

tion and defend human rights. A consensus exists among delegates in favor of instituting popular referenda, not only to decide matters of prime importance, but to recall elected officials. "Under the old democracy, 10 or 15 city councilmen or state legislators forced a mayor or governor out of office," says Luis Diaz, a top leader of Chávez's Fifth Republic Party. "It's the people who should have the final word."

A third model, which is supported, at least in theory, by the parties of the ruling coalition, would transfer power from the central and state governments to the municipal level. "It isn't practical to hold elections for everyone and everything," says Nelson Rampersad, a leading member of the pro-Chávez Movement Toward Socialism Party. "Decentralization has to reach the localities where civil society constantly interacts with the state." He notes, for example, that Supreme Court judges should be selected on the basis of merit by a national coun-

cil chosen by university law schools and lawyers associations, rather than be elected or named by the parties.

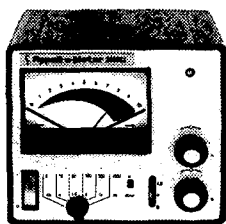
Many sectors of the population are prodding the assembly to incorporate rights and benefits for them in the new constitution. Street peddlers and other members of the "informal economy," for instance, have gathered in front of the capitol, calling for their inclusion in social security and other worker programs. Similarly, the Indian population, which chose three assembly delegates in special elections, is pushing for official recognition of their native languages and dual citizenship for those who live on the Colombian or Brazilian borders.

Mobilization and participation is, in theory, what Chávez's brand of democracy is all about. But the expectations and demands set in motion by Chávez's movement are a double-edged sword. The real danger is that the relatively weak parties that back Chávez will not be able to contain the tremendous pressure

unleashed from below. The resultant political convulsions could lead in any number of undesirable directions.

Chávez's charisma is what enabled him to displace the old rule. But the president is in a race against time. A new political system must be created and rules laid down before the opposition regroup or Chávez's appeal wears thin. In addition, the Venezuelan economy has been victimized by its uncertain future, which has scared off private investment. In the face of these imperatives, Chávez is pressuring for the ratification of the new constitution before the year is out. If all goes according to plan, Venezuelans will greet the new millennium with a clean break from the past in the form of a novel democracy. ■

**Steve Ellner** is co-editor of *The Latin American Left: From the Fall of Allende to Perestroika* (Westview) and three books on Venezuelan history and politics.



# Appall-o-Meter

By David Futrelle

## Sick Room 8.8

In the United States, we're troubled, and rightly so, when overly thrifty HMOs send us home early from the hospital. In Iran, cash-strapped patients face a different sort of problem: The government-run Sina hospital in Tehran plunks those unable to pay their bills into a jail cell. "To make sure patients will fulfill their financial obligations, we began detaining patients who fail to pay several months ago," the hospital director told the *Aftab-e Emrouz* newspaper. "We had no other choice. We have to pay our staff and had to assign a room for this purpose." So far, *Reuters* reports, the hospital has been detaining some two dozen patients a month—and has had to readmit several to the hospital after they sustained injuries trying to escape.

## English™ 6.1

In a continuing effort to claim portions of the English language as its own private

property, America Online is taking legal action against the author of a self-published Internet dating guide for using the phrase "You've Got Male" as her title—a reference to "You've Got Mail," the AOL-popularized catch phrase. "When we see our trademark being used, we take action," an AOL lawyer told the press. "We believe when people hear that phrase, they think of AOL." The company has sent a cease and desist letter to the author, Madeleine Sabol.

## True Colors 7.6

Be true to your school—or else! Eric Nutter, a fifth grader at Western Reserve Middle School in Collins, Ohio, discovered that wearing the wrong colors at school can be dangerous. Not because of any internecine gang warfare, but because he happened to wear the colors of the Pittsburgh Steelers. Nutter found himself singled out by his teacher—and was forced to sit in a corner of the class-

room—for wearing his Steelers sweatshirt on a school "spirit day" devoted to the Cleveland Browns. Nutter and his parents "expected some disapproval from his classmates, but figured it would stop short of school-enforced humiliation," reports the *Pittsburgh Post-Gazette*. "Only when the straight-A student put on



a Cleveland Indians shirt he'd brought for gym class was he permitted to turn his desk around." The school has since apologized to Nutter and his parents, though not to the Steelers.

TERRY LABAN

# No Mercy

**E**d Garcia buried his 68-year-old father the week before Labor Day. His name was Jose Garcia. He suffered from chronic heart trouble, had been confined to a wheelchair for nearly a decade, and finally succumbed to a massive heart attack the morning of Aug. 22 in New York's Green Haven prison.

A Cuban immigrant who came to this country in the '50s, Jose was married to the same woman for 41 years. He had worked for most of his life as a banquet waiter at some of New York's most prestigious hotels, and sacrificed throughout all those years so he could put his son and daughter through Catholic schools and assure them a college education. "He was a fantastic father, looking after us constantly," recalls Ed, 38, who works as a Wall Street broker these days.

Ed says his father taught the family to always obey the law. But a decade ago, already sick and disabled, Jose made a foolish mistake. The crack epidemic was at its height then, with so much fast money chasing the next big high that some corners of Washington Heights mushroomed into round-the-clock drug bazaars. Jose became a lookout for a drug gang on his block. Cops busted the operation in 1989.

Prosecutors knew it was Jose's first brush with the law, and that the then 58-year-old was already very sick. So they offered him a lower charge and a four-year sentence. All he had to do was testify against the other gang members. But gang leaders sent word that if he did, they'd go after his family. Jose refused the plea and was convicted of a drug felony.

Under New York's draconian Rockefeller drug laws, he faced a mandatory 15-year-to-life sentence, something nobody involved in the case thought he deserved. "It was never the people's contention that he was the brains, or mastermind of the operation, or the head of the organization," prosecutor Arlette Hernes told the court at the time in an unusual request for leniency.

"I think it is sad," Judge Leslie Crocker Snyder, one of the city's toughest judges, told Jose. "You were not a major figure here. ... Unfortunately, I have no choice as to what the sentence will be, because I certainly would have been happy to impose a lesser sentence. In your case,



I can only hope your health won't suffer too much."

Should you think Jose's case is unusual, consider this: Of the 20,266 drug offenders sent to federal prison under federal mandatory sentencing guidelines in fiscal year 1998, only 41 were convicted as drug kingpins. Two-thirds were minor offenders, convicted of the lowest charges under federal drug laws, which carry a minimum sentence of five to 40 years.

After his conviction, Jose was immediately shipped upstate to Green Haven's unit for the physically disabled, where he ended up in a wheelchair. His wife, Hilda, his children and his grandchildren continued to visit him regularly. The whole family eventually enlisted in the growing grassroots movement to reform mandatory sentencing laws for drugs. "It tore my family up," Ed says. "A man who had done so much for us spending his last years this way."

In 1994, the family asked New York state Sen. Olga Mendez to appeal to the governor for a medical parole. In the appeal, Mendez warned, "Jose is suffering from a debilitating heart condition, which coupled with his advanced years may have tragic results." Later that year, an aide to

then Gov. Mario Cuomo responded that Garcia's application was under consideration.

But Republican George Pataki replaced the liberal Cuomo in 1995, and several years passed without a decision from the new administration. Finally, on July 21, 1998, James Murray, the director of the governor's Executive Clemency Bureau, wrote to the Garcia family that there was "insufficient basis to warrant the exercise of the governor's clemency powers."

By then, press reports had exposed how the Parole Board under Pataki had granted freedom to 1,277 felons, including 158 imprisoned for the same serious drug charge as Garcia's. Among those freed were two Israeli mobsters, Ziv Oved and Moshe Cohen, who were convicted of running multimillion-dollar, international drug rings. Both were released and deported to Israel after a Brooklyn businessman, who was also a friend and big fundraiser for Pataki, appealed to the Parole Board. One of the convicts had served only six years of an 18-year-to-life sentence.

## Gov. Pataki's Parole Board freed more than 1,000 felons. But Jose Garcia had no campaign contributors in his corner.

Another man, John Kim, who was convicted of three armed robberies in Queens, was released after a second Pataki fundraiser interceded on his behalf. But Jose had no campaign contributors in his corner.

Ed talked to his father by telephone on Aug. 21. They discussed the usual things sons and fathers talk about: the New York Mets' run at the baseball pennant, politics, the family. At around 7:30 the next morning, a guard making the rounds at Green Haven noticed Jose lying on the floor of his cell. One of the oldest Rockefeller law inmates in New York had completed his maximum sentence. ■