

Authorities must decide who takes rap in SEC case

AUSTIN (AP) — State and federal authorities must decide now who, if anyone, takes the rap in the Securities and Exchange Commission stock fraud case.

And Texas voters may have a final say in 1972 when some of those involved in the stock manipulation scandal seek re-election or higher office.

U.S. Dist. Judge Sarah Hughes ruled Thursday that eight businessmen, including former Texas Atty. Gen. Waggoner Carr and a former state insurance commissioner, John Osorio, had joined in illegal stock transactions. However, the decision merely placed the defendants, at SEC request, under permanent court orders not to make any more illegal stock deals.

The 11-page decision did not mention Gov. Preston Smith, Speaker Gus Mutscher, Reps. Tommy Shannon of Fort Worth, W. S. Heatly of Paducah and several others who were not defendants but have admitted they made quick profits on the manipulated stock of National Bankers Life Insurance Co., now in receivership.

It also did not mention U.S. Asst. Atty. Gen. Will Wilson, an-

other former state attorney general and a former legal counsel to Houston promoter Frank W. Sharp, labeled the key figure in the SEC investigation.

Sharp, who was one of the eight permanently enjoined, earlier paid a \$5,000 fine and got a three-year probated sentence on minor charges of stock tampering, then testified against other defendants in return for immunity from further prosecution.

Now attention turns to federal and state grand juries in Houston, Dallas and Austin who will decide if any of the SEC civil law violations should be followed by criminal law prosecution, including SEC accusations of a scheme to give some state politicians quick stock market profits in return for legislation that Sharp wanted.

No matter what the grand juries do, the SEC investigation and trial has already had an effect on a number of Texas political plans in 1972 and the balance of power in the 1973 legislature.

Smith has been in doubt about attempting a third term campaign and the SEC investigation undoubtedly will affect his final decisions. There has been no announcement but Smith has indicated that he will not seek re-election.

Mutscher says he is a candidate for a third-term as speaker of the House but there is growing opposition among House members, some predicting Mutscher will be ousted before his current term ends in any special session before 1973. Mutscher also must win re-election as a representative from Brenham.

Heatly is considered likely to win re-election from Paducah but, unless Mutscher is speaker again, it is highly unlikely Heatly will be chosen as the influential Appropriations Committee chairman for a seventh legislative session. Two leading contenders for Mutscher's speakership have vowed they will not reappoint Heatly.

Shannon has said he will seek re-election from Fort Worth and already has an announced opponent for the 1972 campaign.

Still another 1972 campaign, that of Lt. Gov. Ben Barnes for governor, likely will be affected to some degree by the SEC investigation. Sharp testified that he once heard Osorio say that Barnes had "delivered for us . . . He only deals in cash." Osorio at once called the testimony "a damned lie" and denied ever making such statements.

Barnes' opponents in 1972 are likely to revive the incident. "We have an uphill fight before us," a Barnes aide said afterwards. Unfinished investigations are pending before Separate Texas

House and Senate committees.

The Senate group concentrated on operations of the State Banking Department, particularly in the collapse of Sharpstown State Bank at Houston. It considers much of its work done with the passage of seven bills in the recent legislature that gave the banking department more authority and power to act quickly in a bank crisis.

The House committee, which concentrated on SEC charges that outside influence was used to pass two bills in 1969 that would have helped Sharp's bank, has another session tentatively set for Oct. 7 and 8, with Mutscher, Osorio and Heatly scheduled to testify.

Sharp and Carr appeared at the last committee session which ended with charges from Carr

and some committee members that Wilson and other top Republicans were behind the SEC investigation. The committee invited Wilson to appear but he replied that he would delay any appearance until after the grand juries involved have acted.

The state grand jury in Austin has indicated it has finished its investigation, primarily into the legislative influence angle, and will report soon, probably the last week in September.

A high informed source told The Associated Press recently that the district attorney's office had prepared drafts of bribery indictment papers that named Mutscher, Shannon, and one of Mutscher's aides, Rush McGinty, but the papers had not been presented to the grand jury.

The source also said papers had been prepared naming Os-

orio in connection with a charge of filing a false report with the insurance commission. The source said this past week that the drafts naming the four men were still in hand and had not been acted on by the grand jury.

The district attorneys at Houston and Austin held a conference on the site of a trial if either of their state grand juries should return indictments. "Although we might have venue on a more limited basis than Travis County (Austin), that county has venue on all matters brought to my attention," District Atty. Carol Vance of Houston said later.

The federal grand jury in Houston, which has concentrated on probing the downfall of Sharpstown State Bank, heard testimony from Shannon Thursday then recessed until Sept. 27.

Its term expires Oct. 26.

In Dallas, U.S. Atty Eldon Mahon said his office would begin studying the findings of the SEC report but it might be weeks before any cases are presented to the Dallas federal grand jury. He said the SEC could recommend action on criminal violations "or we may have to look for it ourselves."

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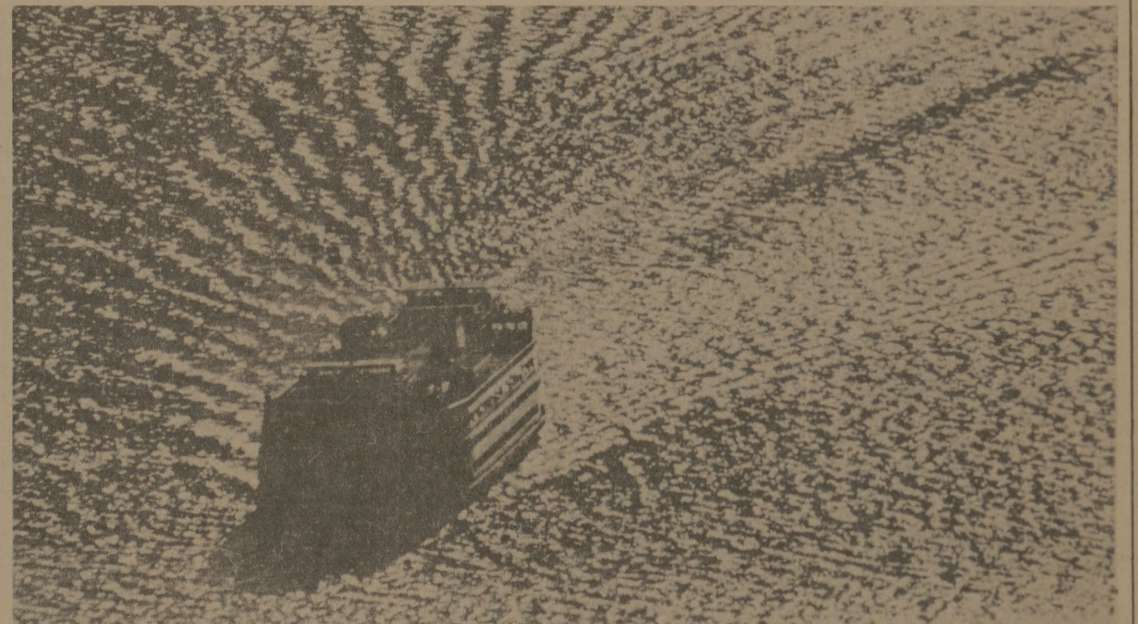
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