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**Tobacco-Press**

Tobacco - press



Elizabeth Drye

06/03/97 11:47:08 AM



Record Type: Record

To: Laura Emmett/WHO/EOP, Cathy R. Mays/OPD/EOP

cc:

Subject: Tobacco press questions

Can Bruce/Elena take a quick look at these press issues? McCurry needs before his briefing.

----- Forwarded by Elizabeth Drye/OPD/EOP on 06/03/97 11:46 AM -----



Elizabeth Drye

06/03/97 11:45:46 AM



Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP

cc:

Subject: Tobacco press questions

McCurry got questions this morning for which he needs some quick answers. Here's the tentative plan on how to handle.

- 1) Will we do EO prohibiting smoking in federal buildings? We'll say we are currently looking at it (HHS is o.k. with that).
- 2) cap on punitive damages in liability legislation/relationship to settlement talks. Elena -- April Melody will call you about this.
- 3) Status of OSHA rule -- we'll say OSHA is reviewing the 115,000 comments we received and will move forward as quickly as possible.
- 4) Implication of Shalala's remarks in AP story: [ "There is going to be a full-scale, strict scrutiny, a public health review, of anything they come up with . . . we didn't ask for this" potential settlement ]-- April is checking with Lindsey on our response -- do we simply reiterate POTUS commitment to ask public health community to review any settlement?

Are you ok. with response on EO?

Date: 04/24/97 Time: 13:40

TLawyers in tobacco litigation met secretly at White House

WASHINGTON (AP) Lawyers on both sides of landmark tobacco litigation, including the first lady's brother, met secretly at the White House with President Clinton's top aide, officials said today.

The officials, who are intimately involved in the negotiations, spoke on condition of anonymity but said the small gathering Wednesday was designed to bring White House aide Bruce Lindsey up to date on settlement negotiations that begin anew next week.

Philip Morris and R.J. Reynolds are negotiating to end litigation against the tobacco industry by paying \$300 billion over 25 years, submitting to some Food and Drug Administration regulation and stopping much cigarette advertising.

In exchange, they want Congress to pass legislation protecting them from future lawsuits.

At a shareholders meeting today, Philip Morris Chief Executive Geoffrey C. Bible said, "we will listen to and explore all reasonable measures that make sense."

He refused to discuss the negotiations further, but his statement was the strongest public acknowledgement from the world's top tobacco maker concerning the settlement talks.

Officials said Wednesday that Mississippi Attorney General Michael Moore visited the White House to brief aides. But sources confirmed today that the meeting also included:

Hugh Rodham, brother of Hillary Rodham Clinton, who is on the plaintiffs' team. A former public defender, Rodham has no known experience in tobacco legislation. He could not be reached for comment.

Richard F. Scruggs, a Pascagoula, Miss., lawyer who represents 13 states on the plaintiffs' side. He is the brother-in-law of Senate Majority Leader Trent Lott, R-Miss.

J. Phil Carlton, who represents RJR Nabisco and is considered the lead tobacco industry attorney.

John Coale and Wendall Gauthier, attorneys for plaintiffs.

Officials said the meeting was not designed to negotiate although the major disputes were aired before Lindsey. The deputy White House counsel has acted as a go-between, hopeful that a settlement can be reached that meets Clinton's anti-smoking goals without years of litigation.

"You couldn't call it negotiations as such," a participant said. "But we talked in the same room about the talks. That's something."

The White House said Lindsey has been monitoring the talks to make sure the parties don't reach an agreement that would be unacceptable to Clinton. Lindsey said he needed an update on negotiations held earlier this week.

In the White House meeting, Lindsey told the parties that giving blanket immunity to the tobacco industry would be "a nonstarter" as far as Clinton is concerned.

"I think they should talk to members of Congress and members of the public health community I've spoken to if they have any doubts about that," Lindsey said.

The plaintiffs' team was expected to remain in Washington today to talk with government experts on health care, a key aspect of their case.

The meeting was held as interest groups voiced concerns in advance of the next round of negotiations.

State attorneys general are pledging they won't give cigarette makers blanket protection from future lawsuits in ongoing settlement negotiations, even as health activists begin a vigorous campaign against any secret deal-making with the tobacco industry.

"The public has a right to have an understanding of what's actually going on, to the full facts before something is signed, sealed and delivered," said Scott Ballin of the Coalition on Smoking or Health. "We don't think a deal is necessary."

"Say no to this global settlement," say full-page advertisements by the American Lung Association and other tobacco foes, scheduled to appear in national newspapers today.

"There will be no blanket immunity for the tobacco companies, period. We, the attorneys general, will not budge on that issue and I want to make that very clear," Louisiana Attorney General Richard Ieyoub said Wednesday, announcing the decision by attorneys participating in the settlement talks.

Ieyoub said the tobacco companies have been told of the decision. Philip Morris and R.J. Reynolds, which joined the settlement negotiations earlier this month, did not return phone calls seeking comment.

Neither Tierney nor Ieyoub would detail what form of limited immunity the companies could be offered.

But health activists are mobilizing against offering the industry any immunity, even against any deal whatsoever.

"The tobacco companies have taken our children hostage" by offering to stop targeting teen-agers in exchange for immunity, Rep. Henry Waxman, D-Calif., said today.

Flanked by executives from the American Medical Association, American Cancer Society, lung association and American Heart Association, Waxman called on President Clinton to declare that "the issue of immunity should be off the table."

"This is not the time for a settlement," added AMA trustee Dr. William Mahood.

Ieyoub said Wednesday the attorneys general would not agree to a deal resulting in tobacco companies being protected "from any suit filed now and forever."

He said state officials' goals are to stop tobacco companies from marketing their products to children, include more warnings about tobacco's dangers and reimburse states for their costs in treating tobacco-related illness.

Possibilities for limited immunity include providing legal recourse if the industry concealed information about tobacco or was caught marketing to teen-agers.

Pennsylvania on Wednesday became the 24th state to sue the tobacco industry, seeking recovery of Medicaid funds spent treating sick smokers. Missouri announced it planned to file soon, and Nebraska announced it wanted to be part of any settlement even though it has not sued.

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today. This is a program that's already been enacted and funded. I believe that 28 cities are a part of the pilot program and there will be emergency response training for those 28 cities. And the Pentagon is going to be talking about how that's going to be done.

Q I was going to say, does the military provide this training to communities? Is that's what is envisioned?

Mr. Johnson: I think that the Pentagon will be able to tell you more clearly than I would on that. They may be working directly; they may be working through contractors. I'm not sure at this point.

Q Is this purely domestic?

Mr. Johnson: Yes, this is for emergency response teams in cities.

Q Mike, how involved is the Clinton White House in the **tobacco** negotiations, and does the President really want an agreement under which the companies are no longer liable for medical problems of smokers?

Mr. Mccurry: Well, let me make it clear what the President wants first and foremost. He wants the public health interests that he expressed when he launched his **tobacco** initiative to be addressed by any parties seeking to settle outstanding claims or settle litigation that's pending. Our interest is kids and preventing kids from smoking. And any settlement that would be reached would have to address exactly those parameters that the Food and Drug Administration established when they proposed their rule. So that has been our consistent message to all sides in these discussions, whether it's the attorneys general from the states that are suing on behalf of plaintiffs, whether it's the plaintiffs representatives, whether it's the representatives of the companies themselves.

Now, as to our involvement, our Counsel's Office through Bruce Lindsey has been in regular contact, I'd say in the last three weeks probably daily contact, with those who are having those discussions. It will be up to them to present to the White House anything that represents a proposal that would require action on our part or would require any legislative action. And our first and most important criteria will be, does it address exactly those public health concerns that the President raised when he proposed the restrictions on access and advertising for **tobacco** products as they are aimed at minors.

Q From what you know of the negotiations, since you're keeping such close touch, does the agreement that's taking shape meet those parameters?

Mr. Mccurry: I think it's very difficult to say at this point because the parties themselves, as there has been some public discussion now, are not at a point to say that they have any agreement. So I would not suggest to you that there is an agreement taking shape that we understand fully enough to state whether it meets the criteria that we have.

Q Well, Mike, what sort of legislative action is envisioned? I mean, what are the possibilities that are being contemplated?

Mr. Mccurry: Well, the specific interest we have in legislation -- and it goes back to when the President promulgated the proposed rule itself -- we have said all along that far preferable to regulation by the Food and Drug Administration would be an act of Congress which makes these restrictions the law of the land. That would be -- all along, we've said we'd prefer a legislative route because that's certain and it becomes federal law, as opposed to the Fda's assertion of jurisdiction in rulemaking which is now subject to litigation that could go on and on and on. We're interested in a certain outcome, the certain outcome being the protection of kids from the negative health effects of tobacco use.

Q Mike, just to follow up a little bit, can you be a little bit more specific than that? I mean, what would a law -- I understand you want a law; what would a law say?

Mr. Mccurry: Well, a law would say exactly those kinds of things that we say in our proposed rule, the kinds of curbs on access, on vendor sales, on face-to-face encounters, on advertising, on marketing, on targeting to kids that are at the heart of the rule that's been proposed and ready to be promulgated.

Q But, Mike, is the White House open to any agreement between the major tobacco makers -- cigarette makers and the attorneys general that would limit the liability -- the future liability of tobacco companies?

Mr. Mccurry: We believe that any agreement that the parties reach are going to have to be -- will have to be an agreement that takes into account all of those who are affected. And certainly those who want to litigate or who want to sue have to be protected in any settlement, and the nature of that protection would have to be sufficient in the eyes of the parties themselves in order for there to be agreement. That states almost the self-evident, but clearly if those who have brought these cases -- if the plaintiffs themselves are not satisfied with any of the terms of the agreement, then the agreement won't go forward.

Q Mike, in response to Terry's question -- Bruce Lindsey has apparently then communicated the White House view what you'd like to see in a deal like that. Have any of the parties express objection to those conditions?

Mr. Mccurry: Any objections to our standards? Not that I'm aware of. They are fully aware of the standard that we have set, which is that it has to meet the requirements that the Fda put forward and has to result in the public health outcome that we want here, which is the decline in use of tobacco products by young people.

Q --That's not a hangup issue, as far as you know: Nobody has --

Mr. Mccurry: Well, that has been a very big hangup issue, which is why the industry is in court suing the United States for promulgating the rule in the first place. So that -- the assertion of jurisdiction by the Fda and the resulting regulations have been very much at issue and, to my knowledge, that issue has not been resolved.

Q I guess my question is, has Philip Morris and all these other companies said to Bruce that they'd be willing to do this if they could get the rest of this agreement?

Mr. Mccurry: They clearly know what our requirements

are, and I don't think they would be proceeding with the conversations they're having unless they understood at the end of the day they would have to meet our requirements. But whether they will, whether the negotiations on other matters, specifically the pending litigation state by state, whether they resolve those issues, I think remains to be seen.

Q Mike, is it still your assertion that the White House is not a party to the negotiations, even if Bruce Lindsey is conveying what the White House would like to see in such an agreement?

Mr. Mccurry: That's correct. We are not in a position to negotiate with the plaintiffs, those who represent them, the companies, those who represent the companies. And, to my knowledge, Mr. Lindsey has not directly participated in any of the face-to-face discussions between the parties. Now, he's been available to meet with the public health community on this matter, with those who represent the states, those who represent the plaintiffs, those who represent the companies. And he has had regular contact with them. But he has not been in a position to actually negotiate formally between them.

Q So, Mike, if the parties come up with a compensation fund of, say, \$300 billion to pay for those who get cancer of whatever, that would be considered adequate by the White House?

Mr. Mccurry: I'm not going to speculate on the terms of the settlement. We'd have to look very carefully at anything that comes forward, and we are following very carefully what they're suggesting. There would have to be adequate protection for those who have an interest. Clearly, those who have sued, those who are represented by the states do have an interest that would have to be addressed.

Q Mike, can I follow up on that?

Q Mike, the Democratic Senators that are sending a letter to the President saying they want a good deal, led by Senator Lautenberg, Wellstone and Durbin and a few others, saying they want a good deal, they don't want a settlement. Would you agree with the Democratic -- this group of Democratic Senators?

Mr. Mccurry: I don't understand -- they want a good deal?

Q What I mean is, a settlement short of legislation. They want a good deal. They don't want to --

Mr. Mccurry: Yes, well that's what we want too. We want something that protects kids along the lines of what the President has proposed and I suspect that our thinking is similar with respect to what we want as the outcome to the Senators who have written.

Q Mike, my question is really, shouldn't you jump into the negotiations as representative of the national interest, which is now not part of the mix of negotiations? Because at the end of the day, the tobacco companies will want something from the national government, namely an end to their liability. In order for them to get that, they'll have to have Congress and the President on board. Why should Congress and the President be there at the end of the day, why not be there at the beginning of the day?

Mr. Mccurry: I think in suggesting that we are making our views very well known to the parties and what our interests are in protecting the public health, we're fulfilling that responsibility and there would not be these conversations I am reporting to you with Mr. Lindsey if they didn't at the end of the day know that the White House was going to have to be -- find whatever settlement they propose as it relates to the action that the federal government needs to take, acceptable to the President.

Q But is there something that's preventing or militating against the United States being a party to these negotiations at this point?

Mr. Mccurry: Yes. I mean, specifically because the actions currently pending are litigation brought by states through their attorneys general on behalf of plaintiffs, so that is -- those are matters that we are not party to, I don't believe, because we have not entered into that litigation.

Q But apparently the negotiations are straying from merely individual, state-by-state interests to the national interests issues, namely a nationally granted -- liability.

Mr. Mccurry: There are differences between tort liability claims brought on the part of individuals and then the action that we've taken to protect the national public health. And we've made very clear what our assertion of interests are. We've made very clear also our belief that tort liability claims of individuals have to be considered and we'll see where they go as the parties discuss it.

There are intersecting issues here that reflect different levels of responsibility, whether it's the state governments who have brought suit because they are trying to recover funds that they have expended under Medicare, or whether it's the national interest that is reflected in what we promulgated as national policy with respect to tobacco advertising and access of tobacco products to minors. And I think that obviously some of these concerns intersect.

Q Mike, to follow, is the size of the compensation pot a presidential interest or not? Is it something that you will pass on this whether this is adequate or not?

Mr. Mccurry: The President's interest here is assuring that those plaintiffs who have legitimate claims see that their concerns and needs are addressed. I'm not going to put a dollar figure on it or attempt to do that. That's something that needs to be worked out by the parties as they discuss these matters.

Q Does he think that's a legitimate claim? In other words, is he merely protecting their rights to sue, or does he agree with the proposition: Yes, there is some liability; the question is how much?

Mr. Mccurry: He agrees with the proposition that all of the parties that are represented in this dispute have to be satisfied with the agreement that is reached, that you can't short-change any one group, and the settlement needs to take into account the needs of all the parties.

Q Does he think that the parties would ever have gotten to the table in this way if the Fda and the administration hadn't acted --

Mr. Mccurry: I think the President believes it's highly unlikely that we would be having these conversations, which represent, as you can clearly understand, a major departure from the position the industry has taken in the past, if it weren't for the fact that the Fda is proceeding and the President is proceeding to protect America's health interests, and specifically the health needs of kids. I think Dr. Kessler, in fact, has even said that today, too.

Q New subject?

Mr. Mccurry: Yes.

Q On the 70 occasions when Webb Hubbell apparently visited the White House, did he or did he not meet with the President and First Lady?

Mr. Mccurry: Oh, I would assume he did. I don't know the specific answer to that. I would assume he did. He played golf with the President up at Camp David on at least one occasion, and I would assume that he saw the President and the First Lady. I don't know that for a fact, but I don't know any reason why he wouldn't have.

Q Mike, also, at the time that he played golf, is there any concern about the arrangement of his playing golf with the President and Truman Arnold, who provided money for him?

Mr. Mccurry: No. At the time, they were friends and they would have been golfing partners and would have had that kind of opportunity to socialize.

Q You mean, they did golf together before.

Mr. Mccurry: Oh, yes, the President, I think --

Q The President golfed with Truman Arnold and --

Mr. Mccurry: The President knew Truman Arnold well, and I think had probably golfed with him on occasion. They all knew each other and I think probably had played golf -- I mean, I don't know for a fact that they had played golf together in the past, but I wouldn't doubt it.

Q Some key Senators are saying that if the Alexis Herman vote doesn't happen tomorrow that it's lost, and a lot of people are saying that it doesn't look like it's going to happen tomorrow. What's the White House's plan B for this Alexis Herman nomination?

Mr. Mccurry: We are working very closely with any Senator who has got concerns related to the nomination or related to unrelated issues, to address those concerns so we can proceed with the vote. At the end of the day, we believe she will be confirmed, and we are working as hard as we can to satisfy the concerns that Senators have raised principally on a matter that is, while within the jurisdiction of the Department of Labor, not something that has been specifically raised about Alexis Herman.

Q To address those concerns, is the President prepared to drop the draft executive order on federal contracting, or will he consult with senators to change the draft as it's circulating around?

country store, we're still interested in the fund raising. I don't think it'll go away for a while."

The White House already has been affected:

- Clinton's appointments to a study commission on gambling have been put on hold, an official said, because of sensitivity over the political contributions that gambling interests made to the Democrats last year.

- Eugene A. Ludwig, the Comptroller of the Currency, has excused himself from two decisions on NationsBank Corp. because he drank coffee at the White House last spring with the company's chief executive and other bankers invited by the Democratic National Committee.

- A senior White House official traced "a fraction" of Clinton's recent unwillingness to set up a commission to pare the consumer price index to his fear of upsetting traditional Democrats whose support he'll be needing.

- "It's hard to bring [Attorney General Janet] Reno over to an event at the White House," an official said, for fear that reporters will keep asking her about

her views on naming an independent counsel.

- Filling the many vacancies in Administration posts has been slowed because the scrutiny of candidates' backgrounds has become more intense. (See *NJ*, 3/29/97, p. 626.)

The most far-reaching effect may be the most subtle: a presidency that hasn't changed its ways. The scent of scandal has reinforced Clinton's habit, honed during the past two years, of husbanding his political capital and sidestepping political risk. It has weakened his influence—never strong to start with—on Capitol Hill and thus his maneuvering room.

Clinton and those around him "seem to be hunkered down and not laying any of the groundwork for any big accomplishments in the second term, beyond national [education] standards and balancing the budget," said Will Marshall, the president of the Progressive Policy Institute, a font of New Democratic thinking. "When you look at what's happening there, it's very little."

White House aides retort that this is just a slow time in Washington, as every-

cc: Bruce R.

The Lindsey/McLewey

thing awaits a slow-cooking budget deal between Clinton and Congress. Clinton, they say, will address structural reforms of entitlement programs—a critical but politically god-awful problem—after a budget deal takes care of Medicare's short-run financial woes. That House Speaker Newt Gingrich, R-Ga., as well as Clinton, is weak right now only adds to the political inertia. Who'll revive first is anyone's guess.

For Clinton, time is a problem. Even if it turns out that there's no fire in all the charges despite the presence of so much smoke, that could take a while to figure out. This has a potential for lasting a couple of years, a former White House official said, especially if an independent counsel is appointed and the congressional Republicans take pains to maximize the political impact by keeping their investigations alive as the 1998 elections draw near.

It's after the midterm elections that, as conventional wisdom has it, a second-term President becomes a lame duck for real. Clinton's advisers, though, offer a caution: The Comeback Kid has thwarted the conventional wisdom before. ■

Stalman  
E.

## A WHITE HOUSE ROLE IN A TOBACCO SETTLEMENT?

If asked to step in, the White House will try to facilitate a so-called global settlement of the mounting legal assaults against the tobacco industry. But President Clinton's point man on the issue, deputy counsel Bruce R. Lindsey, warns that with several major anti-tobacco lawsuits due to go to court this summer, the time for reaching such an agreement is running short.

"We stand ready to try to be helpful if all the parties believe that is a useful role for us," Lindsey said in an interview. Right now, the tobacco companies and their adversaries "are getting to know each other still and aren't ready to put their cards on the table," Lindsey said. "If they get close [to a settlement], there may come a time when we can weigh in and help move the discussions along, but we aren't there yet, at least in my judgment."

The White House lawyer and close adviser to President Clinton said he has had "regular and frequent contact" with several of the 22 state attorneys general who have filed lawsuits seeking reimbursement for their states' Medicaid costs for treating smoking-related diseases. Lindsey said he also has been in touch with attorneys repre-

senting plaintiffs in class action suits against tobacco companies, public health activists and representatives of the major tobacco firms, including members of a newly assembled team of Washington lawyers and public relation experts hired by the industry to help seek a comprehensive legal and regulatory settlement. (For more on the industry team, see *NJ* issue 2/15/97, p. 327.)

Lindsey declined to identify his contacts, but he outlined the general points that the Administration would like to see included in a negotiated agreement to settle the massive lawsuits facing the tobacco industry and to reach an accord on the future regulation of the sale of cigarettes.

He emphasized that the Administration's priority is to reduce smoking among children and speculated that tobacco companies might comply with that objective if the authority of the Food and Drug Administration (FDA) to regulate cigarette sales is restricted. "We're prepared to talk about some sort of limitation on FDA's jurisdiction," Lindsey said. "If they will join with us, we will in some way legislatively guarantee that our goal is not to drive cigarettes out of business."

He also said that plaintiffs in class action suits against the tobacco companies should share in any financial compensation that the industry agrees to pay in a blanket settlement of its lawsuits.

"I think there would have to be a division between individual claimants and states so that we felt like individual claimants were participating to some reasonable extent in the settlement," Lindsey said. He added that some portion of big tobacco's payout should go for an anti-youth-smoking education and advertising campaign.

But if such a deal is to be cut, it probably will have to be done soon. Mississippi's landmark suit to recoup hundreds of millions dollars spent in state Medicaid funds for treating smoking-related illnesses is scheduled to begin on July 7. A similar case in Florida will go to court in August.

"There is some sense that the best opportunity for settlement is between now and June," Lindsey said. After that, the focus of lawyers on both sides will shift to litigation. As Lindsey noted, "It's hard, after being in a courtroom all day, to that night continue to have friendly discussions about a settlement." —James A. Barnes

Talks aimed at a sweeping settlement of the lawsuits and of the dispute over FDA regulation began about three weeks ago. An agreement will require more than the warring parties overcoming their differences. Because the industry won't settle without some protection from future lawsuits, Congress would have to approve any deal. Some anti-smoking congressmen, sensing the tide has turned in their favor, would like to see the industry take its lumps. Others will be reluctant to approve what may be attacked as a windfall for cigarette makers and trial lawyers two highly unpopular groups.

People close to the talks said Tuesday that, contrary to some reports, total immunity for the industry has not been discussed, although some form of limited immunity is on the table.

"This thing about total immunity is a fiction," said John Coale, a Washington, D.C., lawyer and a leader of the consortium of private attorneys pushing class action suits. "They (industry negotiators) haven't even asked for total immunity," Coale said. "That's just a creation by somebody who wants to kill the talks, I guess."

Nonetheless, said Connecticut Attorney General Richard Blumenthal, the industry's "concept of relief from liability is much broader than we could ever accept. There's still a very wide gap on that issue and on others," he said.

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### **Starr, Citing Possible Cover-Up, Gets Grand Jury Extension (Washn) By Sara Fritz (c) 1997, Los Angeles Times**

WASHINGTON Independent Counsel Kenneth W. Starr said Tuesday he has found "extensive evidence" of a possible cover-up in the case involving President and Mrs. Clinton and asked for an extension of the term of the Whitewater grand jury.

Starr, whose request was immediately granted by U.S. District Judge Susan Webber Wright, said the grand jury has heard evidence of "concealment and destruction of evidence and intimidation of witnesses."

Although Starr did not detail the evidence, the grand jury is known to be investigating allegations that Clinton lied about his role in the Whitewater case, that White House officials may have arranged "hush money" for former Associate Attorney General Webster L. Hubbell and that someone close to the president concealed records of the legal work that first lady Hillary Rodham Clinton did for Whitewater conspirator James B. McDougal's savings and loan.

In addition, sources said Starr's staff is investigating a previously undisclosed allegation that Sam Huer, the Little Rock, Ark., lawyer representing McDougal, may have conspired with Clinton aides and friends to pressure his client to protect the president.

Huer, who could not be reached for comment, declared in federal court in Little Rock last week that he had played no part in McDougal's decision last August to cooperate with Starr's investigation.

McDougal previously had supported Clinton's testimony. But while cooperating with Starr, McDougal said he told the grand jury that the president lied under oath last year when he insisted that he played no role in arranging an illegal \$300,000 loan for McDougal's ex-wife, Susan.

The \$300,000 loan initially caught the attention of investigators because some of the money passed through the account of an Ozark land venture, known as Whitewater, owned by the McDougals and the Clintons. But Starr has never found any evidence that Clinton himself benefited from the loan.

In exchange for his testimony in the case, McDougal last week received a reduced, three-year jail term for his conviction for conspiracy and fraud. He said that he decided to cooperate with Starr because he "got sick and tired of lying" for Clinton.

Starr's request for a six-month extension of the current grand jury session to Nov. 7 appears to contradict the prevailing view among Whitewater witnesses that the investigation is winding down. Starr himself created that impression when he announced earlier this year that he had accepted a job at Pepperdine University in California.

But sources close to the inquiry said Starr has not yet decided whether to ask the grand jury to bring indictments against anyone on charges of obstruction of justice. In fact, no indictments have been brought in the Whitewater case in more than a year.

Both White House Chief of Staff Erskine Bowles and White House adviser Thomas "Mack" McLarty have testified before the grand jury in the last week about their efforts to assist Hubbell.

Hubbell received hundreds of thousands of dollars of payments from the president's supporters including the Riady family of Indonesia. Investigators believe that these payments were intended to silence Hubbell.

Under a plea bargain with Starr, Hubbell later pleaded guilty to charges of defrauding his law firm of nearly \$500,000. But he did not to provide Starr with any information against Clinton.

The current Whitewater grand jury, which has been meeting since May 7, is the third panel to hear evidence since the investigation began more than three years ago. Starr's petition said that an extension is necessary for the jury to "complete its consideration of the information and testimony provided by Jim McDougal."

Starr added: "This grand jury has also heard extensive evidence of possible obstruction of the administration of justice relating to the matters within the independent counsel's jurisdiction."

McDougal has said he told the grand jury that then-Gov. Clinton attended a 1986 meeting at a land office trailer south of Little Rock in which they conspired with a third person, David Hale, to make an illegal loan of \$300,000 to Mrs. McDougal.

Sources said James McDougal testified that Clinton was having an affair with his wife at the time and he encouraged Hale to make the loan from his government-financed small business investment corporation, Capital Management Corp.

McDougal and his wife were estranged at the time.

The \$300,000 loan was one element in a massive conspiracy and fraud case that Starr won last year against McDougal, his ex-wife and former Arkansas Gov. Jim Guy Tucker. A jury found that Mrs. McDougal lied about the purpose of the loan, which was never repaid.

Starr told the judge he is still trying to obtain grand jury testimony from Mrs. McDougal, who is currently serving a two-year jail sentence on contempt of court charges for refusing to answer questions. Sources said that Starr hopes she will corroborate her ex-husband's testimony about Clinton's role in arranging the loan.

James McDougal also has provided Starr with information suggesting that Huer, acting at the request of unnamed White House officials and friends of the president, tried to stop him from cooperating with the independent counsel, according to knowledgeable sources close to the investigation.

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### **Senate to Begin Debate on Chemical Weapons Convention (Washn) By Norman Kempster (c) 1997, Los Angeles Times**

WASHINGTON The Senate opens debate Wednesday on the international Chemical Weapons Convention, a treaty conceived during the Reagan administration and negotiated under President Bush.

The treaty's purpose is to rid the world of toxic weapons, which have been included in military arsenals worldwide since the battlefield horrors of World War I but have seldom been used by one army against another since 1918. Japan and Italy used poison gas during the early days of World War II, and Iraq used it in the 1980s, but the attacks were against unarmed civilians.

So far, 70 nations have signed and ratified the pact. If the United States is to join them, two-thirds of the Senate 67 of the 100 members must vote to ratify it. The vote is scheduled for Thursday.

The following is a briefing on the pact:

#### **PROVISIONS**

Under the Chemical Weapons Convention, each state agrees never, under any circumstances, to:

- develop, produce, otherwise acquire, stockpile or retain chemical weapons, or transfer them, directly or indirectly, to anyone

- use chemical weapons
- engage in any military preparations to use chemical weapons
- assist, encourage or induce anyone, in any way, to engage in any activity prohibited by the convention.

In addition, each state agrees to destroy all chemical weapons production facilities on its territory and to destroy chemical weapons that it either owns or has discovered abandoned on its territory.

#### **VERIFICATION AND ENFORCEMENT**

The treaty establishes an international verification authority that will be empowered to conduct inspections, including surprise inspections, of any facility suspected of harboring chemical weapons in a country that has ratified the pact.

The U.N. Security Council will be authorized to impose sanctions on violators possibly including countries that do not accept the treaty.

The convention also penalizes countries that do not join by denying them access to chemicals that could be used for chemical weapons, including many that have legitimate industrial uses.

The convention imposes restrictions on export sales of chemicals by industries operating in countries that are not party to it.

## **Flood's Toll May Hit High Water in Fortitude (Grand Forks, N.D.) By Stephen Braun (c) 1997, Los Angeles Times**

GRAND FORKS, N.D. National Guard Staff Sgt. John Nygard is one of the few among this sunken city's 50,000 dispossessed who have seen up close what the Red River has done to their lives.

On boat patrol for stragglers in the trash-skimmed cistern where the Central Park neighborhood once stood, Nygard saw only murky waves washing over the building that houses his family's duplex apartment.

"Everything we own is gone," he said. "You got the personal effects of an entire city floating out there. And no one to fish it out."

The Red River's humbling of Grand Forks is as sweeping in its devastation as nature has visited on an American metropolis—a slow throttling of nearly every amenity of modern life that city dwellers take for granted.

Just about everything has failed—electric power, gas service, water delivery. The entire population has emptied out, leaving no forwarding address for the mail piling up in mounds inside a diked post office.

Fires, sparked by the flood's volatile contact with live wires, burned out a third of the downtown and several houses. Tons of raw sewage leeching through the flood water contaminates everything it touches. Communication is crippled, phone service in danger of winking out.

The region's sleep-deprived officials are only now beginning to turn to the future. But the uniqueness of their city's plight and the absence of past models to learn from poses a recovery period that can only be groped through. The months of rebuilding may require as much ingenuity as relief money.

There is even opportunity in Grand Forks' humiliation, officials say: the possibility that the abandoned city will remain a blank page for several weeks after the water recedes, rid—at least temporarily—of the human interruptions that so often snarl the chaotic aftermaths of earthquakes and tornadoes.

And the flood likely will add impetus to a long-discussed \$70 million plan to build a channel around the city—a trench that engineers believed would have spared it much of the current devastation.

"If we can get a head start in there after the water goes down and before the people come back," said Mayor Pat Owens, "I think we can make some real progress. I'm just not sure how long their patience will last."

Owens has promised that she will allow residents to return to inspect their homes as soon as possible. But at the same time, National Guard troops and police have tightened security around the town, turning away anxious homeowners. Only a few residents have been allowed back to retrieve pets, Owens said.

Officials have said that it could take up to a month before the most vital services—potable water and sewer disposal—would be available. But some say privately that it could take longer, at least six weeks.

Residents have so besieged officials with requests to return to their homes that police are threatening to arrest anyone caught trying to run the cordon around the city's perimeter.

The coming weeks also will test the character of Grand Forks' displaced population and the good Samaritans who have taken them in by the thousands. For the moment, the region is awash in an aura of good will. By the hour, rural families and church leaders call the town's radio station KNOX-AM, offering up spare rooms to take in strangers.

"This is how we are up here. We stand by one another," said Leroy Huzenga, who has called the station repeatedly to his offer to house evacuees in the cabins of the Park River Bible Camp. At least 40 refugees have arrived, he said, and there is room for 260 more.

Air Force National Guard Staff Sgt. Dan Welsh moved with his wife to Niagara, 45 miles west, where they are staying with 30 other refugees in a sprawling farmhouse owned by his mother-in-law. Neighbors have parked two motor homes in the driveway to handle the overflow.

Welsh is "tickled by their generosity," but he realizes, too, that he and thousands of others ultimately will overstay their welcome. If their stay extends to weeks, an entire city will need to find more permanent housing.

Announcing Tuesday that the federal government will fund an extra \$200 million in disaster aid to the region, President Clinton acknowledged

that Grand Forks' residents will require long-term shelter. And Vallee Bunting, a spokeswoman for the Federal Emergency Management Agency, said that officials are considering the possibility of erecting tent cities in the warmer summer months if they are needed.

The scattering of the city's population may make FEMA's job harder, Bunting said. Unlike most disasters, where the homeless population is

concentrated and close at hand, Grand Forks' evacuees are too spread out to contact easily.

"We're going to have problems in reaching them," Bunting said. "And if they move several times, it will be hard for us to get back in touch with them if they leave us numbers to call."

The length of their homelessness depends largely on the ability of Grand Forks officials to restore water and sewage. The four-mile spread of contaminated river water makes that a more difficult job than any region has suffered in decades, officials say.

North Dakota Gov. Edward T. Schafer said Tuesday that spotter planes and helicopters would soon begin circling the city, taking detailed photos and video of the scene "so people can start to see what damage they may or may not have."

Once the water recedes, the first wave of government inspectors will fan out to survey the damage and determine which structures remain viable and which must be condemned. Hundreds of houses in the city's swamped eastern corridor will have to be torn down, one Grand Forks official said. Several have been sighted by National Guard patrols floating free of their foundations.

Farther away from the river's natural banks, most of the city's houses are salvageable. But even those have suffered a range of damage, from buckled walls and floors to flooded basements, officials said. In deeper areas, the destruction may be compounded by backwash caused by cranes, heavy trucks and military Humvees that have forded through the flood areas in the last five days.

Downtown was doubly plagued, first by six-foot flood waters, then by a fire that raced over three blocks, showering embers that started blazes in more abandoned buildings until a dozen were nothing but smoking masonry craters. Even those structures not hollowed out by the fire may have to be torn down, said Jim Durkin, managing editor of the Herald, the town's daily newspaper.

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## **Guidelines Proposed For Offering Immunity to Cigarette Makers By Myron Levin and Henry Weinstein (c) 1997, Los Angeles Times**

The Clinton administration launched its own trial balloon in the talks aimed at settling the mammoth tobacco litigation, as a senior White House official Tuesday suggested cigarette makers be given immunity from lawsuits if they help the government reduce youth smoking by at least 50 percent over the next seven years.

Deputy White House Counsel Bruce R. Lindsey, who has been monitoring talks among the industry, state attorneys general and private anti-tobacco lawyers, told Bloomberg News that under the proposal, the first specific one he has publicly raised, the industry's immunity would be extinguished if the 50 percent goal was not met.

He said the industry—which also would have to establish a compensation fund of as much as \$300 billion over 25 years—would be forced to become "a partner with government" in cutting youth smoking or lose its protection from a tidal wave of claims.

"If we could come up with a formulation like that, the attorneys general would agree," Lindsey said.

But people close to the talks, including some direct participants, were taken by surprise, saying Lindsey's suggestion has not come up in settlement talks—including a meeting in Chicago that ended Monday.

And industry foes criticized the idea, warning that tobacco companies might go to court after seven years to fight over whether the goal had been achieved.

"It's tobacco buying another decade to sell their product... while more people are getting addicted to cigarettes and dying from them," said Josh Cooper of the American Lung Association.

Lindsey toured flood-ravaged North Dakota and Minnesota with President Clinton Tuesday and could not be reached for comment.

Cutting teen smoking by 50 percent over the next seven years is the goal of the new Food and Drug Administration rules aimed at curbing marketing of tobacco to kids. The tobacco companies have challenged the rules in court, claiming the FDA lacks legal authority to regulate tobacco and that the rules violate their free speech rights.

Coincidentally, on the day Lindsey floated his suggestion, U.S. District Judge William L. Osteen in Greensboro, N.C., announced he will rule in the FDA case on Friday, an event eagerly awaited by both sides.

The tobacco companies currently face more than 300 smoking-related lawsuits and are spending an estimated \$600 million per year to defend them. Included are suits by 24 states seeking recovery of billions of dollars in health care costs, and about 20 statewide class actions seeking damages for millions of smokers.

# The Politics of Tobacco: Capitol Hill Approval May Be Clouded by Big Campaign Contributors

By BRUCE INGERSOLL  
And HILARY STOUT

Staff Reporters of THE WALL STREET JOURNAL

WASHINGTON—Getting an agreement between tobacco companies and antismoking forces won't be easy. But getting Congress to approve a deal could be a lot tougher.

As negotiations toward a settlement continue this week, Big Tobacco is looking vulnerable just as longtime opponents of cigarette manufacturers on Capitol Hill are growing increasingly energized.

Negotiators are focusing on a deal that would grant the cigarette companies immunity from smokers' lawsuits in exchange for voluntary curbs on advertising, submission to government regulation and a \$300 billion compensation fund. Far and away the biggest sticking point will be the scope of any immunity. An accord that includes blanket immunity from lawsuits "is a nonstarter," declares Bruce Lindsey, the deputy White House counsel who has been closely following the talks.

Congressional critics agree. "For at least a generation, the tobacco firms have targeted teenagers and covered up the lethal health effects of their products," says Sen. Edward Kennedy, the Massachusetts Democrat who, along with Utah Republican Sen. Orrin Hatch, intends to press ahead with a proposed 43-cent per-pack increase in the cigarette tax. "Now an outraged American public is finally getting its day in court."

## Backing From the GOP?

It seems likely that any deal embraced by the tobacco industry would have the backing of the Republican leadership in Congress. The tobacco industry may well be the single most important contributor to GOP campaigns, donating a total of \$5.7 million to the Republican Party in 1995 and 1996. Four of the top 10 contributors to the GOP during that period were cigarette companies, with Philip Morris Cos. chipping in a total of \$2.5 million, more than any other big donor.

Big Tobacco also has spent lavishly on Democrats in the past and will surely get a hearing from them. But Democrats—many of whom are already predisposed to oppose a settlement with the cigarette companies—are strongly tied to another large contributor: the trial lawyers. Many of these lawyers strongly oppose any limits on the right to sue. The Association of Trial Lawyers of America was the 10th biggest Democratic Party contributor last election cycle, giving \$606,300. The group also poured \$2.2 million into individual Democratic campaigns for Congress and the White House, compared with a scant \$245,500 for GOP candidates.

At the same time, the tobacco industry isn't as united as presumed. A deal that would be palatable to the big cigarette manufacturers directly involved in the

COMPANY	REPUBLICAN PARTY	DEMOCRATIC PARTY
Philip Morris	\$2.5 million	\$480,518
RJR Nabisco	1.2 million	253,403
Brown & Williamson	635,000	7,500
US Tobacco	559,253	113,362
Tobacco Institute	422,700	95,447
Smokeless Tobacco Council	250,600	17,500
Lorillard Tobacco	115,000	—
Loews Corp.	—	20,000
Assoc. of Trial Lawyers of America	\$197,100	\$606,300

Sources: Common Cause; Center for Responsive Politics. (for trial-lawyer figures only)

talks, Philip Morris and RJR Nabisco Holdings Corp., might cripple smaller, smokeless-tobacco companies, industry lobbyists note. Unlike the cigarette companies, smokeless-tobacco concerns aren't defendants in the state lawsuits seeking to recoup billions of dollars in Medicaid expenditures on ailing smokers. The distinction could sway the support of individual lawmakers.

## Role of the White House

The White House is likely to tip the balance on Capitol Hill. But some administration officials worry that even if President Clinton came out in favor of a settlement, vocal opposition from public-health groups could sink it anyway—and peg the president as selling out to Big Tobacco.

The Clinton administration has been prodding participants in the talks to move toward a conditional immunity. One idea is a "look-back" arrangement whereby tobacco companies would get immunity but could lose it after a specified number of years if an agreed-on goal—say a 50% reduction in teenage smoking—isn't met.

To date the cigarette companies aren't interested in such an arrangement. The tobacco concerns are more predisposed to another idea reportedly under discussion: general immunity but the allowance of lawsuits accusing tobacco companies of deception or concealment.

Even if the industry were to get only limited liability, many members of Congress say they would still perceive the deal as a sellout. They argue that \$300 billion wouldn't begin to compensate for the 400,

000 deaths a year blamed on smoking-related diseases.

"If you could prove half of those deaths are smoking-related, and if you assume the average settlement to be \$500,000, that comes to trillion dollars a year," says Democratic Sen. Richard Durbin of Illinois, a leading tobacco opponent.

Mississippi Attorney Gen. Mike Moore and another participant in the tobacco talks, plaintiffs' lawyer Richard Scruggs, met last week with Sen. Durbin and other lawmakers, urging them to keep an open mind. "One part of me is still very suspicious of tobacco companies and any olive branch they might extend," Sen. Durbin says. "Another side of me says this might be an historic moment we don't want to miss."

Mr. Moore and Mr. Scruggs have been keeping Senate Majority Leader Trent Lott—who is Mr. Scruggs's brother-in-law—abreast of the negotiations. But last week the Mississippi Republican expressed doubt that negotiators will be able to strike a deal. On the House side, Commerce Committee Chairman Thomas Bliley, a Virginia Republican, and one of tobacco's staunchest supporters, has taken the position that he doesn't want any part of a legislative deal until all parties are aboard.

## Overcoming Mistrust

For that to happen may require overcoming strong mistrust of the tobacco companies. Mindful of the industry's credibility problems, the attorneys general participating in the talks had a Washington public-relations firm, the Kamber Group, issue a statement characterizing the talks as a "once-in-a-generation opportunity to protect our children from the dangers of tobacco."

Still, some lawmakers are dubious. "For me, the trust level, given these are the companies who told me nicotine wasn't addictive, isn't real high," says Democratic Sen. Ron Wyden of Oregon. "We feel that for the first time the cause of promoting the health of kids has some leverage, and it's important to make sure that in this rare moment when our side has some leverage it is utilized fully."

If a proposal does reach Congress, the tobacco companies will have some high-powered help. They have retained the law firms of former Senate Democratic Leader George Mitchell, Verner, Lipfert, Bernhard, McPherson & Hand, and former Republican National Chairman Haley Barbour—Barbour, Griffith & Rogers. While neither man has been a key participant in the current talks, each would play big role in attempts to sell a deal on Capitol Hill.

# Trial Lawyers Are Split Over A Tobacco Pact

By RICHARD B. SCHMITT

Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON — Plaintiffs' lawyers are having trouble presenting a united front in the effort to secure a landmark tobacco settlement. And the fissure could spell trouble for any deal.

In one camp is the politically potent Association of Trial Lawyers of America; in the other are a handful of powerful trial attorneys, including some former ATLA presidents.

The former ATLA officials have had a prominent role in suing the industry, and in some cases are helping to personally negotiate terms of a settlement; ATLA, the lobbying organization, is gearing up to oppose such a deal because it reportedly would put limits on the rights of injured persons to sue, and would be achieved by an act of Congress rather than through court action.

"Some of my very close friends have done an excellent job of bringing the tobacco industry to its knees," said Howard Twigg, a Raleigh, N.C., lawyer and president of the trial lawyers' association. "But we just can't sit back and condone a settlement of this type. . . . I think it is a very principled position we are taking."

Already, Mr. Twigg said, ATLA has begun criticizing the idea of a global settlement in its contacts with members of Congress and public-health groups. In January, ATLA's board of governors unanimously adopted a resolution opposing any legislative settlement of tobacco litigation that would restrict consumers' ability to sue or collect damages.

The group's opposition is more than academic. Over the years, it has developed a reputation for success on Capitol Hill with a simple but powerful message that the right to a jury trial embedded in the Seventh Amendment should be preserved at all costs.

In the 1970s, it almost single handedly doomed repeated legislation to create a nationwide no-fault automobile insurance system. For the past 20 years, it has adroitly beaten back industry efforts to enact legislation that would limit damage awards in cases involving allegedly dangerous products. Last year, the group was instrumental in securing a Clinton administration veto of a defective-products bill that Congress had passed.

But the split among lawyers could also compromise ATLA's effectiveness. The presence of some powerful trial lawyers in any settlement would give the deal instant credibility. Some foes say ATLA would have an unusually tough time saying an agreement was unfair if it were negotiated with some of its stalwart members at the bargaining table.

Indeed, the plaintiffs' team in the tobacco cases reads like a page from an ATLA alumni directory. The team includes Russ Herman, a New Orleans lawyer and former ATLA president who is a lead counsel in a slew of class-action suits pending in state courts against the industry. Other former ATLA presidents with a stake in the litigation include Robert Habush, a Milwaukee lawyer who is representing Wisconsin in a suit to recover health-care costs from tobacco interests, and Michael Maher, an Orlando, Fla., lawyer who is assisting in a case filed by the Florida attorney general.

In general, politically active ATLA members "are so effective because they can say they are out there protecting the little guy," says Fred Graefe, a Washington lawyer and health-care industry lobbyist who has fought against ATLA on medical-malpractice legislation over the years. "In this situation, there are lots of different parties and plenty of people trying to protect the little guy. I think they would have much less credibility."

Other foes imagine a spectacle of plaintiffs' lawyers giving sharply conflicting testimony in congressional hearings; or in a bidding war with each other trying to influence members of Congress with campaign contributions.

"I expect ATLA to fight like hell for whatever position it takes, and for us to fight like hell for whatever position we think is right," adds Mr. Herman, the New Orleans lawyer, who says he respects ATLA's position, but is simply trying to do his best for his own clients.

"If you believe fervently in individual rights, the prospect of government imposition of a solution and the foreclosure of legal rights is a very, very frightening prospect," he said. "On the other hand, there may be some problems that can't be handled in any other way. You do the best you can in an imperfect world."

## Summers Sees Little Good In a Repeal of Estate Tax

By a WALL STREET JOURNAL Staff Reporter

WASHINGTON — Deputy Treasury Secretary Lawrence Summers called proposals to repeal the estate tax "expensive assistance to a very small number of taxpayers."

"There is no case other than selfishness," Mr. Summers told a small group of reporters yesterday, adding that he was incredulous at GOP talk of repeal. "More than three million die every year in America. Only 30,000 of them pay any estate tax at all."

A repeal would cost the government \$100 billion over five years, and isn't likely to pass this year. But bipartisan pressure to reduce the tax is strong. Citing the difficulties heirs to small businesses and farms sometimes face paying estate taxes all at once, President Clinton has proposed allowing them to spread payments over 14 years at favorable interest rates.

But repealing the tax, which affects only the wealthiest Americans, would be a mistake, Mr. Summers said. "You have to raise revenue somewhere, and ability-to-pay seems like the right principle for doing it."

THE WALL STREET JOURNAL  
TUESDAY, APRIL 22, 1997

## THE NAVIGATOR

# Looking Low-Tech

By Linton Weeks  
Washington Post Staff Writer

**T**he Internet has someone for everything, even a sophisticated Web site designed for people who hate sophisticated Web sites. The Luddites

On-Line site is advertised as "the only place in cyberspace devoted exclusively to luddites, technophobes and other refugees from the Information Revolution."

The group's motto: "Life was better before sliced bread."

Ironically, it's also one of the most accessible, seductive doorways to the digital world.

One icon leads you to a fairly reliable history of Luddites, the early 19th-century textile workers who destroyed their mechanized looms in protest over poor wages and working conditions.

Another section showcases notable Americans who are thought to be remarkable neo-Luddites. They include Ronald Reagan, Sen. James Exon, (D-Neb.), O.J. Simpson, J. Edgar Hoover and Bill Gates. According to the site, Gates spends "his late-night off-hours in a loin cloth of hand-woven yarn and bits of fur" and "strides proudly into the Redmond evening on his palatial estate, calling each of the birds by name, reciting 'Walden Pond' from memory and occasionally braying at the moon ..."

The Luddite Links page takes you to a list of anti-technology manifestos, none as long or rambling as the Unabomber's, and a couple of sites—the Bible written in pig Latin and the Incredible Counting Page—with no redeeming social value whatsoever except their sheer absurdity.

Or you can take the Luddite Purity Test. Sample multiple-choice question: Bookstores are useful for ... a) browsing the latest book on organic composting, b) browsing the latest book on navigating the Internet or c) selling my latest book

**GETTING THERE:** *Luddites On-Line*, <http://www.luddites.com>. *The Lead Pencil Club*, <http://www.sce.carleton.ca/rads/greg/team-internet/retro.html>

on navigating the Internet. To submit your answers, you simply click on the "I Hate Submit Buttons" button.

For the truly radical, the site to behold belongs to the Lead Pencil Club.

The club, according to Bill Henderson, publisher of Pushcart Press, was founded in December 1993. He was reading Doris Grumbach's memoir, "Extra Innings," in which she was railing against her word processor and other machines. Henderson wondered to himself why Grumbach didn't just use a pencil.

He called her up the next day and together they formed the Lead Pencil Club. Henderson writes that "behind the current blather about a free, unfettered international Internet community lurks a universal trust of business interests with billions of dollars to invest in fiber optic connections to every living room on earth."

To take the steam out of the electronic revolution, Henderson pulled together a book called "Minutes of the Lead Pencil Club: Letters, Essays, Cartoons and Commentary on How and Why to Live Contraption-Free in a Computer-Crazed World."

The volume includes testimonials from television-free families and bibliophiles.

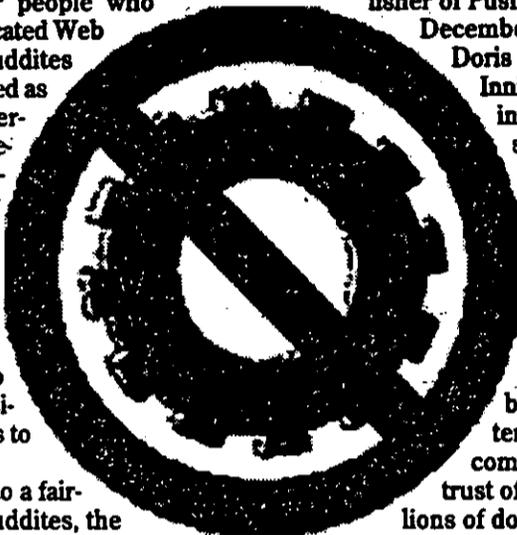
Unfortunately, you won't find Henderson's harangues on the Internet. But you will find a site for the Lead Pencil Club. Click on it. You'll see a simple address in Wain-

scott, N.Y., and a message that says "If you're interested, write."

Postscript: Alas and alack, the Gerard Manley Hopkins Society Page, cited in last week's column, mangled the poet's ode to spring. As pointed out by several astute Hopkins lovers, the lines should have read, "Nothing is so beautiful as spring— / When weeds, in wheels, shoot long and lovely and lush."

We've notified the proper authorities.

Linton Weeks can be reached at [weeks1@washpost.com](mailto:weeks1@washpost.com)



I'VE SEEN ENOUGH. WHAT SORT OF  
ANARCHO-SAVAGES ARE YOU?  
IS THERE NO SANITY ON THE WEB?



## The Washington Post

THURSDAY, APRIL 24, 1997

# Immunity for Cigarette Firms Is Early Sticking Point in Talks

By Sandra Torrey  
and John Schwartz  
Washington Post Staff Writers

As landmark negotiations recessed this week, tobacco companies and their adversaries remained far apart on several key issues, particularly on the scope of immunity cigarette makers would receive from lawsuits.

Sources involved in the talks said the extent of immunity is "a major stumbling block," but also cautioned that the talks, which began April 3, are still young and disagreement on key issues is not surprising.

Anti-tobacco forces used the intermission in talks to gather opposition to any deal that would make too many concessions—with immunity emerging as a central issue. The American Cancer Society spent \$220,000 for full-page advertisements in The Washington Post, the New York Times and other major papers to attack a possible deal. And public health advocates scheduled a news conference for today with an all-star cast of smoking adversaries—including Rep. Henry A. Waxman (D-Calif.), former FDA commissioner David A. Kessler and former surgeon general C. Everett Koop—at which they are expected to criticize immunity as part of any deal.

"There is great sentiment among the anti-smoking advocates that you do not reward the tobacco companies for all the lies and deception over all these years by giving them immunity of any kind," said Linda

Crawford, a national vice president of the American Cancer Society. Crawford stopped short of saying her organization would oppose any deal that involved immunity, but she added that such a deal "would be scrutinized to the heights."

The tobacco companies, according to one source familiar with the talks, are seeking "a very broad release" from existing lawsuits and future claims "arising out of past conduct." One solution discussed would provide some alternative avenue for future claims, perhaps arbitration, but this possible option at this point is "hopelessly vague and general," this source said.

Several sources said they expected negotiations to resume early next week, and activity among the players continued during the recess. The group of 23 attorneys general, who have filed lawsuits against the industry seeking to recover the Medicaid costs for treating smoking-related diseases, scheduled a strategy session for early next week. Yesterday, White House deputy counsel Bruce Lindsey, who has encouraged and monitored the talks, met with Mississippi Attorney General Michael Moore, a leader in the talks, and other participants.

While the two sides in the talks have found common ground on some health issues, they remain divided on whether the government would be able to regulate the level of nicotine in cigarettes—a possibility not reflected in current FDA plans but which would be anathema to the in-

dustry, according to two sources familiar with the talks.

The companies have agreed to curb underage smoking, sources said, but crucial details—the extent of the decrease, how it would be measured and whether the companies would be punished for failure or rewarded for success—are still open issues, according to two sources.

Several attorneys general stressed that they would not agree to what Louisiana Attorney General Richard Ieyoub called "blanket immunity" for the industry. Texas Attorney General Dan Morales opposed limits on liability

for future wrongdoing, according to a spokesman.

New Orleans lawyer Russ Herman, part of a national coalition of trial lawyers suing the industry in 15 states and the District, agreed that immunity is a "major sticking point" in the talks. "We are a monolith [with the attorneys general] on this issue," added Stanley Chesley, a Cincinnati trial lawyer also involved in the negotiations.

Immunity "is different to different people," said Richard Scruggs, a Mississippi lawyer involved in many of the state tobacco cases. Many of

those criticizing the negotiations miss a crucial point, Scruggs said. "Congress gave them [tobacco companies] a form of immunity" decades ago when it passed the law mandating warning labels on cigarettes. The companies used the warning labels to successfully defend themselves against product liability suits. The industry got that indirect grant of immunity "for free," Scruggs said. "We want to make them pay for it."

Spokesmen for Philip Morris Cos. and RJR Nabisco Holdings Corp., which are directly involved in the talks, declined comment.

## ON CAPITOL HILL

### Lott Counters Criticism Of Louisiana Vote Probe

Senate Majority Leader Trent Lott (R-Miss.) yesterday fired back at Democrats for fighting an expanded probe into a contested Louisiana senatorial election and for suggesting Rules and Administration Committee Chairman John W. Warner (R-Va.) was pushing a broad investigation to further his own ambitions.

"The [Democratic] minority in the Senate seems to be inclined these days to—any time they don't get their way—to stomp their feet, pout, threaten," Lott told reporters. "I would suggest to the minority that they grow up a little bit," he added.

Informed about Lott's comments, Minority Leader Thomas A. Daschle (D-S.D.) said they were not "worthy of a response."

The ruckus started last week when Warner won approval of the rules panel for a broad probe by a Virginia legal team headed by the Republican attorney general-designate, Richard Cullen, into the validity of the election of Sen. Mary Landrieu (D-La.) last November. In the process, the committee shelved recommendations from two outside counsels hired earlier who recommended a more limited probe focusing on the most serious allegations of vote-buying, multiple voting and fraudulent registration.

The election's outcome is being challenged

by Landrieu's Republican opponent, Louis "Woody" Jenkins, who contends that enough fraudulent or improper ballots were cast to invalidate her election.

At a briefing for reporters Friday, Daschle accused Warner and other committee Republicans of trying to "steal" the election and suggested Warner was trying to curry favor with conservatives to become chairman of the Armed Services Committee after the post is vacated by Sen. Strom Thurmond (R-S.C.). Daschle said Democrats would block any attempts to unseat Landrieu.

Defending the committee's decision, Lott said yesterday it is "irresponsible" to prejudge the case. "The issue is not Senator Landrieu or Woody Jenkins," he said. "The issue is what happened in the election. Was there a pattern of fraud in the election? We should not prejudge the results." To impugn Warner's motives is "totally out of order and totally untrue," he added.

—Helen Dewar

### Clinton Presses Budget Deal

President Clinton told House Democratic leaders yesterday he would continue to press for a balanced budget agreement with Republicans in the coming days despite urging from

many Democrats to delay talks until GOP leaders unveil a budget plan.

Democrats, including House Minority Leader Richard A. Gephardt (Mo.) and Senate Minority Leader Thomas A. Daschle (S.D.), have complained that the White House has allowed Republicans to criticize Clinton's budget and demand concessions without making a counterproposal. "The last thing the Republicans want to do is admit their inability to include all of their proposals in one budget package," said Rep. Vic Fazio (D-Calif.).

But Clinton told an afternoon gathering of about 30 House Democrats at the White House that it would be a mistake to force Republicans to "draw a line in the sand" and limit their flexibility. He also said a budget deal by late spring would be good for the economy.

Meanwhile, Senate Budget Committee Chairman Pete V. Domenici (R-N.M.) said, "A lot of things have been put on the table in the last couple of days" and he remained hopeful an agreement would emerge. But Rep. John M. Spratt Jr. (S.C.), the ranking Democrat on the House Budget Committee, offered a gloomier assessment.

"There's a wide, wide gap between us right now and still lots of knotty issues," he told reporters. "There is still a substantial mark as to whether we can be sure. . . . Everything is . . ."

The Washington Post

THURSDAY, APRIL 24, 1997

Mr. Mccurry: Well, he was there as a symbolic reminder of a generation that had to live with the horror of poison gas and had to fight under conditions in which it was used in warfare. And ultimately, this debate is about protecting U.S. forces. That's why we had the former Joint Chiefs of Staff, the current Joint Chief, and others representing our military there, to make the persuasive argument that this is in the best interests of those who fight wars on behalf of the United States. And he was a very vivid and symbolic reminder of the price we paid in the past when poison gas has been used.

Now, how it was arranged, I could -- someone else here find out for you.

Q You don't know if you all were looking for him or if he ---

Mr. Mccurry: I don't know. I could -- we can try to track that down.

Q Mike, after this 4:00 p.m. meeting, do you anticipate putting out any statement of change of position or anything?

Mr. Mccurry: I think that's what we're doing, right? Putting out a piece of paper.

Ms. Glynn: Perhaps.

Q On the tobacco investigations, is there any concern of a possible appearance of conflict of interest with Hugh Rodham's participation, given that he stand to make a lot of money if there is a settlement, which the White House is pushing? I mean, is that a concern at all?

Mr. Mccurry: He's a lawyer in private life and has clients -- represents any number of clients. How he came to represent this particular group, you'd have to ask the group.

Q Did he run it by the White House or the Clintons beforehand, that he was going to participate in this?

Mr. Mccurry: Not to my knowledge.

Q Mike, was the President's meeting with the automaker CEOs ever rescheduled?

Mr. Mccurry: Not that I've heard.

Okay, bye-bye.

End

2:15 P.M. Edt

#349-04/23



Mr. Mccurry: It's designed to be exactly the same.

Q Exactly the same?

Mr. Mccurry: Yes.

Q In the Vice President's office here?

Mr. Mccurry: Here in the West Wing. And I believe he is then also going to go see the First Lady in the Residence after he concludes the meeting with the Vice President and the President.

Q Why? What are they going to talk --

Mr. Mccurry: Just a chance to visit and a chance for the First Lady to express her admiration for his spiritual and moral leadership.

Q Did she request a meeting with him, or vice versa?

Mr. Mccurry: I don't know the answer to that.

Q Has she ever met with him before here --

Mr. Mccurry: I don't know the answer to that. I don't believe they've met, although they may have met in the past. I'd have to check.

Q Mike, while you don't want to talk about the Starr filing itself, how do you feel about -- how does the President feel about the ultimate effect that this is going to have, drawing this out probably at least until the end of the year?

Mr. Mccurry: It has no practical effect because it just extends the circumstances under which we're already working on all the things that the President works on on behalf of the American people. No change in the status quo.

Q Bruce Lindsey was supposed to meet with one of the Attorneys General -- today. Do you know if that meeting took place and what happened during that meeting?

Mr. Mccurry: Do you know anything about that? He's had a lot of contact on and off almost daily, I think, with some of the parties in the tobacco discussion, so I wouldn't doubt that.

Q -- supposed to be here at the White House.

Mr. Mccurry: Yes, I wouldn't doubt that, and the parties have been here from time to time on and off to talk to Bruce, so it wouldn't surprise me.

Q What's the administration's position on the lawsuit that Florida is filing about the welfare reform bill and legal immigrants?

Mr. Mccurry: We are looking at the lawsuit that's been brought by the state of Florida. The Justice Department has it under review now. In general, as a general proposition, the Justice Department protects federal law in circumstances like that, but they'll have to review the suit and then determine the right posture in court.

Q But wouldn't the administration think about the fact that Florida is seeking some help, essentially, to pay for --

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tougher on law enforcement --

Mr. Mccurry: Well, the President's views on capital punishment are pretty well-known, and he is supportive of it. But I don't think that I want to comment on the Mayor's point of view because it's not really an issue that affects any of the dialogue that the federal government is having with the Capital City.

Q Mike, was Bruce Lindsey in contact with Webb Hubbell after his guilty plea, before his prison sentence? And what's the White House view of this --

Mr. Mccurry: I'm not in a position to address that issue. You should really call Lanny about that.

Q Anonymous White House official is saying that that would smack of impropriety, quoted in the L.A. Times this morning.

Mr. Mccurry: Lanny would be your point of contact on that.

Q Mike, with lawyers like George Mitchell and Hugh Rodham involve in the tobacco talks, who does the President protect himself from the appearance of a conflict of interest in the White House role in these talks?

Mr. Mccurry: Well, I mean, those are two different people, representing two different sides of the discussion and, as always, the President is protected from potential conflicts by the Counsel's Office, who makes review of any potential conflict. I'm not aware of any in either case.

Q Can the White House role in those talks still be described as monitoring, continues to be monitoring?

Mr. Mccurry: They are actively monitoring, correct.

Q Are U.S.-Russian relations being affected by the nature of the Romanov jewels? (Laughter.)

Mr. Mccurry: Not so far as I know, but the State Department is better equipped to tell you about that.

Q Is there discussion going on at high levels about this?

Mr. Mccurry: If so, it would be at the State Department.

Q Today Daschle said that congressional Democrats couldn't support a budget deal that makes Medicare cuts in excess of \$100 million or tax cuts more than \$100 million. Is there concern that that goes against the White House's ability to be flexible?

Mr. Mccurry: We'll continue to be flexible and continue to consult closely with our Democratic friends in Congress, encourage them to understand the need to be flexible, given the reality of what it will take to get an agreement. But I'm not going to attempt to negotiate with any of the sides in the budget debate from here.

Anything else? Then I will -- yes, Susan.

Q Do you think this is a critical week in the budget? Is this a time when --