

SACRAMENTO SPECTATOR

Summer in Sacto, and the seemingly endless annual Capitol budget drill. The usual GOP holdout of, oh, 18 to 20 minutes, against another Democrat tax-and-spend spree may turn out a little differently for once. Democrats' big gains last election may actually hurt them now because diminished Republican ranks now include the staunchest conservatives — especially in the Senate, where the winnowing process and the replacement of such dependable cave-ins as Cathie Wright and Dave Kelley with the likes of Tom McClintock and Jim Battin noticeably toughened the GOP spine. Watch for Republicans to hang in for eliminating a quarter-cent sales tax increase scheduled to be imposed July 1. Democrats want the money of course, but can also see that demanding it now could hurt politically next year, in light of years of gorging themselves on fat surpluses and with voters now seeing gasoline, heating, and electricity expenses skyrocket.

The gov's slipping poll numbers have increased interest in potential GOP opponents next year. The *L.A. Times'* George Skelton has already informed Republicans they *must* nominate — surprise! — a liberal, Dick Riordan. Normally, that would be enough to eliminate the former L.A. mayor from consideration, but peeking into

his record shows Riordan is a potential liberal treasure-trove beyond, perhaps, even Skelton's imagining.

First, there are his extravagant donations to and endorsements of Democrats — lots of Democrats, in all shapes and sizes, from merely liberal to borderline communists. Bill Jones's campaign informs that Riordan endorsed Tom Bradley against George Deukmejian in 1982 and '86, loaned Bradley \$300,000 in '82 and another



\$100,000 for '86, has donated nearly \$20,000 to Gray Davis over the years including \$12,500 in March 2000, endorsed Dianne Feinstein whenever she's run, supported Bill Lockyer for A. G. against Dave Stirling, and supported Barbara Boxer, Maxine Waters, Diane Watson, and John Garamendi — a veritable murderers' row. Deukmejian — ha! — is chairing Jones's campaign.

To put this in perspective, Skelton raised a war whoop over another potential GOP nominee, Bill Simon, having given Davis

one donation of \$250 and another to Phil Angelides of \$500!

Exhibit B: Riordan on issues. During his initial run for L.A. mayor, he endorsed "police sweeps" to confiscate guns — GOP volunteer organizers, civil libertarians, rule of law proponents, and, oh yes, gun owners, take note.

But on fiscal issues at least, Riordan is supposed to be "conservative." Is he? A quick dive into the *CPR* archives uncovers a short piece he wrote for publication in this magazine 'way back in 1991. In it, "fiscal conservative" Riordan blamed our infrastructure and educational decline on "undertaxing." He lamented voters' "Prop. 13 Syndrome" that so frightened gubernatorial candidates Feinstein and Wilson that neither "would dare come out for new taxes, especially not for a reversal of Prop. 13."

He predicted this anti-tax "pull-up-the-ladder (I've got mine) attitude" would increase "the gap between the haves ... and the have-nots" leading to a "drastic" increase in California's "homeless, welfare recipients, drug addicts, and criminals." He concluded ruminating about how closely "California's cities" resemble "the disintegrating life style (for rich and poor) of New York City." Evidently, a lot more than just the usual prudent businessman's "courtesy" to Democrat powers-that-be lay behind all those endorsements, loans, and donations. No wonder George S. is licking his lips.

—A. P. C.

Mr. Smith Goes to Sacramento

Even Frank Capra's imagination would be tested by the treachery of this tale.

M A R K S . P U L L I A M

G OVERNOR GRAY DAVIS's ongoing mismanagement of California's electricity crisis is understandably crowding all other statewide political news off the front page. This is unfortunate because media coverage of events in Sacramento is marginal to begin with, and lesser debacles deserving public attention are being overlooked. One newsworthy story in particular has been ignored: State Board of Equalization (SBE) Chairman Dean Andal's crusade to overturn the boondoggle \$88.5 million attorneys' fee award to a group of law firms (including the notorious Bill Lerach's) that brought a lawsuit to invalidate California's smog impact fee for out-of-state cars being re-registered in California.

A Superior Court judge in Sacramento recently ruled that the \$88.5 million award — issued by a panel of arbitrators in November of last year — was unjustified and beyond the authority of the arbitrators. The ruling will be appealed, but it represents a stunning victory for taxpayers, who would otherwise have to pay the outrageous award, which amounts to more than \$8,800 an hour for the lucky lawyers involved. This story, while not yet over, is a parable of an out-of-control legal system, an asleep-at-the-switch legislature, and a courageous, Capra-esque figure — Dean Andal — doing battle with the special interests. There are plenty of villains: the greedy lawyers overreaching, as always, to enrich themselves at the public's expense; a corrupt arbitration system in which retired judges facilitate wealth transfers behind closed doors; and a deceitful, feckless governor who signed

the law authorizing the result about which he now, belatedly, complains.

The story begins in 1990, when the California Legislature enacted a \$300 tax per car on out-of-state vehicles being re-registered in California if they did not meet the state's strict emissions standards. (Cars sold in California have to meet these standards, but not those purchased elsewhere.) The tax, which was of doubtful constitutionality to begin with (since the U.S. constitution does not permit states to "discriminate" in interstate commerce), remained in effect until an appellate court struck it down in 1999. The law was so dubious that before its enactment the state Legislative Counsel opined that it was probably unconstitutional. Why did Legislators pass what they had been warned was an unconstitutional tax? Because they wanted the money. While the law was in force, approximately 1.7 million auto owners paid the unlawful tax, generating more than \$500 million in revenue to the state.

THE RULING invalidating the law came in a case, *Jordan v. DMV*, brought in 1995 on behalf of four individuals. (Actually, four separate lawsuits were consolidated, which is why so many lawyers were involved.) The lawsuits were not "class actions" — suits brought on behalf of a defined group of people: everyone who purchased a particular product, for instance. The trial judge, Joe Gray of the Sacramento Superior Court, struck down the smog impact fee in October 1997 and ordered a refund. The case was so easy it was decided *before* trial on a motion for summary judgment. But while the trial court ruled correctly on the constitutional issue,

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