

WHO'S WHO

Insiders from the **George Bush** campaign credit three people, two of whom are virtual unknowns, for the three most crucial actions in the campaign. The Boston Harbor media event was staged by **Ron Kaufman**. The use of **Willie Horton** was the inspiration of **Jim Pinkerton**. And the person who relaxed Bush before the latter's victory in the second debate was **Roger Ailes**, who also managed to make **Michael Dukakis** angry by signaling from the Bush side of the stage to the Dukakis side, just before the debaters walked onto the stage that he knew the Democrats had secretly planted a height booster behind the Duke's podium. . . .

Another person who deserves credit for the revolving-door commercial is **Dennis Frankenberry**, a Milwaukee advertising executive, who helped create it. Curiously enough, Frankenbury himself, according to **Richard Gonzales** of National Public Radio, had been the beneficiary of a work-release program after being convicted of hit-and-run drunk driving, in a case in which one of his victims suffered brain damage. . . .

Dan Quayle's Senate staff members are upset. As of mid-December, none had been offered jobs in the new administration. As one observed: "It's horrible this being in the dark. . . . I thought we won." What seems to be happening is that the Bush people are telling Quayle whom to hire. Quayle's official representative at Bush headquarters is **Fred Fielding**, who is much more a Bush than a Quayle man. And the first announced Quayle appointment, **David Beckwith** as press secretary, was a Bush friend named despite Quayle's protest. . . .

A trusted friend of ours reports that one Saturday last month, as a gesture to domestic harmony, he repaired to the Chevy Chase Lounge to watch sports on television. Competing for his attention was the sight of two interesting, if not regular, patrons, **Meg Greenfield** and **George Will**, who were seated in the rear. They were joined shortly by **Charles Krauthammer**. The pundits' corner was then graced by the addition of two more unusual patrons who entered in the most unusual of ways (through the back door)—**Dan and Marilyn Quayle**.

Now for some practical help for our readers who are interested in joining the new administration. Send your resumes to: **Patricia M. Kearney** for a job in the Department of Agriculture, **Carol W. Ford** for Commerce, **B. Reid Detchon** for Energy, **Richard W. Porter** for Labor, **Antonio Lopez** for Veterans Affairs, **Margaret D. Garikes** for Health and Human Services, **Michael Marino** for Hous-

ing and Urban Development, **Michael M. Uhlmann** for Justice, **Lynette B. Lenard** for Interior, **D. Robert Quartel Jr.** for Transportation, and **Lewis S.W. Crampton** for the Environmental Protection Agency. Write Office of the President-Elect, 1825 Connecticut Ave N.W., Washington, D.C. 20009.

But it is wise to remember that final decisions on important jobs are made by a committee consisting of **Robert M. Teeter**, **James A. Baker III**, **Nicholas F. Brady**, **John H. Sununu**, **Craig Fuller** (yes, he still has some power in the transition), **George Bush** himself, and **Chase Untermeyer**, who is called personnel director of the transition, but who serves more as recording secretary of this group rather than as a full-fledged member. . . .

One of the great Washington games is trying to figure out which administration figures are leaking to which reporters. Early signs can be clues to long-range patterns as was the case with the relationship of **Michael Deaver** and **Lou Cannon** of *The Washington Post* during the 1980 campaign, which continued through Reagan's first term. One early clue as to the leaks in the Bush camp and the leakers in the press was a story the *Post* ran on page one on November 12 with the headline, "Fuller, Teeter, Sununu Eyed as Top Bush Team—Trio Would Run White House Operations." The suspected leakers were **James Baker** and **Richard Darman**, who did not want Sununu to assume power alone. The reporters were **David Hoffman** and **Ann Devroy**. The story, of course, turned out to be wrong. . . .

Reagan Administration: In—Energy: Assistant Secretary for Conservation and Renewable Energy—**John R. Berg**. **Interior:** Assistant Secretary for Fish and Wildlife—**Becky Norton Dunlop**. **Labor:** Assistant Secretary, Mine Safety and Health Administration—**David C. O'Neal**.

Bush Administration: In—White House: Chief of Staff—**John H. Sununu**. Press Secretary—**Marlin Fitzwater**. National Security Adviser—**Brent Scowcroft**. White House Counsel—**C. Boyden Gray**. Special Trade Representative—**Carla Hills**. Chairman, Council of Economic Advisers—**Michael Boskin**. Office of Management and Budget—**Richard Darman**. **Agriculture:** Secretary—**Clayton Yeutter**. **Commerce:** Secretary—**Robert Mosbacher**. **Defense:** Secretary—**John G. Tower**. **Education:** Secretary—**Lauro Cavazos**. **Housing and Urban Development:** Secretary—**Jack F. Kemp**. **State:** Secretary—**James A. Baker III**. Ambassador to the United Nations—**Thomas Pickering**. **Treasury:** Secretary—**Nicholas F. Brady**. **Agencies and Commissions:** Director, Central Intelligence Agency—**William Webster**.

ON POLITICAL BOOKS

You Little Tort

We clog the courts with crazy liability cases while the real crooks get off

by Daniel Farber

Richard Neely sits on the supreme court of West Virginia. This is how he describes his job: "As a state court judge, much of my time is devoted to designing elaborate new ways to make business pay for everyone else's bad luck. I may not always congratulate myself at the end of the day on the brilliance of my legal reasoning, but when I do such things as allow a paraplegic to collect a few hundred thousand dollars from the Michelin Tire Company—thanks to a one-car crash of unexplainable cause—I at least sleep well at night. Michelin will somehow survive (and if they don't, only the French will care), but my disabled constituent won't make it the rest of her life without Michelin's money."

This passage tells you a lot about Judge Neely's latest book, *The Products Liability Mess*.^{*} The style is brash but disarming. Here are some other Neely gems: "Jesse Jackson is interesting but not powerful; courts are powerful but not interesting." "Senior partners in large firms make money buying young lawyers at wholesale and selling them at retail." "Horse riding is the ideal sport for politicians because at its heart is the skill of convincing the horse to do all the work." As one of the blurbs on the dust jacket says, "It is difficult not to like Judge Richard Neely. . . his blend of learning, irreverence, candor, and common sense would be hard to resist."

One of the reasons Neely is so disarming is that his candor stops short of cynicism. In the Michelin case, he admits to bending the legal rules to help a constituent, with the rueful implication that he's willing to be a bit unprincipled for political reasons. But it's not merely political, because his constituent really *is* destitute, and no one else is willing to help. So he may be a bit of a rogue, we infer, but he's a rogue with a golden heart. How can you help but

like the Robin Hood of the state courts?

While it displays Neely's engaging style, the Michelin story also exemplifies his thesis. Neely argues that products liability law has gotten out of hand because of the incentives for state court judges to help out hometown plaintiffs at the expense of out-of-state manufacturers. Like most "beggar thy neighbor" strategies, this one can end up hurting everyone, because the resulting legal rules may ignore the legitimate needs of business. To solve this problem, he calls upon the United States Supreme Court to start reviewing state court decisions in products liability cases. Only the Supreme Court, he suggests, can prevent the state courts from exploiting out-of-state companies.

Most of Neely's attention is devoted to this reform proposal. Before worrying about reform, however, it's important to understand the problems with current law, which is at once too harsh on some companies, too lenient with others, and much too expensive and cumbersome.

Plain tiffs

Products liability dates from the 1960s, when the courts turned "let the buyer beware" on its head. The theory now is that consumers are entitled to assume that products are safely designed and properly manufactured. Businesses are increasingly beleaguered by lawsuits. Their concerns may be exaggerated, but they do have some foundation. There has been a steady expansion in the scope of liability, and defenses have become harder to establish. According to one study, about 13,500 products liability suits were filed in federal court in 1986, as opposed to 1,500 in 1974. Is the system working better to hold corporations properly accountable? Or have the courts run amok?

Neely's answer is rather guarded. On the one hand, he does believe that products liability has increased consumer safety by deterring unsafe conduct. He tells a long, amusing story about French

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^{*}*The Products Liability Mess: How Business Can Be Rescued from State Court Politics.* Richard Neely. Free Press, \$24.95.