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Democracy Behind Doors

ENCODED DEMOCRACY Irony and open government seem to be dead at the secretary of state's office. On January 7 and 8, a special advisory group to the SOS met secretly to test the reliability of several controversial touch-screen voting systems. The SOS found no problem with a committee whose mission is to ensure open and free elections meeting behind closed doors, walled away from the public.

The Texas ACLU and Consumers Union felt otherwise. They view the election panel's secret meetings as a blatant violation of the Texas Open Meetings Act. The advocacy groups are lobbying the secretary of state to not only open all future meetings (the advisory group meets quarterly) but also to release video tapes of past meetings. The six-member advisory group consists of officials from the secretary of state, attorney general's office, and the private sector. Its mission is to examine voting systems to determine whether they're fit for use in Texas elections. The panel then recommends to the SOS which systems should be certified for county use. (Each county chooses its own voting system but can pick only from the state-certified list.)

Two of the systems currently under examination are attracting controversy. Both are products of companies with close ties to the Republican Party (Diebold and Electronic Systems & Software), and several studies have documented glaring security flaws in both systems.

Officials with the secretary of state's office justify the secrecy around the advisory group as the only way to protect the companies' proprietary information. That's a flimsy excuse, says Consumers Union's Kathy Mitchell.

She contends that the election panel meets the definition of a government advisory group, which, under Texas law, can't meet in secret. She adds that it's unlikely anyone could glean proprietary information from the meetings. None of the sensitive documents are handed out. And if the voting machine's code is so simple that you could decipher it merely by listening to discussions at a meeting, then we're in a lot more trouble than we thought.

THE RADICAL RIGHT AT PLAY During two days of panel discussions in the well-appointed seclusion of the Driskill Hotel in downtown Austin late last month, conservative elites waxed frolicsome over the future. Ensclosed in a friendly, supportive environment, they gleefully joked and cheered their way to pre-

ordained conclusions with a minimum of the sanctimony they often display when out in the general population. At the Second Annual Policy Orientation for the Texas Legislature, they could simply be themselves.

The event's host, the Texas Public Policy Foundation, boasts that it provides the "intellectual ammunition" for the Republican revolution underway. To try and fill the ammo clips, it brought many of the most powerful policymakers in the Capitol—from the governor to House and Senate committee chairs—together with that important conservative subspecies, the expert-for-hire. Thrown in as well, apparently for sport, were a couple of token liberals. (The alpha conservative in the pack, Grover Norquist, president of Americans for Tax Reform, demonstrated how to play with prey when he referred to respected economist Dick Lavine as "the Bolshevik on the panel.") Beginning on the afternoon of January 28, and ending about 26 hours later, the conference managed to touch on public education, water policy, transportation, health care, telecommunications, insurance, and relief from asbestos lawsuits.

Norquist set the tone in the first session entitled "Taxing Texans," moderated by fellow earth-scorcher Rep. Kent Grusendorf (R-Arlington). The Washington, D.C.-based Norquist is a key element in the bedrock of today's radical conservatism. He is a top domestic consigliere to the Bush Administration and Republican leaders like U.S. House Majority Leader Tom DeLay (R-Sugar Land). In his presentation, Norquist cheerfully called for the repeal of all state taxes, in the name of "fairness."

"Let me say that there are no good taxes," Norquist told the delighted crowd. "Taxes are when you take money from people who earned it and give it to people who didn't earn it."

He urged the rejection of proposals to fix Texas' school finance problem by shifting property tax burdens onto sales tax or business. "It's like if you've got a dirty house and you just shift the dust around and move it under the bed," he explained. "You've still got a dusty house."

Um... thanks Grover.

The final two panels of the afternoon—"Public Education Spending" and "Choice in Education?"—continued with this impenetrable thicket of questionable thinking. Ohio University economics professor Richard Vedder, a player in the cottage industry created to dismantle public education, did

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triple duty on all three of the day's discussions. Vedder echoed Governor Rick Perry in his belief that Texas already spends too much on schools. A few proposals to rectify that fictional problem involve having public school students pay tuition fees for "elective" classes like art and foreign policy; collapsing rural school districts; and just plain privatizing the dang thing.

On the eve of a possible school finance special session, which Perry could call as soon as April, it's no surprise that the TPPF would put vouchers and eviscerating public education front and center. Could another motivator be that right wing Texas funder James Leininger is the founder of the TPPF? Leininger also gave millions to create a hard-right majority in the Texas House. Yet, unlike most all of the

major contributors to that effort, Leininger's wish—a voucher system imposed on the state of Texas—is still pending.

The big business component of the new Republican majority in Texas was never far away at the conference, and with it came an implicit question: Where is the line between an orgy of self-interest and ideological principle? Some of the sponsors with recent business before the Lege were Philip Morris (sin taxes to pay for education), Louis Beecherl (lawsuit reform), Koch Industries (pipelines), Big Insurance (stymieing rate reductions), and SBC (telecommunication deregulation).

The first panel on day two of the conference was titled "Water for the 21st Century." And while more balanced than other sessions, it involved a somewhat skewed discussion of the

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benefits of privatization. T. Boone Pickens' company Mesa Waters gave a generous donation to TPPF to put on the affair. T. Boone was also kind enough to give \$25,000 to House Speaker Tom Craddick's campaign fund last year, despite the speaker's lack of opposition. Coincidentally, T. Boone wants to market water and he's going to need state officials to do it.

Wendell Cox is a senior fellow with TPPF. The *Atlanta Journal-Constitution* dubbed Cox "the sprawl apologist" for his paid efforts to defeat local public transportation initiatives, which he apparently does all over the country. Cox anchored the transportation seminar along with moderator and chairman of the House Transportation Committee, Rep. Mike Krusee (R-Round Rock). Both men spoke as if in perfect mind-meld with the campaign sugar daddies from the highway contractor and homebuilder sets.

Cox believes more toll roads need to come to Texas, and fast. Public transportation on the other hand must be fought to a standstill. If the definition of insanity is doing the same thing over and over and expecting a different result, Cox should probably have himself checked out. "All those politicians who say we can't build our way out of our transportation problems, that's our only choice," he asserts.

Asbestos "reform" was one of the only crumbs left on the table after the 78th Legislative Session. Poor put-upon companies find themselves doling out millions in damages, as more people get sick and die from the long-term effects of asbestos. A bill to put a stop to this sponsored by Sen. Kyle Janek (R-Houston), was foiled by a compromise measure proposed by fellow Republican Sen. John Carona of Dallas. Carona's bill "was basically garbage" says Janek, who moderated the TPPF panel on the subject, and vowed his bill would pass soon. And while he may be right, other TPPF priorities without broad popular support like school finance "fixes" or privatizing water, might be more difficult to achieve. After that, the TPPF could find itself with nothing but blanks and empty shell casings.

PLANTING A SEED If you're severely mentally ill in Texas, it's likely you will, at some point, end up in prison. An estimated 150,000 Texas inmates and parolees have serious mental illness, as do nearly half the children in the juvenile justice system (See "Out of Service," March 28, 2003). That is the result of not only a tattered public mental health network, but a criminal justice system ill-equipped to handle the special needs of defendants with mental illness.

Despite this dire situation, there are a few hopeful signs—small, underfunded new programs that might help the state slow an alarming trend. In El Paso, the public defender's office will soon receive a state grant to hire a specially trained attorney and several social workers, who will represent only defendants with mental illness. El Paso officials believe this will be the first program of its kind in Texas, and perhaps the southwest. It could have a large effect. The El Paso public defender's office estimates that 12 to 15 percent of the roughly 2,000 city jail inmates have a serious mental illness. These cases require special care. But sadly, too often, public defenders don't recognize when their clients have a mental illness, and the cases are shuffled through the system without judges, prosecutors, or anyone else examining the defendants' mental health.

"You can see the people with more knowledge of the issues are able to guide people through the system better," said William Cox, first assistant public defender in El Paso. Cox hopes the program will handle 300 cases a year, and provide much more comprehensive legal representation for defendants with mental illness, if not keep them out of jail entirely.

Similarly, Travis County officials have created a committee to explore their own mental health public defender's office in Austin. Since Travis County lacks a public defender's office for adults, the program would be a free-standing department handling only defendants with mental illness. That would be one of the first such offices in the country. In Dallas County, the public defender's office is also planning a mental illness division.

Attorneys with Texas Appleseed, an advocacy group helping to coordinate these efforts, hope that within five years every major metropolitan public defender's office in the state will have a mental illness division. That would put Texas on the path toward actually caring for its mentally ill citizens instead of locking them up. ■

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