobbying states to ban FDA-approved generics.

A BITTER PILL FOR BRAND-NAME DRUGS



DATA: GENERIC PHARMACEUTICAL INDUSTRY ASSN., OPPENHEIMER & CO.

"There's been a tremendous effort by the [brand-name drug] industry to preclude generic competition," says Janet Woodcock, director of the FDA's drug-evaluation center.

One industry tactic, FDA officials say, is the strategy of continuing to make drugs with impurities, inactive substances, and other trace ingredients difficult or impossible to replicate. Companies then argue that these poorly understood ingredients may be important to a drug's safety and efficacy. Wyeth-Ayerst Laboratories Inc., for one, used this argument to block a generic version of its $860 million-a-year estrogen drug Premarin. "One of the most successful strategies to delay competition has been to suggest that we don't know enough to approve a generic," explains Dillon, Read & Co. analyst Jerry I. Treppel.

DuPont Merck Pharmaceutical Co. trotted out a clever scheme last January. When it became clear the FDA would allow Barr Laboratories Inc. to market a generic version of its $500 million-a-year blood thinner, Coumadin, DuPont Merck financed a drive to get states to pass laws requiring patient and doctor consent for generic substitutions. So far, the effort has paid off only in North Carolina. But CEO Bruce Downey figures Barr is spending $500,000 monthly to fight back.

Brand-name companies are just protecting their assets. Indeed, as the FDA's Woodcock says, "Their mission is to preserve their market, making whatever arguments they can." But everyone from judges to lawmakers must recognize the drugmakers' arguments for what they are: an effort to protect lucrative products. If they do, this is one drug war that can be won.

Carey covers drug policy from Washington.

PHOTOGRAPH BY STEVE WINTER/BLACK STAR; GRAPHIC BY RAY VELLA/BW

GOVERNMENT

PUTSCH ON THE POTOMAC

Can an ex-Fed governor whip Washington into fiscal shape?

OFFICERS! Brimmer calls for police to cool off protesters who shouted "Free D.C.!"

Even for a city that has come to symbolize political chaos, Washington, D.C., had an extraordinary Aug. 5. President Bill Clinton signed a law transferring most local governing authority from Washington's elected mayor and city council to an appointed "control board" headed by former Federal Reserve Board Governor Andrew F. Brimmer.

But when the board tried to meet hours later at a local church, angry demonstrators surrounded Brimmer and his four volunteer board members, shouting: "Free D.C.!" A shoving match with a police SWAT team ensued before the altar—with the diminutive Brimmer standing stoically amid the melee. Then, the board reluctantly set to work naming new city agency administrators.

"SHAMEFUL ACT." Brimmer had better keep his jaw jutted. At the meeting, he promised voters he would move "decisively and swiftly" to fix the city. But there is no guarantee that a board composed of a 70-year-old economist, a college professor, a real estate executive, a retiree, and a museum curator can turn around the nation's 20th-largest city. With a high school dropout rate of 40% and its police cruisers riding on bald tires, D.C. is a monument to urban decay.

Complicating Brimmer's job is the continuing political turmoil in the nation's capital. No sooner had the District's congressional representative, Delegate Eleanor Holmes Norton, brokered a deal in Congress to provide the District with a four-year, $1 billion aid package than she reversed herself and denounced the power turnover that was part of the deal as "a shameful act" and "a grave mistake." Mayor Marion Barry Jr. denounced the federal bailout package as "a rape" of the city's limited home rule charter. The city council followed suit.

The control board was created two years ago to review D.C. government budget decisions. Until recently, Brimmer, who declined to speak to BUSINESS WEEK, largely confined his role to oversight of the bloated 30,000-employee municipal payroll. But as the board takes charge of running much of the city, it's likely to attract far more attention—and controversy. "Now, Brimmer has to express a vision for the city that will help refocus a bureaucracy that's more interested in its own privileges than in serving citizens," says Jamin Raskin, an American University law school dean and District historian.

So far, the control board has been unable to stop the fiscal hemorrhaging. This year's budget shortfall isn't likely to be much better than last year's $75 million deficit. Meanwhile, the city's population continues to fall and tax revenues are weak. Worse, the city is barred by federal law from taxing suburban commuters or real estate owned by the federal government, nonprofits, or foreign governments.

The new federal financial package will allow the District to borrow $300 million from the U.S. Treasury. The federal government also will assume the District's unfunded pension liability of $4.9 billion and increase its share of Medicaid payments to city residents. It will also pay to have the city's prison system shuttered and the prisoners moved to federal and private facilities.

TAX CREDITS. To stem the flight of the middle class, the IRS will provide $5,000 federal tax credits for first-time home buyers and an exemption from capital-gains taxes for investors in businesses in impoverished D.C. areas. "Even with all that, though, the incentives may still not be big enough to get people to stay," warns Parry Young, a Standard & Poor's director who tracks Washington's finances.

Brimmer's next challenge is finding a manager for the day-to-day operations of the city government. If he can find someone with enough political savvy, he could stay in the background doing what he does best. Otherwise, he will have to get used to shoving matches and irate protesters.

By Paul Magnusson in Washington

KAREN BALLARD/THE WASHINGTON TIMES

CAPITAL IDEAS

Andrew Brimmer and his team aim to remake Washington's government:

HIRE overall city manager and management-consultant teams for nine additional city agencies now under authority of the D.C. control board.

REPLACE OR REAPPOINT all agency directors, including those for public works, fire and emergency medical services, welfare, public health, and housing.

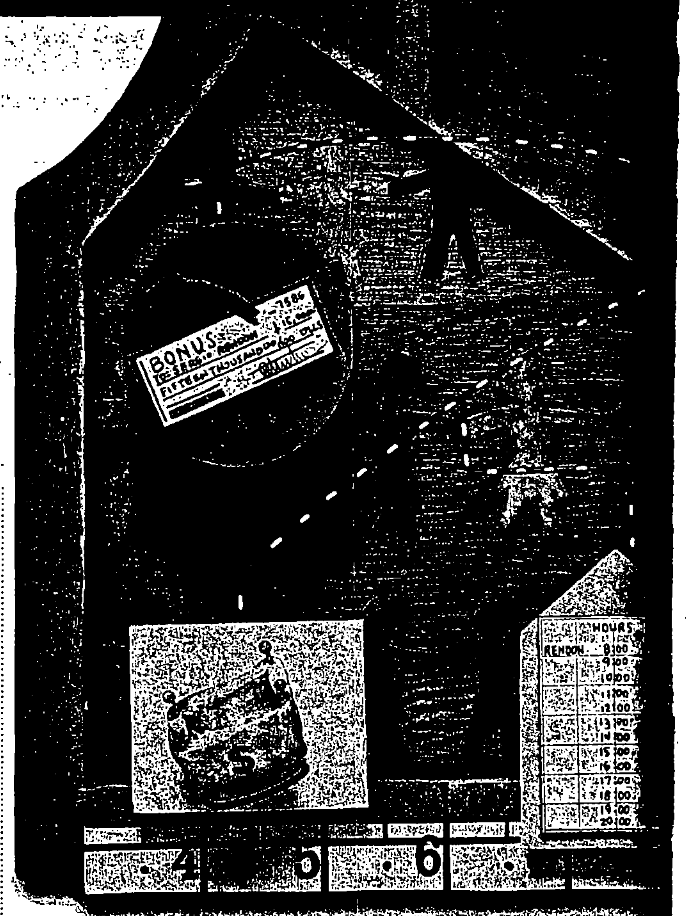
REFORM the city's contracting, personnel, asset management, and information technology programs and hire private companies to aid in city tax collection.

REPAIR city school buildings, consolidate school districts, close underused schools, and make principals accountable for teacher and student performance.

HELP CLOSE the city's 5,000-inmate prison in suburban Virginia. Prisoners would be transferred to federal prisons and private correctional facilities.

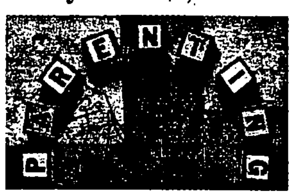
DATA: BUSINESS WEEK

EDITED BY AMY DUNKIN



The Second Income: Is It Worth It?

For Nancy McCardel, the days start early. At 5:30 a.m., she gets up to feed her 3-month-old daughter before showering and dressing in a blouse and suit ($300, plus $12 a week for dry cleaning). She rouses her 8-year-old son, and during the summer, whisks him off to a day-care center ($112 per week). She then drops off her daughter at another center ($210 per week) across town. She drives downtown to her job ($4 roundtrip, plus $22.50 per week for parking) as managing supervisor for a public relations firm in Atlanta and picks up a gourmet cup of coffee ($3 a day). She eats lunch ($4) at her desk. At 4:30 she races from the office to get the kids. After a quick dinner, she bathes the children, reads to them, tucks them into their freshly made beds ($70 for bimonthly housecleaning), and does chores. By 10:30, she tumbles into bed. At week's end, this 35-year-old wife and mother wonders: Is it worth it?



Financially, the answer isn't clear. Although more than half of all women with preschool children hold paid jobs, many of them soon discover that much of their earnings are eaten up by the costs of child care, a professional wardrobe, and other work-related expenses. Ultimately, some women (and many men) argue it doesn't pay for women to work when the kids are small.

The numbers certainly seem to support that assumption. For example, a hypothetical suburban couple working in New York City and whose combined income is $150,000 saves more than $15,000 in federal taxes, $5,070 in FICA taxes, and $5,184 in state and local taxes when they live on a single income of $80,000. The couple will save an additional $32,634 when they lop off the mother's costs of working: child care, commuting, and such. Instead of losing $70,000 in income, the actual loss is only $4,544 (table).

Each family's spending habits vary so widely, of course, that it's almost impossible to generalize about how lucrative a second income actually is. And having the option to choose between working or staying at home with your child is a luxury that millions of single mothers and less-affluent families don't have. Still, on paper, it often seems that a second salary for a higher-income family doesn't mean much improvement in their standard of living—especially in the child's early years.

That determination is shocking, but also somewhat misleading. While a good chunk of a working mother's salary does foot those work-related expenses, it's questionable how much would be saved if the woman stayed at home. Whether you work in an office or stay at home, you still have to eat, says Jane Bermont, a consultant with Boston-based WFD, a leading provider of corporate work/life programs.

Grabbing a tuna on rye from the fridge isn't as pricey as the lunch special downtown, but you may wind up eating out lunch frequently with other stay-at-home moms and their tots. Even a quick chat over a cup of coffee and danish will set you back three bucks. What's more, you may find yourself doing more shopping now that you have the time. That's not altogether a bad

A FINANCIAL ANALYSIS FOR WORKING PARENTS

The numbers in these worksheets are based on a suburban married professional couple working in New York City with a child under age 3, a 30-year $200,000 mortgage at 7.5%, and separate 401(k) plans.

DATA: PRICE WATERHOUSE PERSONAL FINANCIAL SERVICES

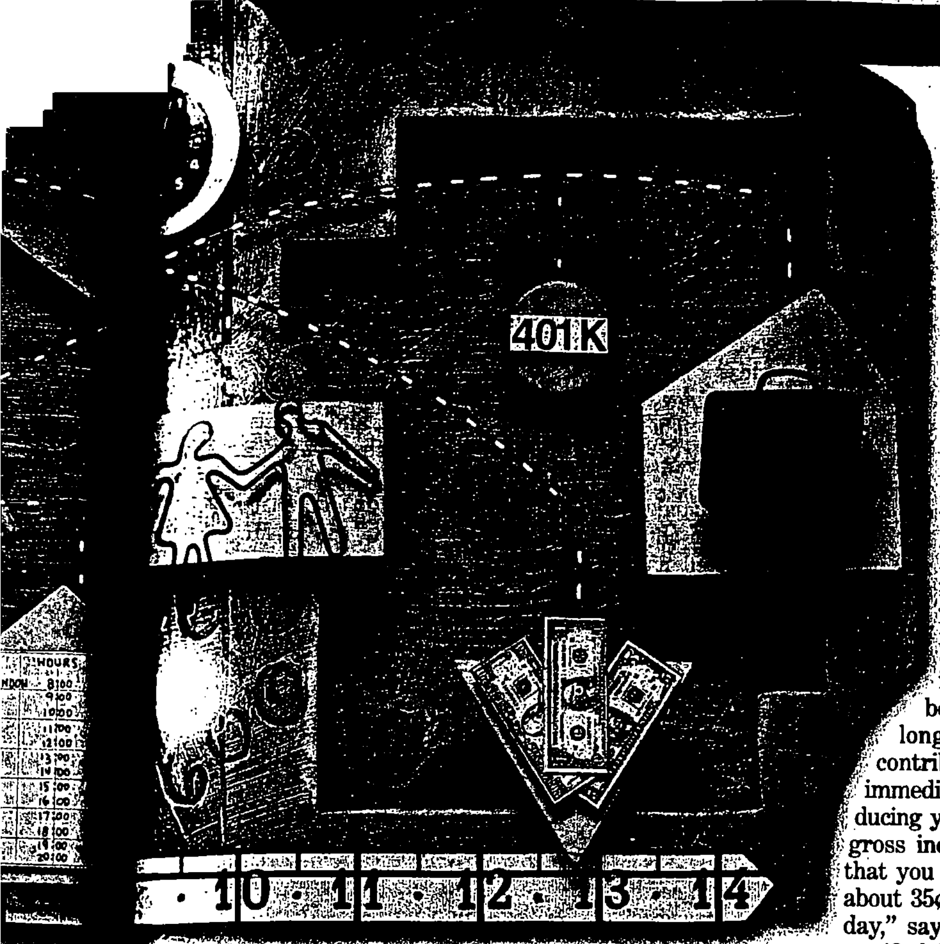
He Works, She Stays Ho

GROSS INCOME (HUSBAND)	
MINUS 401(K) CONTRIBUTION:	
ADJUSTED GROSS INCOME (AGI)	
MINUS TAXES:	
FEDERAL	
STATE & LOCAL	
FICA	
TOTAL TAXES*	
WHAT'S LEFT	
PLUS PRETAX VALUE OF 401(K) SAVINGS**	1
TOTAL	68

*The taxes are based on a taxable income of $39,222, which results after deductions of $14,937 for mortgage interest, $1 for real estate taxes, and $2,891 for state and local taxes, p three exemptions worth $7,950.

**Assuming a 10% annual contribution, 8% annual return, 50% employer match

ILLUSTRATIONS BY MARIA RENDON



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...hing, if you shop the sales. ...our babysitter costs won't be eliminated entirely. You'll still need to get away from the kids—to run errands or enjoy time by yourself.

The real problem in this tally, however, is its short-term view. Even if your take-home pay covers little more than your expenses, argues Cindy Hounsell, executive director of the Women's Institute for a Secure Retirement in Washington, from a financial standpoint, it would still pay to work. "By remaining in the workforce, you're making a long-term investment in your career and future earnings," says Hounsell.

Child-care costs, the heftiest expense by far for most working mothers, don't last forever. Eventually, Junior will grow up and go to school. And by that time, most working moms will have gotten a raise, maybe even a promotion, and regularly siphoned some cash into a 401(k) or similar retirement fund. Our New York professional would stockpile $186,386 in her retirement plan over 10 years—if she keeps working.

Building up a 401(k) nest egg—if that's an option for you at your job—may be a hidden benefit of remaining in the workforce, both in the short and long term. The 401(k) contributions give you an immediate tax break by reducing your current adjusted gross income. "Every dollar that you put in will save you about 35¢ in federal taxes today," says Douglas Mollin, a certified financial planner with ProPlan in Elmhurst, N. Y. Over the long haul, the money you sock away into a 401(k) grows tax-deferred. Obviously, the more you put in over the years—and the earlier in your life that you do so—the larger your holdings will be upon retirement. And, if your employer matches all or part of your contribution, you're getting free money. "Think of it as an annual, tax-deferred bonus," says Mollin, "that you'd be forfeiting if you quit." Using that logic, our New York professional earns not $70,000 but $73,500 annually.

Meanwhile, women who step out of the paid workforce for an extended period may find that they're earning power has diminished. "It's especially troublesome for women reentering who are over age 40," says Bermont. Unless they update their skills, returnees may earn less now than they did 5, 10, even 15 years ago when they stopped working to raise their kids.

FINANCIAL JEOPARDY. Stay-at-home moms may even be putting themselves in financial jeopardy. It's risky to depend on a single wage-earner, given the constant threat of layoffs. And divorce and widowhood—two real possibilities—often put nonworking wives in a precarious position, says Hounsell, if they forgo all responsibility for their financial future.

The bottom line doesn't tell the whole story, of course. "For many women, the decision to work, or not, involves more than money," says Norman M. Berk, managing partner of Berk Patterson, a financial planning firm in Birmingham, Ala. Some parents don't believe in day care. "Do I really want someone else raising my child?" asks Denise Larkin. For this 33-year-old former international portfolio trader, the answer was no. Larkin quit shortly after the birth of her first child last year.

Other mothers feel they must take a more active parenting role—at some point in their child's life. Ellen Bartel, 42, recently quit her job as vice-president for institutional advancement at Alverno College in Milwaukee. While she has worked full-time since her children were born, Bartel feels that her two boys, aged 8 and 9, need her full-time now. "They're asking more complicated questions," she says. "And

He Works, She Works

...ROSS INCOME (HUSBAND)	80,000
(WIFE)	70,000
...TAL GROSS INCOME	160,000
MINUS 401(K) CONTRIBUTIONS:	
HIS	–8,000
HERS	–7,000
...TED GROSS INCOME (AGI):	135,000
...MINUS TAXES*	
FEDERAL	–21,931
DEPENDENT-CARE EXPENSE CREDIT	480
STATE & LOCAL	–8,075
FICA	–10,285
...TAL TAXES	39,811

...he taxes are based on a taxable income of $97,452, which results after ...uctions of $14,937 for mortgage interest, $7,000 for real ...ate taxes, and $8,075 for state and local taxes, plus three exemptions ...th $7,950.

AFTER-TAX INCOME	95,189
MINUS ADDITIONAL EXPENSES	
CHILD CARE ($400/WEEK)	–20,800
PAYROLL TAXES FOR NANNY	–2,444
COMMUTING**	–2,160
LUNCHES OUT ($7/DAY)**	–1,680
DRY CLEANING ($50/MONTH)**	–550
TAKE-OUT DINNER ($50/WEEK)**	–2,400
HOUSE CLEANING ($50/WEEK)	–2,600
TOTAL EXPENSES:	–32,634
WHAT'S LEFT	62,555
PLUS PRETAX VALUE OF 401(K) SAVINGS***	23,343
TOTAL	85,898

**Based on a 52-week year—minus 2 weeks of vacation and 10 holidays

***Assuming a 10% annual contribution, 8% annual return, and 50% employer match you only have a small window of opportunity when you can be influential in their lives."

Women who are committed to a career, on the other hand, often see their job—as many men do—as an integral part of their identity. And they may not be willing to give that up. Playing peek-a-boo and singing *Twinkle, Twinkle, Little Star* all day long can be tedious—even for the most nurturing of parents.

The spouses of working mothers are apparently happier, too. In *She Works/He Works: How Two-Income Families are Happier, Healthier, and Better Off* ($24; Harper San Francisco), clinical psychologist Rosalind Barnett explains the findings of her three-year study, funded by the National Institute of Mental Health, of 300 families in the Boston area. "When the husband and wife both work, it puts less stress on the marriage," says Barnett. "They have more security, and more flexibility."

If only real life were so simple. But add a sick child or a trusted nanny who has just quit, and even the best-laid plans go awry. "I h... to go out of town n... week," says McCard... "That'll really upset ever... one's schedule." But sh... wouldn't think of giving u... her job. "My work is chal... lenging, and I need that," sh... says. Besides, that second in... come is keeping the famil... on track financially. The Mc... Cardels recently bought... new car and are trying t... beef up their savings for th... kids' college education. "We couldn't do that if I di... n't work," says McCarde... "Two incomes give us mor... choices. *Barbara Hetz...*

WHAT SHE LOSES LONG-TERM

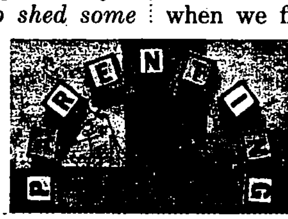
	SALARY*	401(K) BALANCE**
YEAR 1	$70,000	$10,894
YEAR 5	83,476	69,454
YEAR 10	104,027	186,386
YEAR 15	129,636	360,596

* Assumes a 4.5% increase per year
** Balance at yearend, given a 10% contribution of her salary per year, a 50% match OF THAT 10% by her employer, and an annual return of 8%

DATA: PRICE WATERHOUSE PERSONAL FINANCIAL SERVICES

Money Tips From the Front

When parents have questions on child-rearing, they often turn to other parents for guidance. So to shed some light on the topic of money and kids, we recently polled parents on what worked and didn't work for them.



Our four-question survey, conducted via the Internet, yielded scores of fascinating responses, including a consensus that the smartest money goes to tuition, travel, and nonmaterial experiences. The dumbest? Fast food, hot fashions, and toys—especially video games.

Read on, and hear what else the voices of experience have to say.

Q: *What is the smartest expenditure you have made on your children?*

A: Amigos, a humanitarian exchange program, where they worked on rabies-vaccination programs in Honduras and Ecuador for a summer.

—Jon Beall, Austin, Tex.

A: Time. When we decided to start a family, we began to bank 100% of my wife's salary in order to learn to live on one income. Then, when we finally did have a baby, my wife retired from her teaching career to spend time with the children.

—Jonathan C. Kerr, Middletown, Ohio

A: Music lessons with a professional. Very expensive and very demanding. However, it has been a nurturing experience in which they have learned music along with discipline and responsibility.

—David A. Minster, Markham, Ontario

A: Two cats from a shelter.

—Barbara Heffner, Wellesley, Mass.

Q: *What is the dumbest way you have spent money on your kids?*

A: Separate college accounts under their individual names, which resulted in having to file extra IRS returns (mine is a big enough pain), while also limiting their potential access to financial aid.

—Robin Cole, Stanford, Calif.

A: It must be the money my ex-husband has spent on video games.

—Anne Smith, Freemont, Calif.

A: A Visa card to be used for "emergencies" only.

—Bob Self, Helena, Ala.

A: Money to enable kids to buy me gifts. Dumb!

—John Johnson, Thomasville, Ga.

Q: *How are you teaching your children to handle money responsibly?*

A: Our son already has heard many times that... humans are creatures of unlimited wants but limited resources, so we must make choices.

—Rebecca Baldwin, Issaquah, Wash.

A: They have developed their own small businesses while in school, have their own a... counts, and use part of th... money to purchase the thing... they require for their spor... and travels.

—Francisco J. Guerr... Mexico Cit...

A: When they want some... thing out of the ordinary, w... let them know in their term... how much it costs. M... daughter wants to go on... houseboat vacation. We le... her know it costs 200 Bean... Babies.

—Robin Vol... Lawrenceville, G...

Q: *What ways are you sav... ing for your children's co... lege education?*

A: We are making a doubl... house payment monthly s... our home will be paid off th... same year our son heads t... college. Then, we'll take out... new mortgage or refinanc... the home to pay for college.

—Nathan Berr... Oklahoma City, Okl...

A: Through a devoted an... loyal relative.

—Sharyn Sullivan... Dickinson, Te...

A: When each was born, I... put $100 into an account. Each payday after that I put something into that account. It was the first check I wrote. And whenever we received a windfall, we always put something in, usually 15% to 25%.

—Hal Kern... Montara, Calif.

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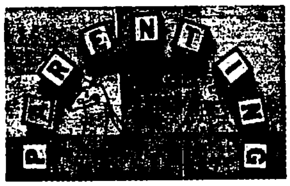
The 1-2-3s of Hiring a Nanny

PHOTO ILLUSTRATION BY MIRIAM FISHMAN

Finding someone you can trust to care for your child is one of the most anxiety-provoking tasks a parent faces. "You can't be too careful when hiring and evaluating the performance of your child-care provider when you consider the person spends up to 12 hours a day unsupervised in your home with your child," says Kimberly Porrazzo, director of Southern California Nanny Center in Lake Forest, a clearinghouse of information.



That's why an entire industry has blossomed to help you with child-care hiring and management. New companies supply do-it-yourself nanny-hiring materials, do criminal and background checks, and sell in-home training programs. Once you've made your decision, companies can even provide home-surveillance equipment to help you determine if you've made the right choice. Most nannies are honest, conscientious, and loving people. But some parents may care to use the latest techniques to weed out that bad apple.

STRAIGHT TALK. As an inexpensive alternative to the one-stop shopping available from employment agencies, the Southern California Nanny Center publishes *The Nanny Kit*. This $18.50 comprehensive guide for parents hiring in-home child care includes screening and interviewing tips. It recommends creating a job application to formalize the hiring process, and keeping the relationship professional. Include past employment, child-care philosophy, previous addresses, and social security number.

Porrazzo's kit also suggests briefly screening candidates over the phone, then sending them the application, and using the completed forms as a guide for in-person interviews. Ask open-ended and hypothetical questions and avoid turning the interview into a social event. Once you have a candidate in mind, contact at least three former employers and three personal references. To catch people posing as references, ask trick questions such as: "The nanny worked for you for two years, right?" when you know she worked for three years.

Once you've completed your pre-employment screening, a background check will search the candidate's criminal history and verify the social security number. Several corporate-investigation companies have recently added background checks for child-care providers for about $65. "You want to make sure the candidate is who they say they are," says Frank Bucheit, manager of Background Research International in Falls Church, Va. The search takes four days and doesn't require the applicant's O.K. The applicant must sign a release for you to get a copy of a driving record and credit history.

Hiring a nanny is just the beginning. You must also train and manage your new employee. "It's ironic that parents can work confidently at the office but feel uncomfortable and insecure when managing their child-care provider at home," says Marcia Zaiac Wasser, chairman of Interactive Family Management. She and her partner, Nancy Adler Manket, recently developed The Nanny Training Program, which includes a video and workbook that reviews the caregiver's responsibilities and suggests the right way to do tasks. There is also an employer handbook with nanny-management tips and a computer disk with 13 worksheets, including a safety checklist and daily activity report.

TALE OF THE TAPE. Shortly after you hire your nanny, you'll want to evaluate performance. Come home unannounced, arrange for friends and family to make surprise visits, or—if you're really nervous—use hidden cameras. Sometimes, a nanny's interaction with the child stops as soon as a parent walks out the door. For about $250, Babywatch, a provider of videotaping systems, will rent a hidden camera for three days. Some parents prefer full-time surveillance, with cameras placed throughout the home. These systems average about $2,400.

Secret videotaping is controversial, and could damage the relationship with a trustworthy caregiver. However, if you're still interested, videotaping someone without consent is considered legal as long as no conversations are captured and the cameras aren't installed in bathrooms or bedrooms. That may change—so you may want to inform the nanny that she could be videotaped.

All of these tools just help you get through the selection process. Once you make it through that first stage, the most important part begins: the development of a bond between the nanny and your child. *Toddi Gutner*

TOOLS FOR THE TASK

COMPANY	DESCRIPTION
THE SOUTHERN CALIFORNIA NANNY CENTER (714) 859-9134	Publishes *The Nanny Kit* ($18.50), a step-by-step hiring guide with application forms and worksheets
THE INTERNATIONAL NANNY ASSN. (609) 858-0808	Supplies list of firms that do pre-employment background checks
INTERACTIVE FAMILY MANAGEMENT (888) 626-6921	Sells "The Nanny Training Program" ($49.95) video, workbook, employer guide book, and computer disk
BABYWATCH (800) 558-5669	Provides videotaping equipment in 22 cities for monitoring caregivers

Politicians love the poor—but not the smoking poor.

The new outcasts

By Peter Brimelow

AN INTERESTING THEOLOGICAL DISCOVERY has emerged from the battle over the federal budget: The cigarette manufacturers can buy indulgence for their sins by handing over a large sum of money to Washington.

Of course, the money generated by any proposed increased levy on cigarettes must ultimately come from smokers. Which means that despite President Clinton's alleged concern for the poor, it will come disproportionately from lower-income earners. The Washington, D.C.-based Tax Foundation calculates that over a third of the new revenues will be paid by the 22% of Americans earning below $15,000. Three-fifths will be paid by the 45% earning below $30,000 *(see chart)*.

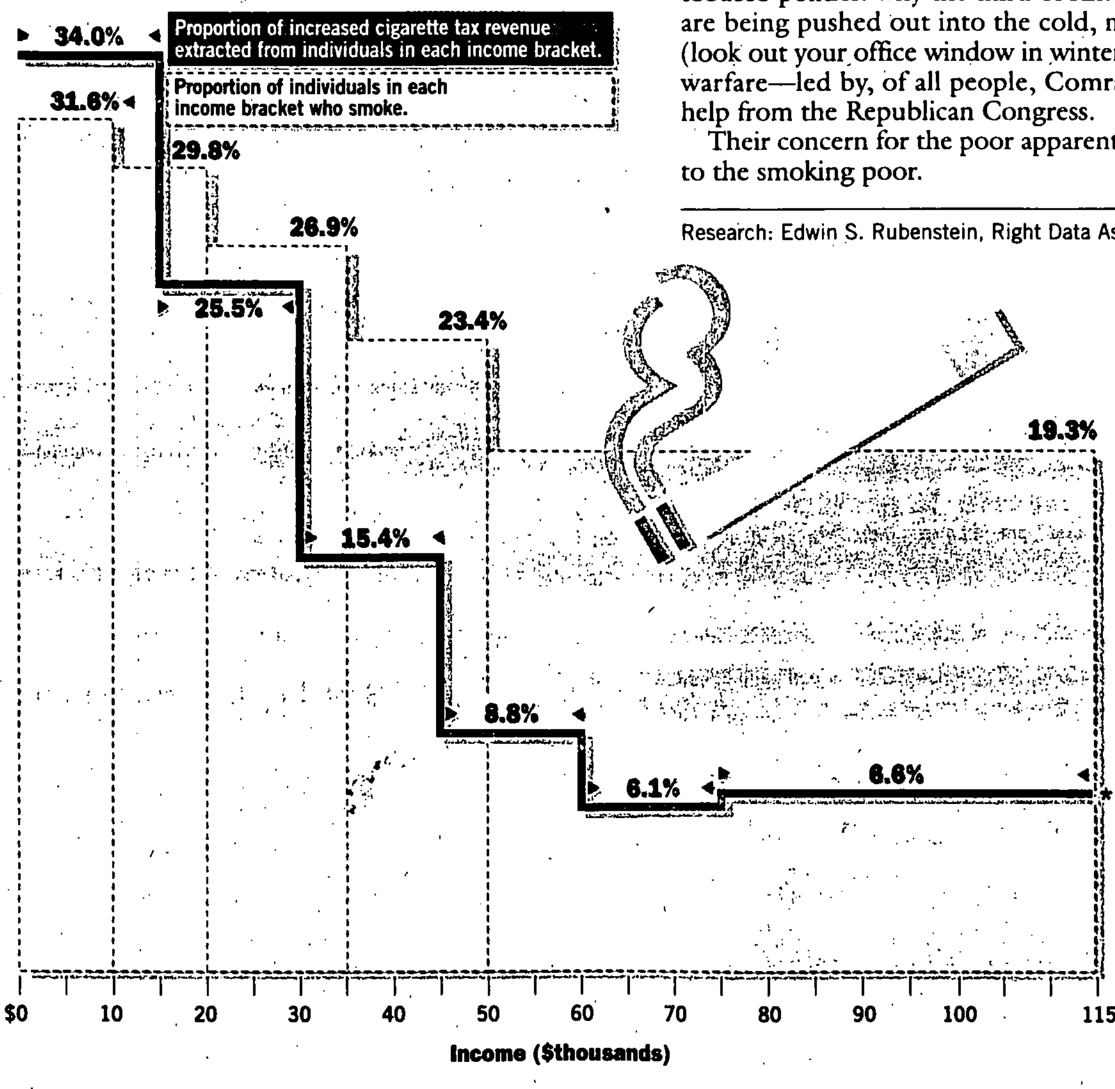
Partly, this lopsidedness is inevitable with any tax on a staple, like food or clothing. Since the rich don't eat all that much more than the poor, a tax on food hits the poor proportionately higher.

But there's a significant complication with cigarette consumption: It actually varies inversely with income. Poorer people smoke more than richer people. According to Harvard economist W. Kip Viscusi, this pattern appears to hold true all the way up the income scale, even beyond the levels we chart here.

And this suggests a partial answer to the mystery of tobacco politics: why the third of Americans who smoke are being pushed out into the cold, metaphorically and (look out your office window in winter) literally. It's class warfare—led by, of all people, Comrade Clinton. With help from the Republican Congress.

Their concern for the poor apparently does not extend to the smoking poor. ■

Research: Edwin S. Rubenstein, Right Data Associates.



Any increase in cigarette taxes will be drawn lopsidedly from lower-income earners. That's not merely because consumption taxes hit the poor more, but also because more of the poor smoke. Which perhaps explains why smokers are being pushed around so easily.

Sources: Tax Foundation; National Center for Health Statistics.

*$115,000 to $300,000: 3.2% of revenue; $300,000 and over: 0.5% of revenue.

The end of street politics.

FROM THE RAMPARTS

By Fred Siegel and Jeff Itell

By any ordinary calculations, Marion Barry should have been long gone from public office. Although Washington, D.C., is rich with federal dollars, its mayor presides over a city that is chronically broke, a place where jobs flee and felons flourish, where city hall can't tell you how many people it has on its payroll and where the Medicaid benefits roll was found to be padded with 20,000 unqualified recipients. The water in Washington is no longer reliably potable, the recycling program has been abandoned, and trash pickup of any sort is down to one day a week and shaky at that. The disease and sometimes homicide capital of America, Washington suffers from the nation's highest infant mortality rate and a rate of tuberculosis infection that is twelve times the national average. The city's rat population is soaring and thriving; you see healthy, bold specimens everywhere now, even in the wealthier neighborhoods, even in daylight. Barryism has reasonable residents, black and white, fleeing. In 1970, just 757,000 people called D.C. home; today, it's down to about 540,000. The well-to-do among those who remain have retreated from government: they depend increasingly on private police, private schools, even private snow removal. The city is saturated with crime—one out of eight residents is in prison, on probation or on parole.

For years, Barry has responded to the catastrophe of his mismanagement with a blithe disregard. In 1995, the city tottered on the edge of bankruptcy. The scope of the crisis may be measured by the state of the police department that year: officers couldn't file search warrants because they had run out of the proper forms; two-thirds of the patrol cars were laid up in repair; one out of seven cops was resigning from a demoralized force after a pay cut. Barry, released from prison and newly elected for a fourth term, mocked his critics with quips like "what crisis in D.C.?," then flew off on a junket to Africa. The mayor has gone on television to tell the public that their streets have been plowed, when they could see the snow still sitting there; he has announced that D.C. is the safest big city in America, even though it has a murder rate three and a half times that of New York.

Why, in the light of all this, is Barry still mayor? Still anything at all in politics? The answer to that question was illuminated in the fallout of the August 5 deal between President Clinton and Congress—a deal that stripped Barry of all but a tiny portion of his mayoral powers and placed direct control over most city functions in the hands of the congressionally appointed Federal Control Board. The agreement—a compromise between North Carolina Congressman Charles Taylor, who wanted to impose a city manager straight away, and D.C. Delegate to Congress Eleanor Holmes Norton, who wanted to preserve as many of Barry's prerogatives as possible—was largely drafted by Norton, Clinton budget director Franklin Raines and Senator Lauch Faircloth of North Carolina, chair of the District of Columbia subcommittee.

Norton, one of the FCB's creators, who has long been billed as the District's "great black moderate hope," initially hailed the legislation as a triumph for the District. But then something striking happened. Hounded by those like Jesse Jackson who describe the FCB as a "military junta," and faced with taunts from about forty protesters, Norton grabbed a "Free D.C." sign, joined the demonstrators and denounced the legislation she had just co-authored as a sellout of democracy.

Norton's reversal speaks to the deep pathology of Washington's tiny political class, the pathology that keeps Barry politically alive. When, nineteen years ago, Barry was first elected mayor, he represented more than just the hope of home rule for Washington. One of the first civil rights leaders to make the leap from street-level protest politics to governing, he also stood for the hope of black self-government. Now, having destroyed both of those hopes, Barry lives off what he once fought against: black powerlessness and black anger. In the minds of the District's racialist politicians, Washington is "the last colony," a black enclave constantly under attack from white racism. But the fact is, if Washington had remained a majority-white city, it is unlikely that it ever would have achieved home rule.

The limited home rule the District won in the 1970s and the Barry mayoralty that followed were extensions of the civil rights struggle. It is in this context that many still view city government. Insofar as the government is an extension of the civil rights movement, it must be beyond criticism. As Herbert Reid, a former Barry legal counsel and law professor at Washington's Howard University, has said, a black mayor should be protected, because he represents the course of black progress. To repudiate Barry, so the argument goes, is to turn your back on the whole civil rights movement.

"This is not a choice for or against Marion Barry," declared Jesse Jackson. "This is about the right to choose one's leadership.... In Chicago, when Mayor Daley said, 'Shoot to kill,' they didn't rescind democracy. In Alabama, when they unleashed the dogs on us, they didn't take away democracy." Barry himself spoke of Control Board Chairman Andrew Brimmer (who is also black) and others who threaten his power as puppets of a despotic Congress. "[T]here are other situations where totalitarian governments ... have appointed local people to do their dirty work," he rambled to reporters. "And I'm not so sure that Dr. Brimmer wants his legacy to be that."

Jackson's evocation of Chicago's race riots, and Bull Connor's dogs, and the suggestion of violence in

Barry's words were of course purposeful. The threat of violence, putatively legitimated by past violence against blacks, has always been the true source of Barry's power. Barry rose to power in Washington with the blessing of a white establishment that saw black "street" pols like Barry as, essentially, managers of the mob; insurance against a recurrence of the riots of 1968.

The idea that Barry controls a violence that he can direct against those who stand in his way has never been far from the surface. The Barry circle has always contained characters with a thuggish strain. The Reverend Willie Wilson, Barry's spiritual adviser and a government-subsidized social service provider, first came into public prominence in 1987 as a leader of a black boycott of Chan's Chinese fast food restaurant in the largely poor neighborhood of Anacostia. Addressing a crowd of supporters, some of them yelling "fuck the chinks," Reverend Wilson compared himself to Jesus, Martin Luther King Jr. and Gandhi, and offered a frightening example of his dedication to principles of nonviolence: "We forgave Mr. Chan. If we didn't forgive him, we would have cut his head off and rolled it down the street."

Barry's use of the threat of mob violence became blatant during his 1990 trial for cocaine possession, and has grown ever more so since the Republican-controlled Congress appointed the Financial Control Board to begin the process of taking over the city. The two years since then have been a running war, a file cabinet by file cabinet fight marked by the increasing use of violent threats on the part of Barry and his defenders.

Barry's fourth wife, Cora Masters Barry, was dubbed "Lady McBarry" by Loose Lips of Washington's *City Paper*. Masters Barry had long worked for Washington boxing promoter Rock Newman, who served as chairman of Barry's mayoral transition team in 1994. Newman and his entourage have been associated with brawling and even small-scale riots, most notably in Madison Square Garden after the first Bowe-Golota bout. Masters Barry has emerged as a particularly compelling messenger about the dangers of upheaval. In 1995, Masters Barry mused, in an off-handedly chilling manner, to *The New York Times* on the root causes of riots. "Nobody knew," she said, "[that] it would be Rodney King that would send L.A. overboard. I mean, you never know what one thing is going to set the people off." In 1996, she warned *The Washington Post* that further budget cuts would mean an end to summer job programs for disadvantaged youth and "blood ... rolling in the streets."

This is the context of Barry's cling to power and Norton's reversal. But, although the suggestions of racial treason against Norton achieved their purpose, the larger attempt to inspire racial outrage seems to be fizzling. Despite an intense effort to gin up a mob, including radio and TV announcements, and phone calls by Barry and Norton, the largest protest garnered only 200 to 300 people, many of them city workers. A staged disruption of a Federal Control Board meeting the next day—led by a Barry protégé named Mark Thompson who had earlier made the *City Paper* with his warnings against "sell[ing] out to Jews"—drew only a few dozen militants. The protesters spent fifteen minutes shouting, as *The Washington Post* reported, "racial slurs" and chanting. At one point, they tried to storm the podium to present non-negotiable demands. But nobody paid them much mind, and police soon led them away.

In mid-August, Louis Farrakhan is due to arrive to take the protest to the next level; as always, the threat of violence hangs in the air. But perhaps Washington is finally ready to turn its back on the politicians of the mob. For all of Barry's talk that Norton's bill "rapes" democracy in D.C., the District has had precious little democracy. It has been for twenty years a one-party fiefdom ruled by a cult of personality and financed by taxpayers around the country. If real democracy and the rule of law ever do come to the nation's capital, it will only be, as in the old segregationist South, by the imposition of the federal government. That is Barry's ironic legacy: he has recreated, in his political dotage, the dynamic he fought against in his youth.

FRED SIEGEL is the author of *The Future Once Happened Here: New York, D.C., L.A., and the Fate of Big City America* (Free Press). JEFF ITELL is a Washington-based writer and consultant.

CAMBRIDGE POSTCARD

HEIL HARVARD

By Jacob Heilbrunn

On a recent August morning, about fifty men and women gathered in an amphitheater in Harvard Law School's Pound Hall and settled into the serried rows of seats to listen to Jeffrey D. Sachs lecture on fiscal policy in developing countries. It was the final day of a $13,000 six-week seminar program organized by the Harvard Institute for International Development, which is directed by Sachs, the father of economic shock therapy. Many of the students, who came from Zimbabwe, Ghana and other Third World countries, were wearing sandals and dashikis. They were civil servants who had come to imbibe the latest wisdom in American capitalism. As Sachs attacked John Maynard Keynes and praised Adam Smith, the students diligently scribbled in their notebooks.

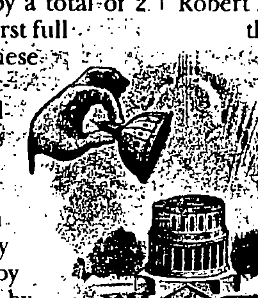
One Sachs disciple, however, stood out: Jörg Haider, the 47-year-old leader of the Austrian Freedom Party. With his party hovering at 28 percent in the Austrian polls, Haider is the most influential far-right leader in Europe. He is also the coolest. Dressed in purple-and-gold Nike running shoes, a gray polo shirt and shorts,

TRB FROM WASHINGTON

A promise kept

Last August, when President Clinton signed into law the bill that promised to end welfare as we know it, many in the administration itself regarded the measure as a great gamble. To some liberals, the gamble was insupportable. The Urban Institute, in a famous study, predicted that the new law would impoverish 2.6 million people, including 1.1 million children.

Next week marks the first anniversary of the welfare bill's enactment, and the White House is trumpeting. And trumpet it should. As Bruce Reed, the president's assistant for domestic policy, boasted on August 12, the nation's welfare caseloads have been reduced by 3.4 million, or an astonishing 24 percent, since Clinton became president, and they are declining still. The rolls fell by 1.9 million in the first three and a half years, before passage of the welfare reform act, and they fell an additional 1.45 million in the nine months from the enactment of the law through May of this year, the last month for which figures are available. If the trends of the first nine months are found to have continued, Reed said, the caseload will have fallen by a total of 2 million by the end of the first full year of the welfare law. "These numbers are a stunning success, totally unprecedented in the history of welfare," said Reed. He is right.



Since the beginning of 1993, the welfare rolls in Wyoming have fallen by 68 percent; in Wisconsin, by 54 percent; in Oregon, by 48 percent; in Tennessee, by 47 percent; in Oklahoma and South Carolina, by 46 percent; in Indiana, by 45 percent; in Kansas, by 41 percent; in North Dakota, by 40 percent; in Alabama and Florida, by 38 percent; in Michigan, by 36 percent; in New Jersey and New Hampshire, by 30 percent—and so on.

There are a number of reasons for the good news, and some of them have little to do with the welfare law itself. One obvious reason is the boom economy. But the economy cannot be the primary cause. No remotely comparable decreases in welfare occurred during the fat years of the 1980s; indeed, there have been only two years in which caseloads fell by more than 250,000 in all of welfare's six decades. "The left is trying to say it is only the good economy driving this, but the last time you saw decreases of this magnitude was during the Korean War," says Robert Rector, a welfare policy analyst at the Heritage Foundation.

Another obvious cause of the good news that has nothing to do with Clinton or his welfare law was the passage of an earlier reform, the 1988 Family Support Act. It was this measure that allowed states to apply for waivers from federal welfare requirements and to begin experimenting with the work requirement programs that are an important factor in driving the rolls down. The Clinton administration's role here was the largely passive one of granting waivers.

Still, the law worked out between a Republican Congress and a Democratic president made an immense difference. It ended cash welfare as an entitlement, and it changed the enforcement role of the federal government from ensuring that states met their obligations toward a relentlessly expanding welfare state to ensuring that they meet their obligations toward shrinking the welfare state.

And the famously dire predictions of the Urban Institute? They are, it turns out, no longer operative. Sheila Zedlewski, the policy analyst who wrote the pessimistic report, now says that the number of people pushed into poverty by the law has turned out to be "significantly different" than predicted. Again, the economy helped. Also, in contravention to liberal assumptions, the states did not seize upon the opportunity of reduced federal mandates to starve their citizens. In Zedlewski's careful words, "As we have seen the Food Stamp changes play out, the number of states that have applied for and received waivers [from the requirement to force unemployed adults off the Food Stamp rolls] because of local high unemployment rates or surplus labor areas is higher than people were estimating a year ago."

But the most important factor affecting the prophecy of disaster was at least partially Clinton's doing. The 1996 law's most radical measure eliminated Supplemental Social Security aid to elderly and disabled legal immigrants. Clinton argued, in his usual amazing fashion,

continued on page 41

CORRESPONDENCE *continued from page 5*

expanded west to the Oder-Neisse Line and acquire German cities such as Breslau and Konigsberg. Further, Poland was allowed to "ethnically cleanse" its new territory; 10 million Germans were expelled to West Germany. These arrangements were solidified by treaty between Poland and East Germany.

Although the German Federal Republic has abandoned all territorial claims, there is good reason for Poland to be concerned and to clamor for inclusion in the NATO military alliance. However, it should be possible to reassure Poland and guarantee her borders less expensively than what the NATO expansion will cost the American taxpayers.

KURT G. STRAUSS
Tucson, Arizona

The killing fields

To the editors:

The mind reels at the character of justice that Pol Pot's inhumanity demands ("Overdue Process," July 14 & 21). But your Cambodian hall of villains is incomplete. You chastise China for its interference in the internal affairs of Cambodia but have apparently forgotten that Cambodia's neutrality was first compromised by the North Vietnamese and the "sanctuaries" they established along the southern reaches of the Ho Chi Minh Trail. And you are altogether too modest about America's own contribution to the creation of the killing fields.

Between 1969, when Richard Nixon first ordered the secret bombing of the Vietnamese bases in Cambodia, and 1973, when the U.S. Congress finally halted it, more than a half-million tons of bombs were dropped on the country. The mounting toll of civilian deaths, the CIA-backed overthrow of Prince Sihanouk by Lon Nöl in 1970 and the U.S. invasion just weeks later all served to antagonize Cambodian society, making the ranks of the Khmer Rouge swell from an estimated 2,500 in 1969 to an army of 50,000 just three years later—the army which Pol Pot would unleash on its own country.

Your vision of justice might have been achieved at the end of the '70s after Vietnam's invasion of Cambodia ended the slaughter and crushed the Khmer Rouge; unfortunately, our vengeful Vietnamese policy and desire to court Beijing actually allowed the communists to regroup and eventually assert power again. The scenario of Pol Pot on trial is not without merit; let's just hope the court doesn't go searching for accessories.

DAVID SEPPA
Denver, Colorado

TRB *continued from page 6*

that his signing of a law that liberals regarded as a betrayal of liberalism was a reason that liberals should vote to re-elect him. Let Clinton fix Clinton.

Well, he did. In the recent budget deal between the White House and Congress, the president accomplished the restoration of SSI benefits to all immigrants who were legal before August 22, 1996, the date of the welfare bill. That restored benefits to half a million deserving people. This and other measures, including funding to provide work for unemployed Food Stamp recipients, that were negotiated into the budget agreement have, in Zedlewski's words, "gone a large way towards fixing the problem." Zedlewski says she cannot say precisely how much she would now cut her estimate of the number of people pushed into poverty by the welfare law, but she notes that fully half of the Urban Institute's previous estimate of 2.6 million came from projections of those who would be hurt by the denial of Supplemental Social Security payments and Food Stamps.

So Clinton has done what he has said he would do. He is the president who will have ended welfare as we know it. If this holds, Clinton will deserve credit for a great historic and moral achievement.

If this holds. In Clintonism, there are no last acts. In May, the White House issued a long-awaited Labor Department ruling on whether welfare recipients placed in work programs under the terms of the welfare reform law and state laws were covered by federal and state minimum wage laws and other labor laws and regulations. Yes, they were covered, said the ruling, to the tune of twenty-five separate statutes. The GOP authors of the welfare law, and Republican and Democratic governors, said that the ruling would make it impossibly expensive for states to continue the work programs that are critical to a continued decline in the welfare rolls.

Congressional Republicans proposed language in the budget reconciliation bill to overrule the Labor Department rulings. But the White House wouldn't budge, except on the one, minor, issue of whether welfare recipients on work programs should be eligible for the earned income tax credit. The president threatened to veto the budget bill unless the offending language was removed. As it stands, the ruling that sharply curtails the ability of the states to enact effective welfare-to-work programs remains in force. Without serious workfare programs, the good news will level off, and then turn bad when the economy softens. If Clinton does not wish to be undone, he must once again undo.

MICHAEL KELLY

2000
THE MILLENNIUM NOTEBOOK

The controllers may be in the cockpits

New Freedom in the Sky

IN A DIMLY LIT ROOM INSIDE THE FAA's air-traffic control center on New York's Long Island, dozens of controllers hunch over primitive black and green radar panels. Each controller tracks up to 25 airplanes simultaneously; together they shepherd a total of 6,500 flights a day across the country's most congested airspace. To keep planes separated and on course, controllers guide them down narrow corridors in the sky. Terry Bolerjack, the facility's air-traffic manager, explains by unfolding an aerial map crisscrossed with hundreds of spindly blue lines. "Just like Manhattan," he says. "These are one-way streets."

If a concept called "free flight" takes off, those one-way streets could become three-dimensional superhighways early in the next millennium. The current system may seem orderly, but it's not efficient. Since planes can't pass each other and aren't allowed to stray from the often circuitous airways, the system wastes time, fuel and, ultimately, money—an estimated $3.5 billion a year. In free flight, navigational satellites would help pilots themselves choose the most efficient route, altitude and speed for their planes. The airlines and the FAA are both on board, and a congressional task force that studied the idea in 1995 proposed its implementation by 2010. "The sky isn't crowded at all; it is air-traffic control that's crowded," says United Airlines systems manager Bill Cotton, considered the "father" of free flight. "This is nothing more than reducing the unnecessary restrictions to flight."

The foundation of free flight is already in place: the Global Positioning System (GPS), a network of 24 satellites launched by the Defense Department starting in the late '70s. The orbiting satellites would give pilots precise information about their position and the positions of other aircraft, while digital transmitters would automatically swap this data between aircraft and the ground. Air-traffic controllers would become managers, intervening only around airports and in case of emergency. To avoid crashes, two imaginary, electronically defined zones would be projected around each plane. A breach in the outer layer, called the "alert zone," would trigger a traffic warning inside the cockpit, prompting the pilot to prevent a further intrusion into the plane's milewide inner layer, called the "protected zone."

Argue that implementing free flight would be tougher than stretching your legs in a coach-class window seat. The main obstacle is the cost: estimates hover around $10 billion, and no one knows who would pay for outfitting smaller planes and ground centers. Though it's generally conceded that free flight would be at least as safe as the present system, another potential stumbling block is the uneasiness of air-traffic controllers. Understandably nervous that the new technology could lead to downsizing, many have been openly critical of free flight. Their union, the National Air Traffic Controllers Association, has cautiously endorsed the idea while trying to block any move to cut jobs. "There's no way we can get to free flight without increasing the capacity of airports and increasing the presence of air-traffic controllers," says the union's technology coordinator, Dick Swauger.

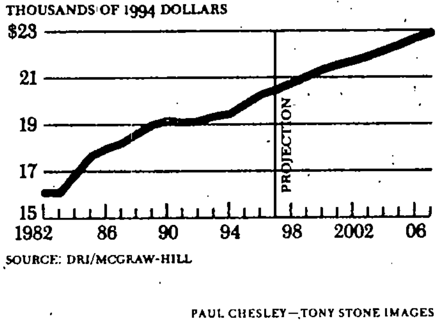
Still, everyone acknowledges that the current system needs to be improved. Air traffic is expected to grow annually by 5 percent over the next 20 years, putting further strain on the already overtasked controllers. And the potential benefits of free flight to passengers are enticing: shorter flights and lower fares. An FAA trial called the National Route Program, which allows planes above 29,000 feet and 200 miles from an airport to chart their own courses, has already saved $40 million for the industry this year alone. "It's been the most successful program the FAA has put forward," says Monte Belger, the associate administrator for air-traffic services at the FAA. That sounds promising. Now if they could only do something about legroom.

KIMBERLY MARTINEAU *and* BRAD STONE

Rising Fortunes

If current trends continue, Americans will find a few more dollars in their pocketbooks in the next millennium.

DISPOSABLE PERSONAL INCOME PER CAPITA, IN THOUSANDS OF 1994 DOLLARS



SOURCE: DRI/MCGRAW-HILL

PAUL CHESLEY—TONY STONE IMAGES

UPS STRIKE

Labor's Deli

It's a historic strike and a migraine headache. But the UPS walkout may be just the first of many battles to come over higher wages. BY MICHAEL MEYER

RICHARD ELLIS—SYGMA

It's personal: *Teamster boss Carey, once a UPS driver, bets it all on the strike*

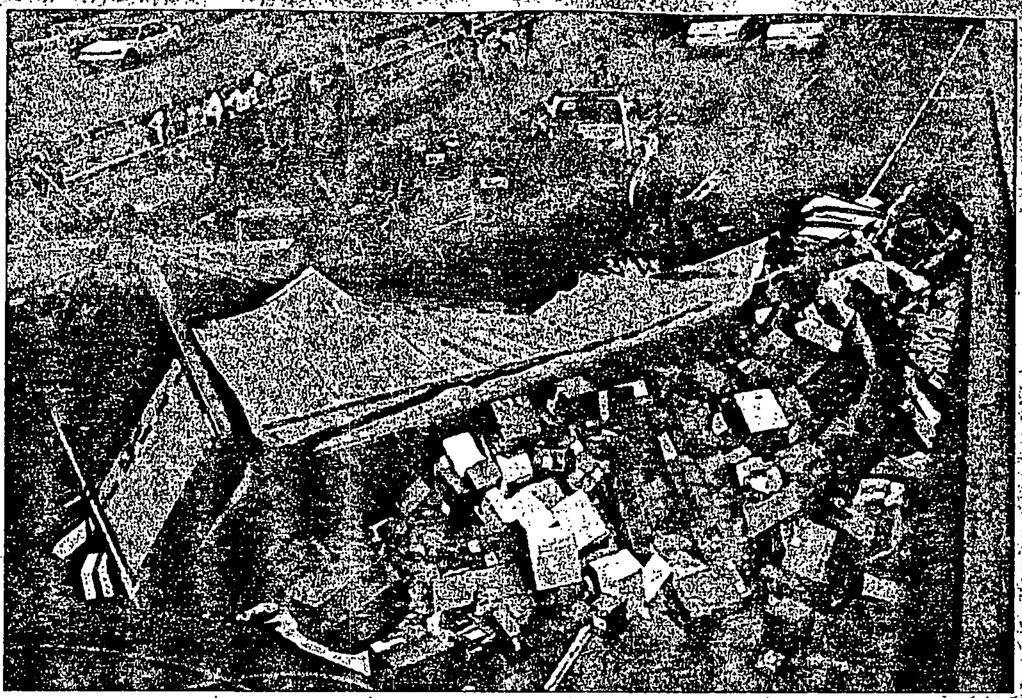
IMAGINE THE BLUSHING BRIDE-TO-be, ready for that grand march down the aisle. And completely apoplectic. Will her gown get to the church on time? "It's really a mess," gripes Jeanne Pyles, manager of Brides of Old Town in San Diego. She's besieged by angry customers demanding their dresses and veils who tell her that they'll sue a certain shipping company for emotional distress. In Texas, LifeCell Corp. harvests human skin from donors and sends it to burn victims around the country. Twice in recent days, LifeCell execs have had to hop planes and hand-deliver skin to waiting surgeons. "Our commodity," says the company's Charlie Schiff with understatement, "is horribly perishable." Across the country, in the Boston area, John Boyajian, a purveyor of specialty foods, gets an unsettling call from one of his biggest clients, the Williams-Sonoma gourmet chain. Boom, it's canceling a big order of caviar—fearing the precious roe would spoil before it could get to market. Boyajian's loss: $1,200 a week. By Christmas, it'll be more like $50,000 weekly. "We're yelling a lot," he says.

So are a lot of Americans. The country has rudely awakened to the enormous role the United Parcel Service plays in its national life. Indeed, it is so ubiquitous that many people confuse this private company with the Postal Service. Everybody, it seems, knows the Men in Brown. Their nerdy-retro vans ply every urban and suburban byway. They are a national conveyor belt that delivers 80 percent of the packages and parcels we so routinely zip hither and thither. By some estimates, that means UPS touches some 5 percent of the country's gross national product. Small wonder, then, that with 185,000 Teamsters on strike and UPS all but closed down, chaos rules. Mail-order retail-

NAILAH FEANNY—SABA

iverance?

I Walk the Line: *The Teamsters plan a series of rallies across the country like this one in New Jersey.*



RANDY PILAND—TENNESSEAN—SYGMA

Chaos: *A strike-crossing UPS driving instructor dies after his truck accidentally flips off a highway ramp*

ers have seen their business drop by 10 to 15 percent; and small businesses, with fewer alternatives at their disposal than the big boys, are taking the worst hits. Economists warn that the strike could knock 20 percent off the nation's growth rate if it persists into next month.

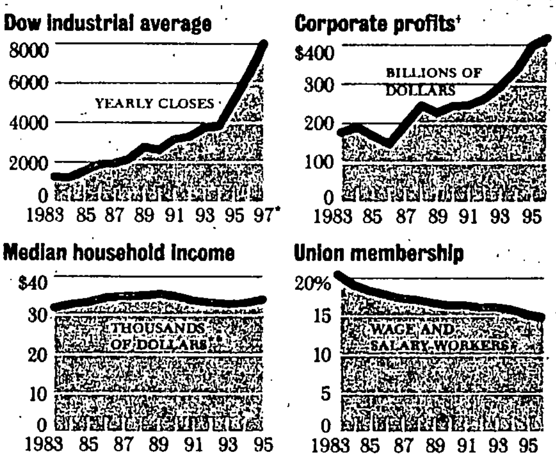
Will the federal government intervene? In a delicious irony, conservative politicians and business groups, who normally worship at the shrine of the free market, have urged the Clinton administration to step in. For their part, liberals sanctimoniously insist that it should not. The liberals are likely to prevail. Top Clintonites say the president can't and won't use the blunderbuss weapon of the Taft-Hartley Act, the Truman-era law that grants the president "emergency" strikebreaking powers. But a new player may get involved. That's none other, NEWSWEEK has learned, than Alan Greenspan. Late last week the Federal Reserve board asked UPS for its analysis of the strike's economic impact. The company speedily dispatched a report, and UPS officials even briefed economists at the Fed. They, in turn, will brief Greenspan, presumably in preparation for this week's Fed meeting on short-term-interest rates. For Mark Steffen, head of a small Iowa computer company, those machinations may come a bit too late. He's had to dispatch employees to drive as far as 400 miles to suppliers. This may be UPS's worst nightmare, for Steffen, like a growing chorus of other customers, steadfastly vows: "We're not going back to UPS," no matter when the walkout ends.

But the UPS strike is about more than cargo and boxes. Whether or not it drags on, the walkout marks a watershed for the beleaguered labor movement, which has staked its prestige on this walkout. That's why AFL-CIO chief John Sweeney announced last week that he'd bankroll the Teamsters strike with a $10 million infusion of cash and the promise of more to come. Beyond union politics, the strike will affect millions of Americans, even those who have never shipped a package or joined a local, for it goes to the heart of large national questions. Will wages finally begin to go up, as the Dow and productivity have risen? If so, would that trigger a new round of inflation or spark a Wall Street crash?—no moot point, in light of last week's massive sell-off following good news about prices. Does it signal a new era of conflict between labor and management, and on which side will people stand?

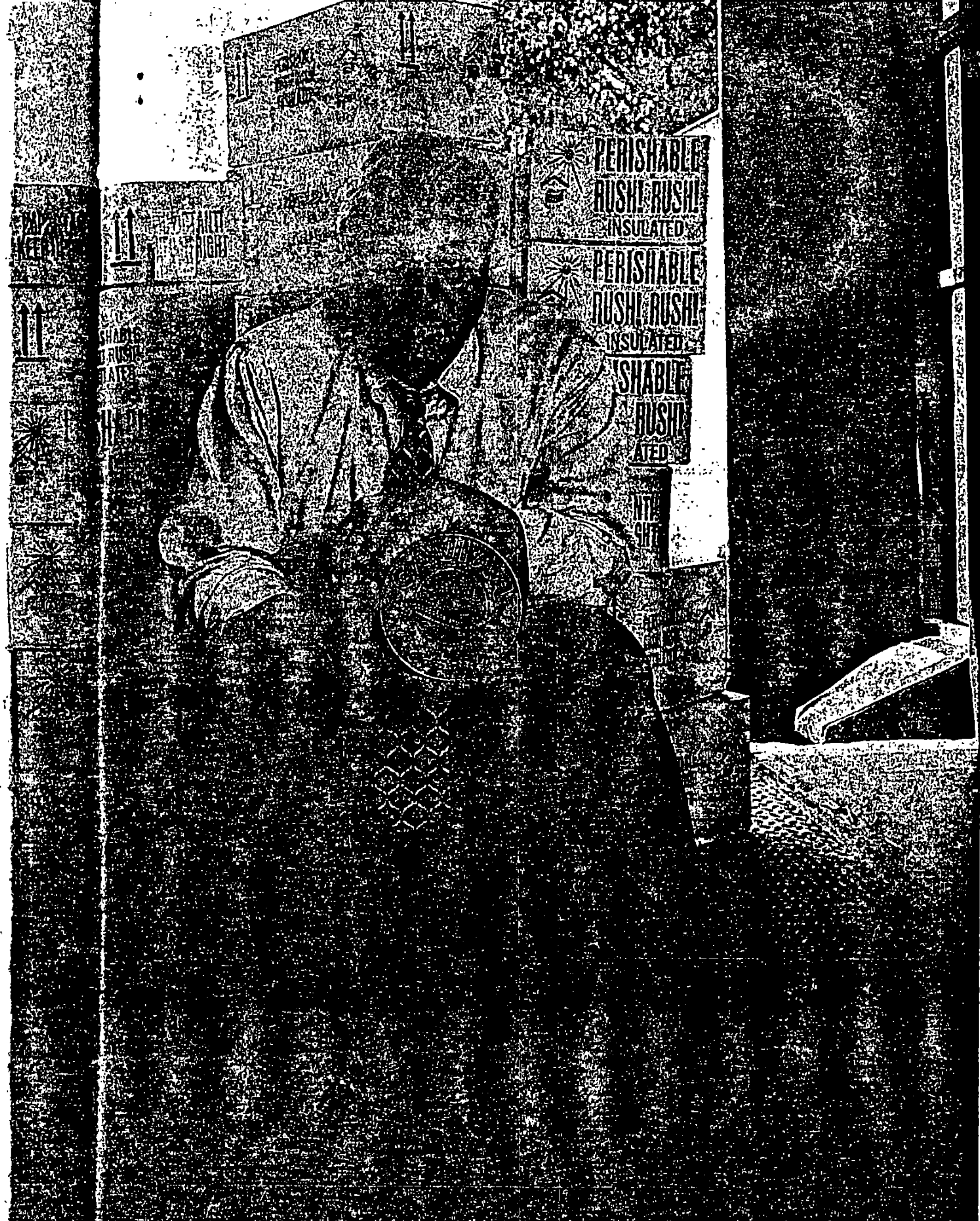
Even before a settlement, the strike revealed a seismic shift in the national consciousness. Among the most interesting aspects of the strike is this surprising fact: for the first time in decades, a majority of Americans are allying with labor against management. A poll late last week by Gallup/CNN reported that 55 percent of those surveyed support the once despised Teamsters in their fight to win more higher-paying full-time jobs and better pension benefits. Just 27 percent backed UPS. This

Will You Ever Get a Raise?

The Dow is climbing. Profits are soaring. But is the American worker gaining ground? Not really.



*PROJECTION. †AFTER TAX. **CONSTANT 1995 DOLLARS. SOURCES: DOW JONES, BUREAU OF LABOR STATISTICS, U.S. CENSUS BUREAU, BUREAU OF ECONOMIC ANALYSIS



BILL O'CONNELL

"We're yelling a lot, but everyone understands. Anyone who does any kind of mail order is getting slammed."

—JOHN BOYAJIAN, *purveyor of caviar and other specialty foods*

marks a change from the nadir of 1981, when Ronald Reagan pounded striking airline controllers into the ground—and the public cheered. Why the shift? Labor experts point to public frustration over years of corporate downsizing, stagnant real incomes and an economic boom that too often seems to benefit management muckety-mucks without trickling down to rank-and-filers. That notion found resonance last week among the strikers. Management has been eating away at worker rights in this country for years, says Mark Orvis, a UPS driver manning the picket lines in Milwaukee: "It's really frustrating working for a company that brags about the ability of its work force," says Orvis, "but when contract time rolls around it feels like you're nobody."

Despite such harsh rhetoric, though, the issues are less clear-cut than either side claims. Consider the supposed core of the dispute: part-time versus full-time jobs. Over the last four years, UPS has created 46,000 new jobs, of which 38,000 are part-time. The union claims that 13,000 of the company's part-timers put in 35 hours or more a week, and that 10,000 of them should be offered full-time employment with correspondingly higher pay and benefits. That sounds reasonable enough. Yet UPS claims that as many as two thirds of its part-timers work less than full days because they prefer it that way. They may have other jobs, or other demands on their lives. To acc UPS of exploiting part-timers purely to keep costs low, as the union does, distorts the debate. But with UPS's nearly $1 billion in profits, it's hard to buy the company's claims that it's too strapped to offer better pay to its part-timers and more opportunities for full-time work to those who want them.

The disagreement over pensions is equally fraught with hypocrisy. The Teamsters want UPS to keep shoveling money into the union's so-called multi-employer fund, a pool of retirement money that comes from 31 companies where members are employed. UPS, however, wants to withdraw from the plan and set up its own retirement fund, covering part-time as well as full-time UPS workers. The company says benefits would rise as much as 50 cent per worker, for the same cost. Some pension analysts suggest that UPSers would probably be better off financially under management's plan. But Teamsters at other companies might face a less secure future without UPS's sizable contributions to their common retirement fund. And who's to say, 20 years from now, that UPS will be the powerhouse it is today? Strikers in Milwaukee don't seem to have much faith. Will the money be there? "You're not sure what's going to happen," muses 16-year UPS veteran Jeff Berns. Clearly, if UPS were to pull out of the Teamsters' pension pool, the union's overall finances could genuinely be damaged—especially if other companies were to follow UPS's example. In this sense, the dispute is not so much over *issues* in which one side has a legitimate claim, explains Cornell University's Michael Belzer, as it is over something more intrinsic. "The union," he says, "feels it is in a struggle for its very survival."

It may be. And there's a real question about whether the Teamsters can stay together. Management is obviously trying to divide them, partly by touting the apparent benefits of its pension proposal. UPS claims that 10,000 employees have crossed picket lines and gone back to work, up from an estimated 4,000 during the strike's first week. Union leaders say the actual number is half that large. The strike in the little town of Washington, Pa., has taken an especially interesting turn. As some UPS workers boycott their employers, others are picketing their own local union headquarters. The reason: they want workers at UPS to vote on the company's offer—which the Teamsters have refused to allow them to do.

The stakes for the Teamsters are not only large but very personal, too. The "brotherhood" was, for years, beset by utter corruption and mob influence. The current head of the union, Ron Carey, ran as a self-styled reformer vowing to restore the union's good name—and its financial stability after years of decline. Now he's facing his biggest test in a drama worthy of a screenplay. Carey himself was a UPS driver, and he is still fending off assaults from his recently defeated, but hardly vanquished, rival, James Hoffa, the son of Jimmy Hoffa, the legendary Teamsters boss whose mysterious disappearance in 1975 remains the stuff of legend. Carey has framed the issue as "good jobs for America." Skeptics see it differently, however. They view the UPS strike as little more than a power struggle between Carey and the younger Hoffa. Either way, the UPS strike will make Carey a titan or crush him.

The standoff continues. UPS chairman James Kelly late last week labeled the results "disappointing." At a Washington, D.C., hotel, both sides continued talking through the weekend but reported little progress. Meanwhile, a national conversation had begun about whether Americans now deserve higher wages after years of soaring profits and a rising Dow. It's perhaps telling that UPS pilots are talking about a December walkout. The Teamster-UPS strike has yet to answer those grand questions about what we earn but at some point it surely will. For the moment, though, it's a national migraine. But Americans are worried less about whether UPS will break the union, or vice versa: it's whether the two of them, fighting it out, will bust us.

With Peter Annin in Chicago, Leslie Kaufman in New York, Rich Thomas in Washington, John Lauerman in Boston, Anne Belli Gesalman in Houston and Jamie Reno in San Diego

Woman of the Hour

In the UPS strike Labor Secretary Alexis Herman has a great challenge and opportunity. Is she up to it?

When officials from UPS and the striking Teamsters announced they would finally return to the bargaining table last week, it wasn't just the folks on the picket line or at mail-order houses like J. Crew breathing sighs of relief. Alexis Herman, the secretary of labor, had put her reputation on the line to bring the parties together. At one point, when the talks broke down, Herman met with each side for several hours, cajoling them—in the soft, sweet tones of her native Mobile, Ala. She was rebuffed; and soon she was hit by a wave of dismissive newspaper headlines. The next day, though, she worked the phones during an Air Force One trip with the president. She pressed UPS president Jim Kelly and Teamsters boss Ron Carey. "Let's dialogue it out," she told them, using a favorite expression of hers. It took another day of phone diplomacy after that, but Herman got her men and her talks. The victory was fleeting—but it was as sweet as it was hard-won.

Herman's public commitment to settling the decade's most serious strike is a risky gambit. As one Labor Department official puts it: "Labor secretaries traditionally make or break their bones mediating big labor disputes." For Herman the risk is worth it. Success would bring a reward this African-American woman wants: respect.


STEPHEN JAFFE—AFP

The player: *Herman's 15 minutes are here, but her task is enormous*

She hasn't always gotten it. When Bill Clinton plucked Herman to be his second-term labor secretary, the Republican Congress—caught up in investigating the president's questionable campaign fund raising—shifted into full throttle, using her confirmation hearings to dissect her career as a political operative. The White House head of public liaison during Clinton's first term, Herman found herself in trouble for having helped to arrange at least 15 of the infamous "coffees" between the president and Democratic donors. Big Labor found these connections to corporate fat-cat donors suspicious; in fact, it opposed her nomination because she seemed too close to business. There were also questions of corruption from her days as a consultant developing affirmative-action plans. How, for instance, did she make a $500,000 profit from a Washington, D.C., development project without investing a cent? Her years at the Democratic National Committee serving her mentor, the late Ron Brown, were also scrutinized for impropriety.

Herman endured to win confirmation, but she emerged tainted. The secretary's allies view the strike as an opportunity to reintroduce her to the public as a get-things-done player and to showcase her talents as a coalition builder. The Rev. Jesse Jackson says that "she has the ability to make both sides see how their interests could be served by a settlement."

Beyond her repeated calls for "flexibility," it's still unclear, however, how Herman will work such magic. The secretary doesn't preside over all the negotiations, although she is frequently available for informal chats. UPS's Kelly says he talks to Herman at least twice a day by phone. The secretary "has a specific agenda," he says. Indeed, Herman has gotten into the fine print of the strike, even toiling over things like the part of the UPS contract dealing with the weight of a driver's load. But Herman has no experience negotiating hard-core labor-management disputes, and this is turning out to be an especially bitter one. Since her initial success in bringing both sides to the table, the talks have often stalled. Privately, some negotiators dub her "ineffectual." An example: Teamster president Ron Carey held a press conference, ignoring Herman's pleas to each side not to go before the microphones to argue their case. All of which goes to show that needing vindication is easier than getting it.

Leslie Kaufman with Rich Thomas in Washington

PATIENT POWER

Shortchanging the Psyche

Will your HMO be there if you need therapy? BY ELLYN SPRAGINS

ANXIETY. DEPRESSION. DRINKING TOO much. You've got problems? Tell me about them. Or tell your best friend. Just don't tell a therapist and expect her to listen very long—because she probably can't. She's pinned under the thumb of a new giant in the health business: a managed mental-health-care company. You haven't heard of this beast because it operates behind the scenes, contracting with your HMO or your employer to provide or monitor all mental-health services. Managed mental-health companies, such as Green Spring Health Services and Value Behavioral Health, now sit in judgment of the mental fitness of 149 million Americans, whenever they decide they need help. These firms are adored by health plans and corporations because they've slashed mental-health expenses. But their clout is costing consumers. Managed mental health "has thrown us back to the Dark Ages in terms of psychotherapy," says Karen Shore, president of the National Coalition of Mental Health Professionals and Consumers.

It's not surprising to hear therapists say that they don't like seeing their paychecks slashed any more than physicians did when HMOs rose to power. But this is more than an income issue. Evidence that your stubborn bronchitis needs further treatment is easy to come by. But how do you prove that your teenage son's suicidal thoughts merit 20 therapy sessions rather than seven? The danger is that the new arbiters of mental health will grow even stingier than their managed-care cousins because it's so hard to verify if they are shortchanging patients. Americans seek help for psychological problems and substance abuse nearly twice as often as they pursue tests or treatment for cancer, according to MEDSTAT of Ann Arbor, Mich. If you're among the millions who require some kind of therapy, watch for the following pitfalls.

ILLUSTRATION BY JOHN CRAIG

Window dressing: Let's say your mental-health benefits look great. You're promised outpatient care, substance-abuse treatment, day programs and hospitalization. Now try to collect. Certain ailments are often excluded from those generous terms. Attention-deficit disorder is the No. 1 untouchable, according to Mary Graham, a director of economic affairs at the American Psychiatric Association. Also, you may need a referral from your primary-care doctor, who could have a financial incentive to keep you under his care. If you're allowed to refer yourself, you're still not home free. Your call is likely to be fielded by a relative rookie who gets to decide the appropriate treatment. "People who need a significant amount of care are getting approved for just a small amount," says Leslie Scallet, a vice president of The Lewin Group in Fairfax, Va.

Drug pushing: At $60 to $140 per hour, therapy is expensive. Managed mental-health companies' favorite way to bypass it is to medicate the patient. The classic maneuver is to approve a medication check once every four months, while granting only two sessions for talking with a clinician. "There's a tendency to push drug therapy and be quite belligerent to therapists who don't jump on board," says psychologist Nina Thomas of the National Mental Health Forum, an organization that promotes psychotherapy. Even if popping a pill is the answer for you, you may need more than a couple of visits to learn about a drug and adjust to it. And for all their emphasis on medication, mental-health plans often have skimpy formularies. Pricey new antidepressants and antipsychotics may be withdrawn too quickly, or not covered at all.

Trespassing: You may not care if someone knows you have hypertension or a bad knee. How do you feel about revealing your panic attacks? When asked to approve more treatment, managed mental-health-care companies often require pages of reports—and sometimes your therapist's session notes. The fear of losing privacy is driving some patients to hide treatable problems.

Options for protecting your mental-health benefits are limited. A new parity law, effective beginning in 1998, calls for health plans to apply the same dollar limits to mental and physical conditions. But under managed mental health's tight grip, few consumers are able to collect the full amount of their annual benefit anyway. Changing the dollar amount doesn't mean plans will be more willing to approve treatment.

Your best protection is to choose a plan carefully. "Point of service" plans allow you to go outside the network to find a therapist, but you'll shoulder more of the cost. If your HMO or employer uses a managed mental-health company, find out whether it's simply a watchdog over benefit use, or has a direct stake in minimizing the care you receive. Avoid plans designed only to address acute problems, such as suicide attempts. Better plans encourage early intervention. Finally, examine a plan's criteria for deciding if treatment is medically necessary. If the hurdles are too high, you'll never gain access to the care described in your handbook. It's annoying to have to do all this detective work just in case you ever need help with your demons. But it's better than finding yourself defenseless once they get you in their grip. ■

A Beating in Brooklyn

New York's Finest come under fire after a Haitian man is sexually assaulted, allegedly by cops

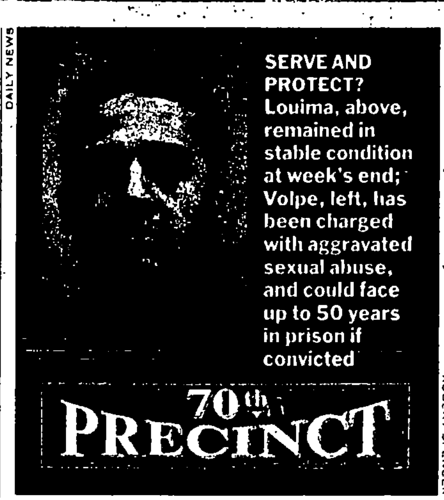
By CHRISTOPHER JOHN FARLEY

THOMAS MONASTER—DAILY NEWS

On Saturday, Aug. 9, Abner Louima, 30, a Haitian immigrant, was relaxing at a Brooklyn music club when a fight broke out between two women. Next thing Louima knew, he had been taken into custody by police outside the club. Louima, a bank security guard and a married father, says he was beaten as police drove to Brooklyn's 70th Precinct station house. But it was after he got there that the real nightmare began: as he tells it, he was strip-searched, then two cops took him into a bathroom and shoved a wooden pole, perhaps belonging to a toilet plunger, into his rectum. (Once Louima was hospitalized—after 1½ hours at the station house—doctors found he had a ripped bladder and a punctured lower intestine.) Louima says the officers then forced the stick into his mouth, breaking his front teeth. As all this took place, Louima claims, police taunted him, saying, "That's your s__, nigger," and "We're going to teach niggers to respect police officers," and "This is Giuliani time, not Dinkins time."

David Dinkins was the first black mayor of New York City (1990-94); Rudolph Giuliani, the current mayor, rode to office on a law-and-order, pro-police platform, and is expected to coast to re-election in large part because of a precipitous 54% drop in serious crime during his time in office. Suddenly, he was faced with the flip side—an apparently horrific instance of police brutality that punctuated three years of complaints by blacks and Hispanics that police abusiveness was out of control. It was not the kind of endorsement Giuliani, usually outspoken in his support of police, needed or wanted in an election year. And he was swift to describe the incident as repulsive and demand that justice be served.

The charges against Louima were quickly dropped, but the case against the police officers who allegedly tortured him has just begun. One officer, 25-year-old Justin Volpe, was arrested and charged with aggravated sexual abuse and first-degree sexual assault; another, 31-year-old Charles



DAILY NEWS

ROBERT SPENCER

SERVE AND PROTECT? Louima, above, remained in stable condition at week's end; Volpe, left, has been charged with aggravated sexual abuse, and could face up to 50 years in prison if convicted

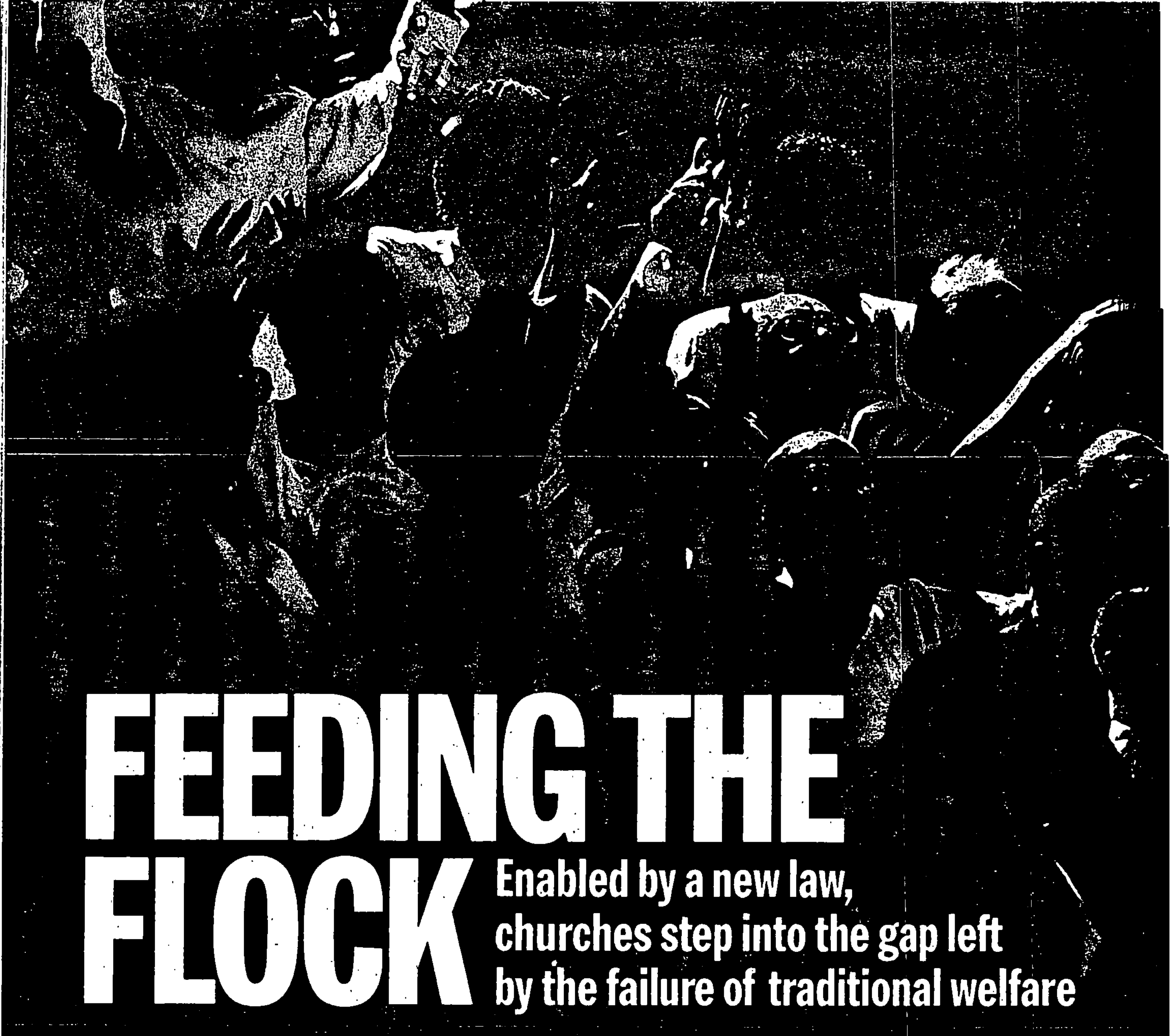
Schwarz, was indicted; and 12 other officers from the 70th Precinct were either transferred, suspended or demoted to desk duty. Both the Brooklyn district attorney's office and the U.S. Attorney's office are investigating the incident, and more arrests are expected. New York City police commissioner Howard Safir called it a "horrific crime" and pointed out that it was a police officer who was present who came forward to implicate his colleagues. Safir told TIME, "We are going to make sure the perpetrators ... go to jail." Giuliani's critics say the mayor's concern is too little, too late. Civil claims paid by the city to those who sue charging police brutality have risen from $13.5 million in 1992 to $32 million last year, and 90% of all police-brutality cases in New York are filed by nonwhites. Safir says civilian complaints about police in New York were actually down 20% in the first half of this year, but critics say that's because the Civilian Complaint Review Board is ineffectual; it has received more than 20,000 complaints over the past four s, but only one officer has been dismissed from the force as a result.

Clearly there's a gap in racial understanding that needs to be bridged. A 1996 Amnesty International report said that New York's populace is 57% nonwhite, but the police force is 72% white. E some cops are fed up. "For years the police department has allowed crime to concentrate and flourish in certain areas, and overnight that has changed," says Anthony Miranda, head of the Latino Officers Association. "We now have agg ve enforcement without any understanding of neighborhoods or history. We have gone from a tolerance of crime in certain areas to zero tolerance without any concern for how the neighborhoods might react. As a result, there are more serious incidents and an escalation of police aggressiveness that leads to what local areas see as harassment and escalates into brutality."

In such a situation, says Joseph McNamara, the retired police chief of San Jose, Calif., who was once a New York City police officer, "cops lose it because their authority and sense of order get challenged. They are told they are soldiers in a war. Well, in a war you get atrocities, and that's what this case appears to be."

For his part, Marvyn Kornberg, the attorney for Officer Volpe, simply says Louima was lying, not about his injuries but about how and where they occurred. "What happened to [Louima] was not a result of anything that took place in the station house," he declared, without elaboration. And he disputed any allegation of racial bias. "They don't know what they're talking about—Volpe's girlfriend is black."

Last weekend Louima was in stable condition in a New York hospital. He told a reporter for the Associated Press, "I thank God I'm still alive, and I want justice." —*Reported by Lisa McLaughlin and Elaine Rivera/New Y*



FEEDING THE FLOCK

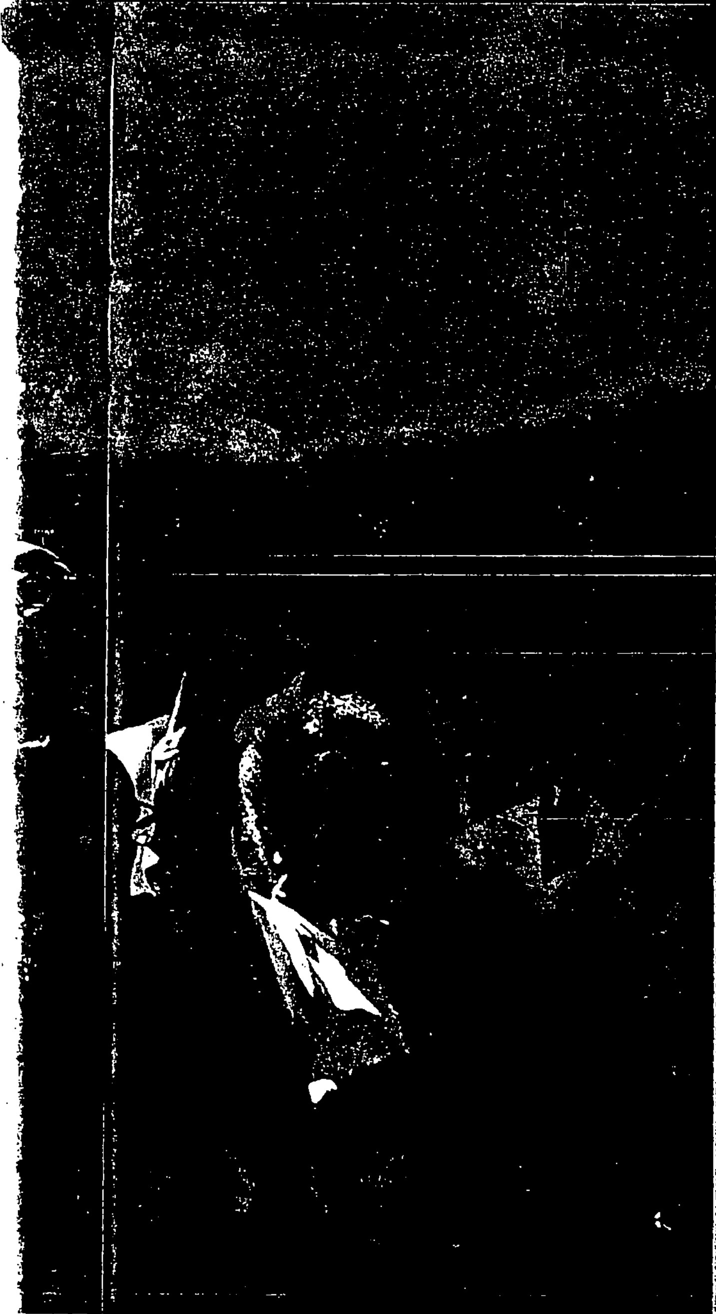
Enabled by a new law, churches step into the gap left by the failure of traditional welfare

By ADAM COHEN

DOING GOOD AT HOME: Floyd Flake

THE WAR ON POVERTY may be over, its soldiers in disarray and retreat, but the Rev. Floyd Flake, who is a departing member of Congress, seems not to have got the news. Flake's Allen African Methodist Episcopal Church in Queens, N.Y., with 9,000 members and a towering new $23 million cathedral, operates a government-funded social-services network that would be the envy of many municipal governments. The church's 30,000-sq.-ft. social-services center houses a city-funded walk-in clinic and federal Head Start classrooms at street level. On the center's second floor are a city-sponsored prenatal-counseling program for teen mothers, a state-sponsored housing and community-renewal program and offices for the federal Women, Infants and Children program. Scattered throughout the building, which is owned by the city of New York and managed by the church, are a city mental-health center and a state Stop Driving While Intoxicated program for drivers whose licenses have been suspended or revoked.

What's more remarkable, all this is only a small part of an Allen A.M.E. antipoverty empire that sprawls across a 26-block stretch of southeastern Queens. To stroll the neighborhood is to see how much can be done when Caesar begins to render unto the church. Allen A.M.E. has used federal funds to provide the community's elderly with 300 subsidized apartments in the Allen Senior Citizens Housing Complex, along with meals and recreational activities. It has transformed abandoned city-owned lots and state mortgage subsidies into 50 affordable suburban-style two-family homes. Down the street from the church is a row of storefront offices offering everything from Medicaid-funded health care for the homebound to city-sponsored psychosocial services for the mentally ill. Flake, who this month announced that he is



ROOM FOR A FEW: These seniors pay 30% of their income for one of the 300 apartments in Allen A.M.E.'s Senior Citizens Housing Complex. Vacancies are rare, and the waiting list—with candidates' ranking based on need—is long.

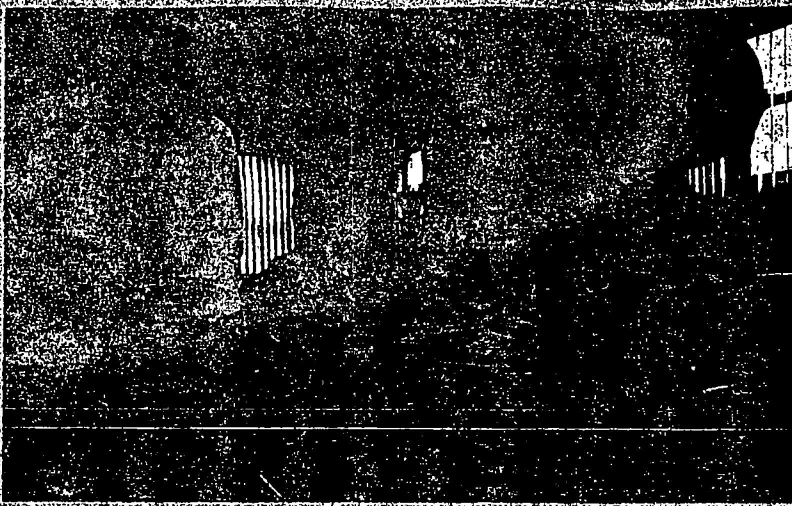
PROVIDING HOMES: Of the 50 two-family houses that make up Allen A.M.E. Hall Estates, not a single unit is owned by a member of the congregation. The suburban-style development was built on an abandoned city lot

leaving Congress to devote himself full-time to his church job, says Allen A.M.E. has "taken an urban community that by the press's definition was blighted and turned it around. The best role for government is to be a partner in that process."

The future of America's antipoverty efforts may look a lot like Allen A.M.E. As the nation wrestles with how to reform a failed welfare system, and as more than 35 million Americans continue to live below the poverty line, government is increasingly asking churches to succeed where social workers and bureaucrats handing out checks have failed. State and local welfare departments are starting up innovative partnerships with religious institutions. And a little-noticed provision in last year's welfare-reform law called "charitable choice" has opened the door for the nation's 260,000 religious congregations to take a far greater role in welfare programs: they can now solicit government funds directly rather than set up charitable subsidiaries. Supporters say the spirituality and fellowship offered by churches, combined with their community ties, provide the best hope yet of permanently turning around the lives of the poor. But critics say the new programs threaten to tear down the wall between church and state, and may actually harm the churches that participate.

The first wave of the new faith-based approach to poverty came at the state level, where some social-services departments began matching welfare recipients with participating churches. In Mississippi, Governor Kirk Fordice's Faith and Families program has paired 504 welfare families with 338 churches, which help them with everything from studying for the high school equivalency exam to honing job-interview skills. Michigan's welfare officials have hired two umbrella religious groups to work with more than 100 churches on a similar program. Welfare recipients aren't required to attend church, but the idea is that the church will provide a sense of community and a support network that a welfare office typically does not. "The people in the faith-based institutions are truly interested in the participants," says special-programs manager Christine Poulsen, who coordinates welfare recipient–church partnerships for Maryland's Anne Arundel County. "The congregation becomes a minifamily" for those enrolled. The results in Anne Arundel have been impressive: 19 of the 26 welfare recipients who went through the program are now self-supporting.

For churches, there are two advantages to the new laws. They no longer have to set up secular arms, like Allen A.M.E.'s 11 non-



DETROIT

Project Zero, launched by the state a year ago, works with religious organizations to provide mentoring and job counseling to beneficiaries like Rashad Robinson and his mother

ARLINGTON, TEXAS

Tillie Burgin, a former missionary in South Korea who directs Mission Arlington, wonders, "If we can do missions abroad, why can't we do missions in Arlington?"

profit corporations or the Roman Catholic Church's Catholic Charities, to operate government-funded programs. Nor must they strip these programs of religiosity—cover religious symbols or remove evangelical tracts from waiting rooms—to participate. To its proponents, charitable choice is simply about treating churches equally. "Just because an organization has a cross hanging in its window doesn't mean we should discriminate against it and prevent it from helping people," says Representative J.C. Watts of Oklahoma.

Supporters argue that an approach that aims at people's hearts and focuses on spiritual renewal is better at turning troubled lives around, and there's some evidence for that. "No matter how much counseling, no matter how much social work we put into someone, until we give them something spiritual to fill that void, they won't really change," says the Rev. Ralph E. Williamson, a minister on the staff of the Mecklenburg County, N.C., department of social services with 23 years' experience in the field. "I always tell people that I can't bring salvation through the department of social services." In fact, many programs that aim at life transformation—most notably the hugely successful Alcoholics Anonymous—consider belief in a higher authority a critical component of change. Studies have found that Teen Challenge, a Christianity-based residential drug-treatment program with 130 centers in the U.S. and Puerto Rico, has a 70% success rate for those who finish the program, far better than secular treatments. Of course, helping the addicted is one thing, solving the problems of the poor is another.

But traditional welfare programs have failed so badly that any new option looks attractive. Texas was the state quickest to take up the possibilities offered by charitable choice. Last December, Governor George W. Bush directed state agencies to include religious institutions in the operation of their programs. In June, Bush signed legislation clearing the way for religious organizations to provide government-funded drug treatment, day care and faith-based prison ministries. Texas is the only state to allow a private Christian group, Watergate figure Charles ("Chuck") Colson's Prison Fellowship, to operate a voluntary prison-prerelease program. Bush also proposed privatizing the state's welfare system and allowing churches in effect to act as local welfare-service agencies.

ARRANGEMENTS LIKE ALLEN A.M.E.'s, in which government funds flow through nonreligious church-affiliated corporations, are relatively uncontroversial. But critics and civil libertarians say the new programs, in which churches become agents of the welfare system, are different. Welfare recipients may soon be forced to pray in order to receive benefits, they say, or to watch religious videos while they wait to talk to their caseworker. "I'm worried we will see tax dollars being used to evangelize as well as provide social services," says the Rev. Barry Lynn, executive director of Americans United for Separation of Church and State.

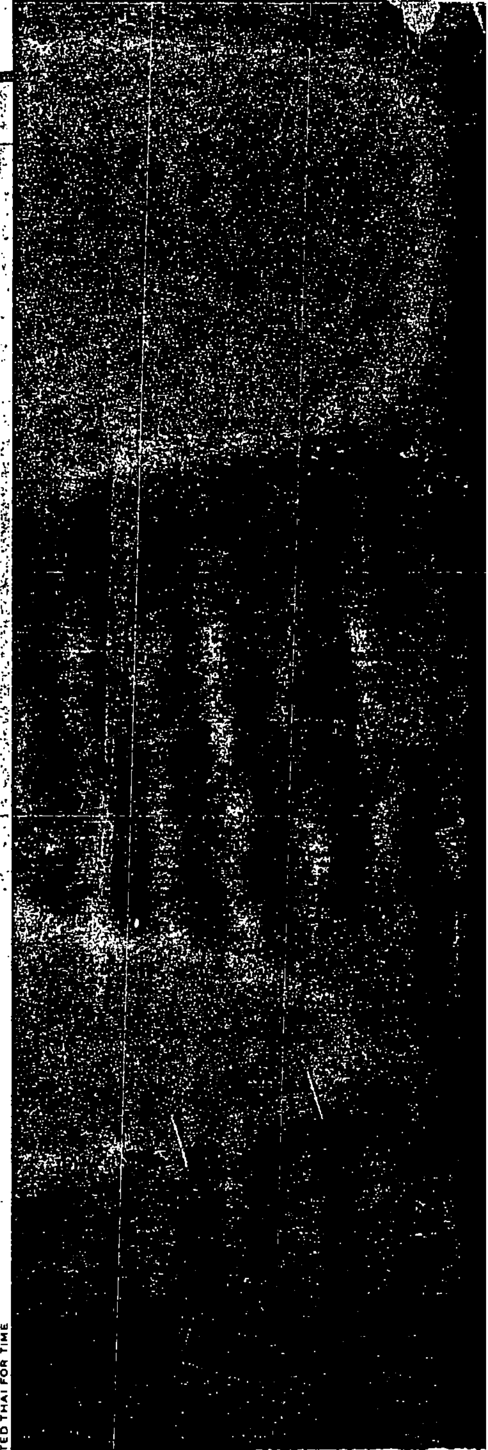
Others say that's a red herring. Catholic Charities receives more than $1 billion a year in government grants, and no one has accused it of proselytizing. Says Michael Brogioli, director of Catholic Charities' State Welfare Reform Project: "Our job is not to preach the Gospel but to live it."

But critics fret that the law may permit churches to discriminate in hiring based on religion. Inevitably, that question and others will generate litigation. "The answers will be fact-bound," says University of Southern California law professor Erwin Chemerinsky. "But there are things these programs may do that courts will say you can't do."

Some of the strongest opposition to the new programs comes from religious leaders, who are worried that the government is trying to lay the problems of the poor on the doorstep of the churches. Others fear they will be forced to water down their spiritual message and purge religious concepts like sin and God until their work begins to resemble any other bureaucratic undertaking. "The disease of compromising the message will not be felt immediately," says Phil Strickland, director of the Texas Baptist Christian Life Commission, the Southern Baptists' statewide public policy arm. "It will be like a cancer that grows in the body of the church until the health of the church is compromised." At the same time Governor Bush is encouraging Texas churches to participate in government human-services programs, Strickland is at work on a statewide mailing urging them to think twice before taking on social services. "This is going to be a huge temptation for churches," says Strickland. "But we're going to be raising the warning signals." *—With reporting by Sally B. Donnelly/Washington, Hilary Hylton/Austin and Aisha Labi/New York*

ELDERSCAM

REACH OUT AND BILK SOMEONE



TED THAI FOR TIME

Overly trusting seniors are falling victim to a sophisticated industry of slick-talking flimflam artists to the tune of nearly $40 billion a year

By GEORGE J. CHURCH

As a former real estate saleswoman, widow of a judge and mother of a prosecutor, Mary Ann Downs had far more financial and legal acumen than most aging fraud victims. Even so, con artists had little trouble scamming her out of $74,000. Why? How? Her story is a classic study in what makes fraud against elderly people, especially women, one of the biggest growth industries in America. Con men are bilking the elderly out of $40 billion a year, by one FBI estimate.

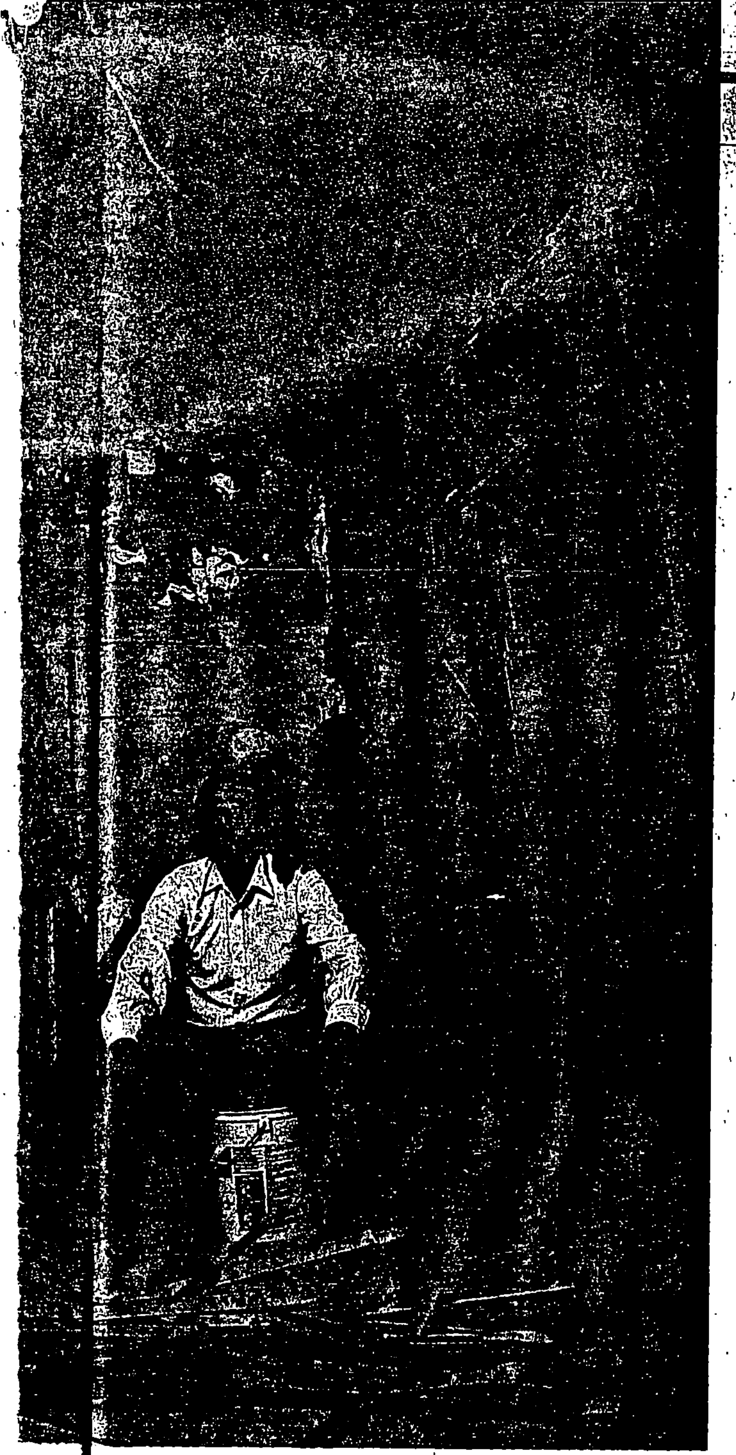
When her ordeal started, Downs was 77 and recently widowed and had just learned she had breast cancer. "I was really at the bottom of the barrel," she says. "I was living in San Antonio, Texas, where I knew no one. I guess I was lonely." Right there is a combination that screams "victim." The American Association of Retired Persons (A.A.R.P.) figures that while anyone 60 or older is likely to be on at least one "mooch" (sucker) list, a woman 75 or older is virtually guaranteed to be. Like Downs, such women are often widows, lonely and suffering from ills that make them desperate for someone to talk to.

They are also usually home at midday and available to take calls from phony telemarketers, far and away the biggest class of crooks preying on the old. Downs' first caller identified himself as Curt and spoke in the sympathetic tones that often win the trust of a senior. He commiserated with Downs over her troubles and then told her that her luck was changing: she had just won a prize worth tens of thousands of dollars. But to collect it, said Curt, she first had to buy something from a company called Professional Marketing Inc. in Las Vegas.

Downs sent a $200 check for a shipment of cosmetics. Instead of the prize, she began getting calls from other telemarketing firms—one in Utah, one in Louisiana and four more in Las Vegas. The firms belonged to a new breed of con artist, those who regularly buy and sell names for their mooch lists, at prices ranging from $10 for an untested "lead" to $200 for the name of someone who has fallen for a whole series of scams.

Downs' name must have been pricey. Chasing the ever elusive chimera of a prize, she ordered all sorts of overpriced junk: flimsy telephone-answering machines, tennis bracelets, money clips, hair spray and what was supposed to be two mink coats. "They looked like they'd been made with rat skins," says Downs. "I just put the stuff in a room and closed the door."

To this day she cannot really explain what happened. "I got into it, and I couldn't get out," she says simply. But she does admit she was terrified of telling her children. That anxiety keeps many other fraud victims falling for new scams in the hope of re-



MICHAEL MERTZ—TOM KELLER ASSOCS. FOR TIME

PROMISES, PROMISES

READ THE FINE PRINT: Elders are tempted by merchandise and come-ons from sweepstake companies that promise big prizes in return for purchases. Years of ordering left Esther Finch with a houseful and a yardful of junk goods, but nothing else. She poured upwards of $40,000 into enticing offers that led nowhere

HOME DISREPAIR

WRECKING CREWS: After tenants trashed part of their Brooklyn home, Warren and Minnie Singleton hired repairmen to spruce up their retirement nest. The workers did more damage and forced the couple to pay bribes to correct it. A salesman, meanwhile, took out wildly inflated loans in the Singletons' names, and a bank that wound up holding the debt is demanding that they pay up

placing some of the lost money so their sons and daughters will never know. Says Shelly Feldman, president of a Florida fraud-fighting organization called Senior Sleuths: "They're afraid their kids will say they can't handle their finances and they'll be put in a nursing home."

For Downs, the secret finally came out when she gave her 19 children and grandchildren shoe boxes stuffed with nearly identical collections of telescam trash. "We considered taking her checkbook away," says daughter Penelope Clute, a prosecuting attorney in New York State. "Fortunately, we didn't do that. It wasn't her. It could happen to anyone. [The scammers] are criminals, and they have the psychology down pat." Even after her secret was out, Downs could not give up hope of recouping some losses. A few weeks later, she called her children to report, with great relief, that at long last she really had won something: two luxury cars. "Of course that was another layer of the scam," says Clute.

Not, however, the last layer. That is a fraud called "recovery room," reserved for victims who have finally vowed not to be scammed again. In this case, after Downs had moved to Raleigh, N.C., and taken an unlisted phone number, she got a call from a man who gave his name as Virgil Hastings. He said he was a lawyer working for a federal court in California that had impounded the funds of the telemarketers who had fleeced Downs. The court, he said, was ready to return her $74,000—but first she had to send a $950 fee to a Philip Slattery in Livermore, Calif. Downs sent it. The next day, "Hastings" called again and said he would need an additional $1,000 fee before her money could be released. "It seemed such a small amount compared to $74,000," says Downs, that she sent it too. Only then did the scamming stop. Downs never got any money back, of course, but at least she never heard from Hastings again.

That was in March 1993, and Downs has since begun to heal financially and emotionally, in part by giving warning lectures to senior audiences. Other victims have been less fortunate. Some have plunged into such despair that they have lost their will to live. "We have had people tell us they were close to suicide," says Susan Somers, an assistant attorney general in New York State.

Several characteristics make seniors today especially vulnerable. They usually have some money from Social Security and employer pensions, IRA or 401(k) savings, and, if they are widows, the proceeds of their late husband's life insurance. (Con artists avidly read obituary pages to spot new widows' names.) But the seniors know that they are likely to live much longer than their predecessors—maybe long enough to use up their nest egg. And many are fiercely determined never to become a burden to their kids. Sadly, that combination makes them easy prey for phony investment schemes.

"I wanted the kids to be proud of me, wanted to increase my nest egg," says Ruth Crosson, 79, of Golden, Colo. She pooled her life savings with money borrowed on an insurance policy and turned over $100,000 to Richard O'Donnell, an insurance agent who had vowed after the death of her husband 10 years earlier that Crosson would be taken care of. Over the years, O'Donnell told Crosson and 17 other victims that he would invest their money in insurance ventures that would pay them dividends of 13% a year. Actually, he was running a Ponzi scheme, using money from new victims to make payments—briefly—to earlier ones. O'Donnell was sentenced last month to 16 years in

JEFF KIDA FOR TIME

CHOOSING TO FIGHT BACK

"THEY LIED": After Microtel fleeced Willis Duryea, he joined with Arizona state officials to run to ground and punish the promoters of the wireless cable scheme

CHRIS RAINIER FOR TIME

prison after a jury in Denver convicted him on 30 counts of theft, securities fraud and racketeering. Crosson got no money back and must now work to supplement a meager pension. She watches over the houses and pets of absent homeowners in Evergreen, a wealthy suburb of Denver.

Seniors today are undermined by admirable traits. Says Bruce Gebhardt, who heads the FBI office in Phoenix, Ariz.: "They grew up in a more polite age, and they can't hang up the phone." Or slam a door in a con artist's face. Many are trusting to a fault: they cannot believe that well-dressed, well-spoken, solicitous young men can be ripping them off.

Thus Evelyn Anderson, 82, a resident of the mammoth Sun City retirement community outside Phoenix, paid an astonishing $10,562 last year to a repairman who fixed some sprinklers and, while at it, wangled a loan with a phony sob story. "I felt sorry for him, going through a divorce and all that," says Anderson.

Dorothea Coleman, 90, also of Sun City, trusted, among other scammers, a man from Las Vegas who represented himself as a minister and talked her into giving him $36,000 for an apparently nonexistent children's home. "I was stupid," she says. But then, like many elderly women, she had never learned how to handle money. In her younger days, wives left all financial decisions to their husbands. Her spouse, a lawyer who died in 1988, "would have known better," says Coleman. "He always warned me, 'Somebody will try to get your money.' And they did."

Peddlers of phony investment schemes often troll for prospects by visiting churches, country clubs or senior-citizen centers, says Tallahassee, Fla., comptroller Robert Milligan. (Not only in Florida, either. The Olive Branch Center in Sun City has had to institute tight screening provisions to keep con artists out of its weekly meetings.) The scammers often perform a legitimate service, such as income-tax preparation, to win

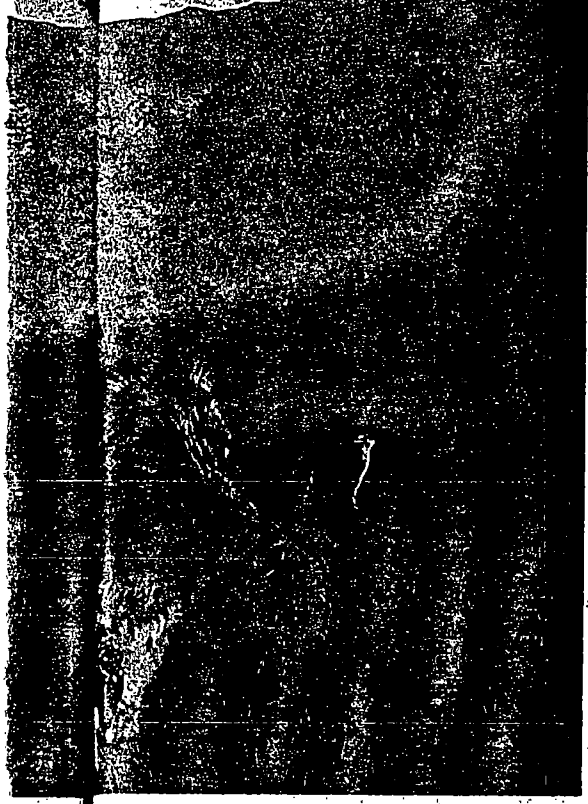
MARK RICHARDS—CONTACT FOR TIME

the confidence of an elderly customer before pitching a fraudulent investment.

Telemarketers work differently. They are a fraternity of sorts, says Somers. "There are certain bars in Las Vegas where they are known to hang out." Their shops are a kind of floating network of operations that start up, close and reopen on an instant's notice. When active, they run at a true boiler-room pace. One operation busted by federal agents in Phoenix year had been logging 3,000 calls a day on just four phone lines.

The telemarketers rarely call victims in their own state. Calling across state lines or from Canada helps them elude prosecution because caller and victim are in different jurisdictions. In the bigger boiler rooms, jobs are specialized. "Fronters" make the initial call, working from lists of entrants into legitimate prize contests or from obituaries, or sometimes just looking through phone books for "elderly-sounding" names like Viola or Henrietta. The Sun City phone book is a scam artist's bible because it lists hometowns and former occupations of seniors. "Closers"

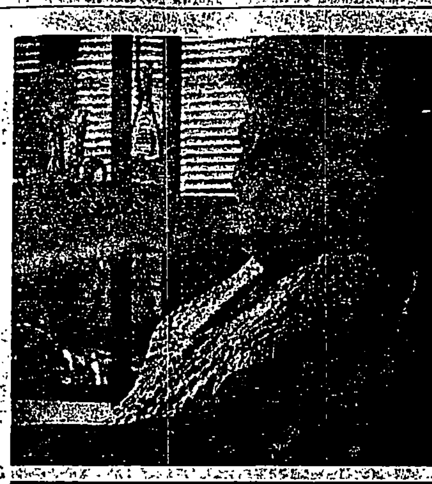
SENIOR SLEUTH: Shelly Fel , president of the Florida-based group, dispatches undercover workers, many adventurous retirees, to expose telemarketing fraud and other types of scams



TRUSTING IN A CON MAN

TWILIGHT YEARS GONE SOUR: Insurance agent Richard O'Donnell, below, promised Ruth Crosson, left, that he would see to it that her financial future would be taken care of. In truth, he was running a Ponzi scheme that ultimately defrauded her and 17 others. O'Donnell has since been convicted and sentenced to 16 years in prison. But for Crosson, 79, that's small comfort. She lost a life's savings—$100,000—and now she ekes out a meager living by tending to the houses and pets of absentee homeowners in the Denver suburb of Evergreen

DENVER POLICE DEPARTMENT



STEVE EGAN FOR TIME

DON'T BE TAKEN LIKE ME

BEWARE OF TROJAN HORSES: Many older people grew up in a more trusting age and can't believe that well-spoken, solicitous young men can be ripping them off. A series of sweet-talking con men persuaded Mary Ann Downs to part with $74,000. "I got into it, and I couldn't get out," she says—and was terrified of telling her children. Sobered by the ordeal, Downs now speaks to seniors groups of her costly experience

make follow-up calls to likely marks; "reload men" make them to victims who have succumbed to previous scams. "No-sales men" make a pitch to the suspicious.

Some of the boiler rooms are specialized, peddling only phony prizes, perhaps, or fraudulent investments or fake charities. Two subspecialty operations are the "recovery room" and the "badge room." The latter is staffed by callers who pretend to be raising money for families of slain police officers, firefighters or other related (and fake) charities. American Eagle Advertising, which employed 60 solicitors in boiler rooms in Arizona and Georgia, raked in more than $9 million in two years of operation, according to a 67-count federal indictment unsealed in June. Reload men and "recovery room" specialists individually can make in excess of $300,000 a year.

Elderly residents are sometimes the target of home-repair scams. "These people are cash poor but real estate rich," says Frederick Arriaga, a lawyer with Legal Aid in New York. Their houses, however, may be old and in need of repair. One three-story row house in Brooklyn, N.Y., was bought for $25,000 in 1968 by Warren Singleton, a safety officer at a public school, and his wife Minnie, a health-care assistant. They hoped it would yield enough rental income to support their retirement. After bad tenants just about wrecked the two top floors, Minnie responded to an advertising brochure and phoned a company that sent over a white salesman who called himself Tony. He got the couple to sign a work sheet calling for repairs that he figured would cost $9,000—plus $10,000 in "financing"—to be paid off in monthly installments. The workmen who showed up did additional damage, then demanded cash bribes—$400 in one case—to fix it. Meanwhile, the Singletons' signatures had mysteriously multiplied on mortgage contracts, and the $19,000 became $53,000. The finance company then sold the mortgage to Hempstead Bank. It is now held by Fleet Bank, which contends it has no responsibility for any fraud that was committed before it purchased the contract. The house looks as if it took a direct hit from a bomb, Tony has disappeared, and his company is out of business. Warren Singleton has been disabled by two strokes, and his wife, at 71, has had to take a job as a 24-hour nurse and caretaker for a still older woman in order to keep up the mortgage payments.

EFFORTS TO PROTECT THE ELDERLY ARE picking up. Senior Sleuths, formed in 1989 by the Florida attorney general's office, deploys 550 people in sting operations to gather evidence against scammers. A.A.R.P. has mounted a reverse boiler-room operation in several states. It phones seniors to warn them that their names appear on mooch lists confiscated by police.

State and local authorities are attempting to step up prosecutions of con artists and are joining A.A.R.P. and other organizations in distributing to the aged tips on how they can avoid being conned. Most of the advice seems rather elementary: Don't deal with anyone who demands that a certified check be put in the mail immediately; insist that dubious propositions be put in writing; above all, just hang up on an overly unctuous phone caller. For those who cannot bring themselves to be so rude, Somers has a softer tip: Ask the caller to hold on because someone is ringing the doorbell—and then walk away for a good long time.

Prosecuting the frauds, however, is difficult. Often there are no witnesses to a phone con except the scammer and the victim. The rare con artists who are convicted seldom get sentences anywhere near as long as O'Donnell's 16 years. Far more typical are the prison terms of one to three years imposed on operators of one New York State pyramid scheme. The House in July passed a telemarketing-fraud bill that for the first time sets minimum jail terms for federal convictions. But the minimum will be only six months, or 15 months if the victim is over 55.

Fraud fighters offer this faint cheer: the baby boomers now entering their 50s are more skeptical than their parents. So maybe when they retire, fraud against the elderly will at last become tougher to perpetrate. Maybe. ***—Reported by Gregory Aunapu/Miami, William Dowell/New York, Chandrani Ghosh/Washington and Richard Woodbury/Phoenix***

Spare the Rod? Maybe

A study indicates a halt to spanking could reduce the national level of violence; critics are doubtful

By MICHAEL D. LEMONICK

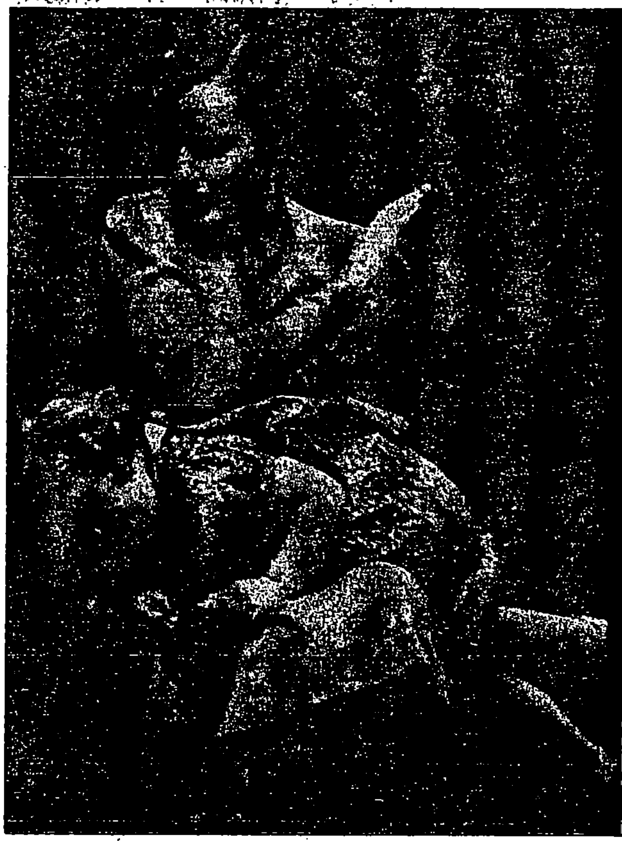
ONE OF THE TOUGHEST PARTS OF PARenting is the seemingly endless series of decisions you have to make. Breast-feeding or formula? Cloth or disposable? Day care or the mommy track? It is not as though there is an absolute right answer to any of these questions—yet parents often feel the wrong choice could be disastrous. That is especially true when it comes to spanking. Every parent has been in a situation where a whack on the rear seems like the only recourse to little Janie's or Johnny's tantrum. But at least since the 1960s, the conventional wisdom propounded by parenting gurus has been that hitting is generally unwise because it sends a message that violence is an acceptable way to solve disputes.

Now comes a scientific study that frames the issue in larger societal terms. Writing in the journal *Archives of Pediatric and Adolescent Medicine,* University of New Hampshire sociologist Murray Straus and his colleagues report that "when parents use corporal punishment to reduce [antisocial behavior], the long-term effect tends to be the opposite." Not only that—the authors suggest that if you spare the rod, you will help reduce the overall level of violence in American society.

Straus' study, first presented at a conference in 1994 and now appearing in formal publication with a more careful analysis of the data, is highly controversial. It may prove something, say critics, but not what Straus thinks it does.

The problem has to do with who was in the study. Straus and company culled their information from telephone interviews conducted by the U.S. Bureau of Labor Statistics beginning in 1979 with 807 mothers of children ages 6 to 9. They were asked how many times they had spanked their children in the past week and what the kids' behavior was like—did they lie, cheat, act up in school? Then the bureau polled the same group two years later. Sure enough, the kids who had been spanked had become increasingly antisocial.

But when you look a little closer at these findings, they start to seem a bit murky. To begin with, observes Dr. Den Trumbull, a Montgomery, Ala., pediatrician who is vocal in the spanking debate, the mothers ranged in age from 14 to 21. That is hardly a representative slice of American motherhood. Moreover, those who spanked did so on average twice a week. These factors, says Trumbull, plus the fact that some of the kids were as old as nine, "are markers of a dysfunctional family in my mind, and in the minds of most psychologists and pediatricians."



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BAD OLD DAYS? Not necessarily. In certain situations, say many pediatricians, a whack on the bottom may be good parenting

Trumbull also observes that limiting the study to 6-to-9 year-olds skewed the results: by then kids can understand the consequences of their actions. For them frequent physical punishment is likely to be humiliating and traumatic—and might well lead to worse behavior down the line.

Straus disagrees. He writes, "It is plausible to argue that [corporal punishment] of toddlers will have a greater effect [than it does on older kids] because it occurs at a crucial developmental stage."

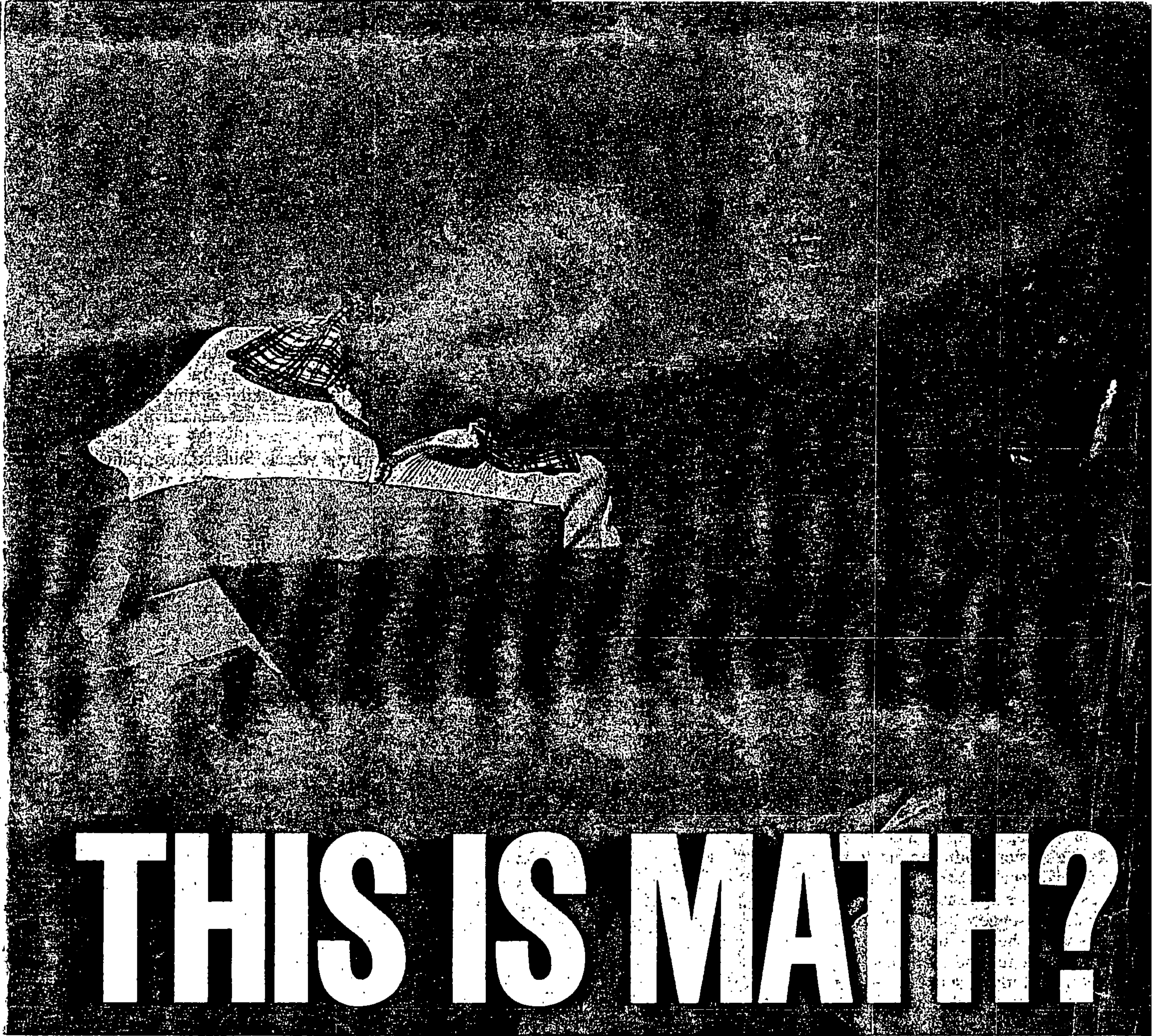
Plausible to Straus, anyway. According to Trumbull, more sophisticated studies have consistently shown that corporal punishment is effective and not harmful to long-term development if it is confined to youngsters between 18 months and 6 years. Younger children have a poor understanding of the consequences of their behavior. If inappropriate behavior gets out of hand—especially if it poses a danger to the child or to others—a smack on the bottom may be the only way to control it.

Trumbull, a pro-spanking partisan, adds that he favors corporal punishment only as a last resort, after putting a child on time out—a few minutes of inactivity—then warning him or her that the next miscue will bring a whack. Still, he says, punishment should be limited to one or two mild slaps on the buttocks. His views are widely shared. More than two-thirds of pediatricians in recent polls approved parental spanking in certain situations.

"The usual example," says child-abuse authority Mary Ann Mason, who teaches a course on Children and the Law at the University of California, Berkeley, "is when a kid races across the street in front of a car. The slap literally imprints on him the need for safety. No one would consider that child abuse."

It is the legitimate fear of child abuse that Trumbull believes is largely behind the anti-spanking movement. The backlash started in the 1960s, he says, with the advent of more permissive parenting. But in the past decade or so, a shocking rise in child-abuse cases has had public-health officials scrambling for an explanation. Blaming spanking made sense; the notion that violence begets violence has a certain touchy-feely logic. Besides, most parents feel terrible after spanking their kids. What better reason to cut it out?

Trouble is, while spanking is down, child abuse is still up. It appears that well-meaning professionals have been using the wrong whipping boy—and Straus' study offers little reason to change that assessment. *—Reported by Alice Park/New York and Jacqueline Savaiano/Los Angeles*



THIS IS MATH?

By ROMESH RATNESAR

It is math time for the fifth-graders at Fernangeles Elementary School in Sun Valley, Calif., and everyone is stumped. The students have spent close to an hour puzzling over the question at hand: "What if everybody here had to shake hands with everyone else? How many handshakes would that take?" While the children, seated in small groups, debate and frown and scribble notes—and devise alternatives to the dread act of actually touching classmates of the opposite sex—their teacher, Kathy Pullman, roams the room. When the hour ends, no group has an answer. "This happens to be a particularly difficult lesson," Pullman says, unfazed. The class will dive in again after lunch.

To peer into Pullman's classroom is to glimpse why math has once again become a battleground in America's education wars. This school year, nearly half of all American elementary students are expected to learn math the way children do at Fernangeles Elementary: not in neat rows of desks, repeating times tables and memorizing theorems, but through trial-and-error problem solving, often in groups with little direct instruction and almost always with a calculator nearby. Advocates call it "interactive" or "inventive" math and insist that it sets American schoolchildren on the way to becoming "mathematically powerful."

When opponents of these currents are being polite, they call that kind of talk nonsense. And they have labels of their own. One is "whole math," a pejorative reference to "whole language," the controversial method of reading that emphasizes learning entire words and phrases over mastering phonics. Another is "new-new math," recalling the ill-fated New Math fad of the 1960s and '70s, which introduced millions of students to math arcana like set theory and congruences. (Remember those? Didn't think so.)

Resistance has resulted in pitched battles at school-board hearings and within academia over the future of U.S. math education. Educational scholar E.D. Hirsch Jr. says opposition to the newest math is "suddenly making people wake up and say, It doesn't work, it doesn't comport with reliable theories, and we're making a mistake."

It all started in 1989, when the National Council of Teachers of Mathematics, in response to the consistently poor math scores of U.S. children, issued new standards over-

Suddenly, math becomes fun and games. But are the kids really learning anything?

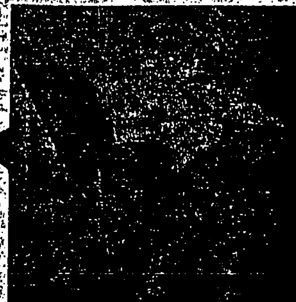
AXEL KOESTER—SYGMA FOR TIME

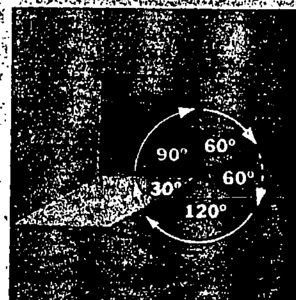
hauling math education. Out went the stalwarts of traditional math: the rote memorization drills, the droning chalkboard lectures. In came the cool stuff: calculators and geoboards, hands-on, open-ended problems, exercises that encourage kids to discover their own route to the right answer. "The standards emphasized that you had to pay attention to how kids think," says Gail Burrill, president of the council.

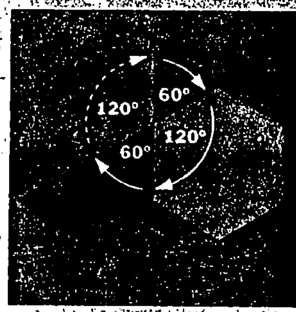
Eight years later, 40 states have instituted some "standards-based" math programs in their schools, and the National Science Foundation spends $10 million a year on development of comprehensive instructional materials. California has become a leader: one cutting-edge curriculum called MathLand is used, its publishers claim, in 60% of the state's K-6 classrooms—including those in Fernangeles, where MathLand is taught in both English and Spanish. It even has its own Website: *192.216.191.114/*. "These kids will be better problem solvers," says Pullman. "They will think more."

But talk to opponents—including newly aroused parents—and you'll hear horror stories of reformers dumping the most basic algorithms, or first-graders turning to a calculator to subtract 4 from 6, or "math" textbooks featuring lessons on endangered species and the Dogon people of West Africa. "Whole math," says molecular biologist Michael McKeown, "means less material covered in less depth with less rigor." Early last year, McKeown co-founded Mathematically Correct, a Website based in San Diego (*ourworld.compuserve.com/homepages/mathman/*) that has become the nerve center for the counterinsurgency. Here parents like Marianne Jennings of Mesa, Ariz., share dispatches from the front. Not long ago, Jennings watched her daughter Sarah, a straight-A algebra student, reach for a calculator to find 10% of 470. "It made my blood boil," says Jennings. In response, she and other parents pressured the school district to offer traditional math as a choice.

Similar small-scale revolts have erupted from San Diego to Sonoma Valley, and the state board of education is expected soon to release a new, more traditional math framework for California schools. Meanwhile, McKeown and whole-math detractors like Lynne Cheney, a senior fellow at the American Enterprise Institute, darkly warn that President Clinton's voluntary national test for eighth-graders, set for 1999, is being used to promote a whole-math agenda. Says Cheney: "Every single member appointed to the math [exam's] panel is a whole-math advocate." Department of Education officials bristle at the charge, saying the exam will test both fundamental math skills and high-order problem solving.







JOHN MEYER FOR TIME (3)

HANDS ON In this fifth-grade exercise, students arrange the colored tiles into patterns and deduce the value of the missing angle. In this way, they are introduced to the fundamentals of geometry and refine their spatial-visualization skills

Is whole math really that bad? Few question the reformers' motives: to inject some much needed juice into American math education. But though the approach can certainly stimulate kids, it can just as easily leave them adrift. While the fifth-graders at Fernangeles were mulling over their handshake problem, a nearby fourth-grade class was fiddling with green and red tiles, trying to figure out how many green gates fitted into how many sections of red fence. "If there were 48 green doors," the teacher implored, "how many red fences do we need?" After a few minutes, one student incorrectly ventured, "Eighty." A few others tapped their calculators, with little success, and after 20 minutes, the solution seemed no nearer.

Of course, the most convincing defense of whole math would be evidence that it works. In a few states that have emphasized new-new math, such as Connecticut, there are early indicators of improved student performance. Critics in California, on the other hand, point to test scores in cities like Santa Barbara and Palo Alto that show at least temporary drop-offs after whole math has been introduced. One thing's certain: lukewarm results won't cut it. In the most recent worldwide comparison, the Third International Mathematics and Science Study, U.S. eighth-graders fell below the international average and miles behind Singapore, Korea and Japan.

Be patient, advocates argue. Says Thomas Romberg, a University of Wisconsin professor who helped write the revolutionary 1989 math standards: "We knew there needed to be a fair amount of research and teacher training. We knew it would take 20 or 25 years to pull this off." Parents whose 12-year-olds still can't count on their fingers may not want to wait that long. *—**Reported by Melissa August/Washington, Margot Hornblower/Sun Valley and Elizabeth Rudulph/New York***