

BALANCE SHEET

Assets

Jaw, Jaw. George Will, George Mitchell, Les Aspin, and Pat Buchanan agree: Before the United States launches an offensive against Iraq, Congress should discuss it. George Bush hesitates, fearing criticism in an open debate. But in a protracted or bloody campaign, naysayers will swoop down on Washington. Congress dodged responsibility for U.S. military policy in Vietnam. Will today's legislators hang tough if they face the critics' ire?



Giant Step. Voters in Santa Clara County, California, turn down tax measures to fund a new stadium for the San Francisco Giants. Fed up with aging Candlestick Park, franchise owner Bob Lurie may move the team out of the Bay Area. (See "Field of Dreams," May 1990.) Meanwhile, 49ers owner Eddie DeBartolo wants to buy the Giants and privately build his own stadium for both teams.

Labor Camp. No longer do prison inmates pay their debts to society by stamping out license plates. In Petersburg, Virginia, federal prisoners earn money assembling spare parts for the military. Nearly 14,000 inmates produce goods for federal agencies as employees of Unicor, the government's prison-factory corporation. The idea's going national: A California initiative sets up a similar system for state prisoners.

Perfect Landing. The easiest way to break gridlock at airports is to add gates and runways. The new budget permits passenger facility charges—user fees of no more than \$3.00 that an airport can add to each ticket sold. Unlike current federal ticket taxes, the money won't go to the Treasury Department. It has to be spent at the airport where it's collected. Score one for the new federalism.

Liabilities

McGarbage. McDonald's decides to replace polystyrene food containers with coated paper. Environmentalists and the media go wild. But wait a minute: Polystyrene recycles more easily than coated paper and takes less energy to produce. That's why McDonald's went poly in 1975. But coated paper *is* cheaper than polystyrene. Don't dye Ronald's wig green yet.

Choice Cuts. The Educational Choice Initiative loses big in Oregon. And in Wisconsin, a state court throws out the Milwaukee voucher program. (See Trends, July 1990, and "Champion of Choice," Oct. 1990.) The Wisconsin ruling is technical, though—the voucher bill was illegally attached to a spending resolution. An appeal (or a new vote in the legislature) might save the program.

Wall Hanging. If you buy a work of art, you no longer own it. Congress passes the Kennedy-Kastenmeier artists' rights bill. Civil fines will penalize "unauthorized mutilation" of paintings, sculptures, some photographs—and possibly colorized movies. Also, muralists Elaine Yoneoka and Paul Goodnight win lawsuits seeking protection for their works after they've sold them. (See "Postmodern Art Laws," May 1990.) Woodman, spare that wall!

Unconscious Objectors. The all-volunteer armed forces face a new problem in the Persian Gulf: conscientious objectors. *Mother Jones* defends a Marine supply clerk who refused to go to Saudi Arabia. Listen up, maggots! The Marine Corps is neither a travel agency nor a welfare program for college students. Joining the Marines implies doing that shooting thing. Where's Louis Gossett, Jr., when you need him?

—Rick Henderson

Wiseguys

Most of us can tell the difference between Ralston Purina Co. and the Mafia. Between Adolph Coors Co. and the Yakuza. Unfortunately for Purina and Coors, some lawyers can't tell the difference.

Purina and Coors—along with Mobil Corp., Perrier Group, Prudential Insurance Co., and a number of other national companies—have recently seen false-advertising claims grow into racketeering suits.

For plaintiffs' attorneys, a win under the federal racketeering statute (RICO) promises a more lucrative reward than standard false-advertising claims. RICO mandates treble damages plus attorney's fees. To turn a false-advertising claim into a RICO suit, plaintiffs usually contend that



the company also violated federal wire and mail fraud statutes. Often the mere use of the mail or telephones to develop and sell fraudulent ads is considered a violation. But some judges are skeptical of such claims. In 1989, a Philadelphia federal judge dismissed the RICO charges in a false-advertising suit against Suzuki.

If a judge allows RICO actions to proceed, companies tend to settle out of court rather than risk conviction under RICO. "The word *racketeering* is an enormously serious stigma," says Dan Jaffe, executive vice president of the Association of National Advertisers.

Advertising Age reports that last year Ralston Purina agreed to a \$680,000 settlement rather than risk a guilty verdict under RICO. In separate false advertising-based cases, Norelco settled for \$2.5 million and Beech-Nut for \$5 million rather than risk RICO.

—Charles Oliver

Pot Shots

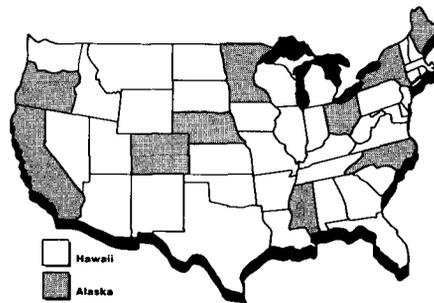
Bill Bennett is gone, but his spirit of intolerance lives on. Alaska recently recriminalized marijuana possession, and Congress has passed a law intended to ensure that other states follow suit.

Last November, Alaska voters approved an initiative that establishes a penalty of up to 90 days in jail and a \$1,000 fine for minor pot possession. Possession of up to four ounces of marijuana for personal consumption in the home had been legal since 1975, when the Alaska Supreme Court ruled that the state constitution's privacy clause protects such pot use. That decision hinged on expert testimony that marijuana is a relatively innocuous drug.

Opponents plan to test the new law soon after it goes into effect on February 4. "The facts on marijuana have not

changed in 15 years," says Glenda Straube, campaign manager of Alaskans for Privacy. The initiative, she says, succeeded because of vague, generalized fears about illegal drugs. (The measure got 55 percent of the vote—a solid victory margin, but hardly indicative of a consensus.)

Even if the initiative is overturned, the legislatures in Alaska and the 10 other states that have decriminalized minor marijuana possession will feel pressure to backpedal. Congress recently approved a



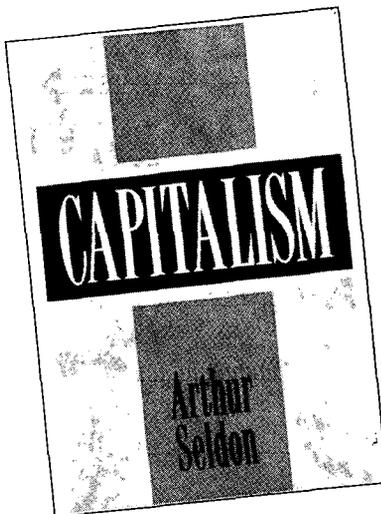
States with liberal pot laws—for now.

bill that would withhold federal highway funds from states that fail to enact a new penalty for pot users. To keep their transportation money, states must suspend the driver's licenses of drug offenders, including those convicted of marijuana possession, for a minimum of six months.

The law—which uses the same method that forced states to raise their alcohol-purchase ages—does include an escape clause: A state legislature can explicitly vote to oppose the penalty. If the governor approves the vote, the state is exempt.

Few politicians, however, are likely to go on the record as favoring lenient treatment of drug offenders. "We are definitely going to see recrim bills in all the decrim states," says Dale Gieringer, California state coordinator of the National Organization for the Reform of Marijuana Laws. "Smoke a joint, lose your license."

—Jacob Sullum



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