

# VIEWPOINT

THE BATTALION • TEXAS A&M UNIVERSITY

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## Pin the tail on the donkey

Energy shortages and fuel needs dominate newspaper headlines today. Notices of rising prices, long lines at gas stations and violence among fellow drivers bombard Americans daily.

Everyone is running around with a label marked "blame" looking for an ass to pin it on.

Former President Gerald Ford blames the Carter administration's "inefficient" energy policies. Carter blames Congress and the OPEC countries and the American people blame the oil companies.

Officials should take the "shoot now, ask questions later" philosophy. Development of alternative energy sources has been moving at a snail's pace since the first real warning of a crisis in 1973.

There will be no national conservation effort until the people are convinced the shortage is real. But if neither facts, figures, long lines nor high prices will convince motorists, what will?

The day that a driver cannot find a gas station with pumps operating. The day that stations stay open on Sunday and are closed the rest of the week. The day that a Cadillac Seville becomes a high class chicken coop.

And that will be a day too late.

K.L.R.

## Candidates should expect 'hard knocks'

By ARNOLD SAWISLAK  
United Press International

WASHINGTON — If you listen to John White or Evan Dobelle, you can hear the theme of Jimmy Carter's 1980 reelection campaign. To wit, the water glass is half full, not half empty and the president is pumping like mad.

The chairman of the Democratic National Committee and the chairman of the Carter-Mondale campaign committee have been saying essentially the same thing in recent weeks.

First, the country has some mean problems the Carter administration has not been able to solve such as inflation and energy shortages, but the president isn't trying to duck them or look for "quick fixes" that will make things worse in the long run.

Second, Carter has already compiled a remarkable record of accomplishment in reducing unemployment, reforming the civil service, cutting the budget deficit ramrodding the Israeli-Egyptian peace settlement, getting the long-delayed Panama Canal treaty and negotiating a lid on the horror weapons of strategic war.

The president's men are saying, in effect, they expect the voters to respond positively to the message that Carter has turned in a pretty good record in dealing with some very difficult issues in his first term.

This is a very high-minded approach to the usually low down business of seeking elective office in this country. If this remains the thrust of the Carter campaign, we should not be surprised — we should be amazed.

After the 1978 congressional and state elections, there was much talk among the political professionals about the high percentage of success enjoyed by "negative" campaigns. That is jargon for campaigns in which winners spent most of their time knocking their opponents.

It is as true in politics as in war that those who plan such ventures most often try to pattern the next campaign on the last successful one. It therefore is an odds-on bet that there is going to be a lot of negative campaigning in 1980.

The incumbent usually is at a disadvantage in such a situation. In this world of imperfect solutions to intractable problems, the incumbent often is kept so busy defending his record that he can't seize the initiative to brag about it.

(Lyndon Johnson was able to beat the game in 1964. Since he had only a short time in office, the GOP didn't have much to blame him for. At the same time, Johnson managed to pitch the campaign on the purely speculative question of what Barry Goldwater might do if he was elected. Richard Nixon, although he did have a record in office to defend, managed the same turnaround feat in 1972 against George McGovern.)

In any case, it will be interesting to see how long the Carter partisans are able to operate on the lofty plane they have chosen to occupy in the first months of the precampaign.

A good guess: until the first creditable Democratic challenger announces against the president.

### Writing the editor

The Battalion welcomes letters to the editor on any subject. However, to be acceptable for publication these letters must meet certain criteria. They should:

✓ Not exceed 300 words or 1800 characters in length.

✓ Be neatly typed whenever possible. Hand-written letters are acceptable.

✓ Include the author's name, address and telephone number for verification.

Letters to the editor are printed as a service to our readers. Publication of a letter is never guaranteed. The editorial staff reserves the right to edit letters to remove grammatical errors and to avoid litigation.

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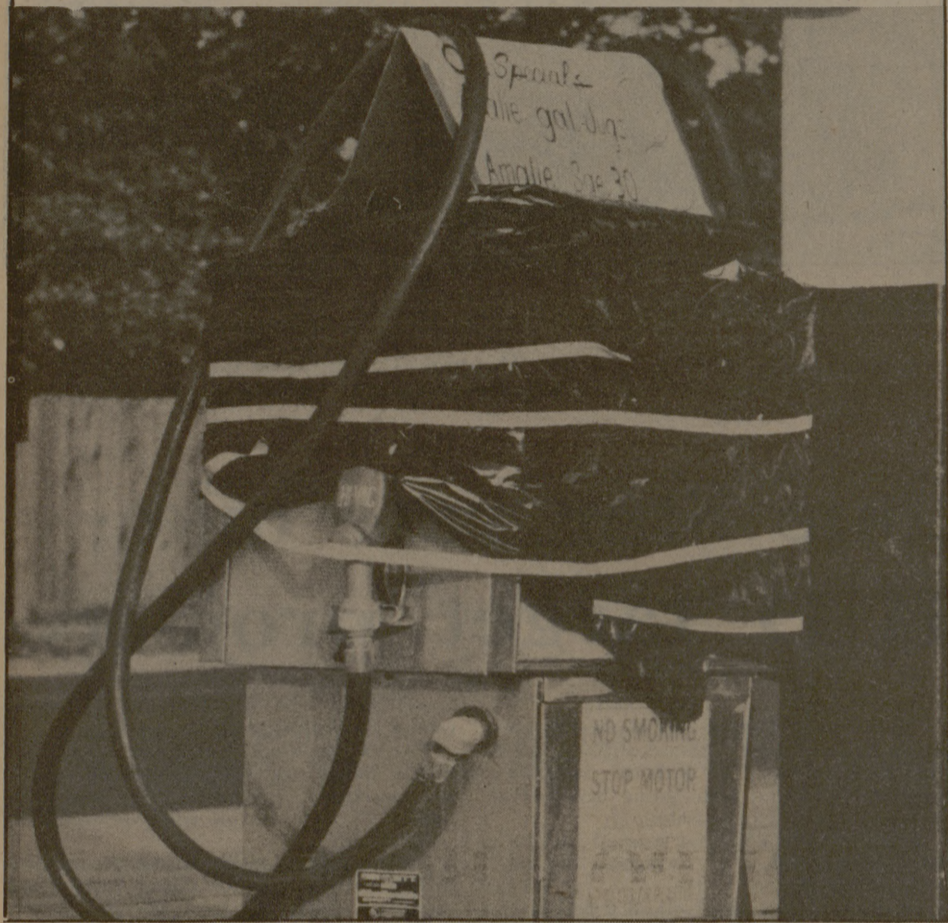
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### Reader's Forum

Guest viewpoints, in addition to Letters to the Editor, are welcome. All pieces submitted to Readers' forum should be:

- Typed triple space
- Limited to 60 characters per line
- Limited to 100 lines



Only in America

## Juries too liberal with insurance money

By LeROY POPE

United Press International

NEW YORK — The jury system, regarded as a keystone of American liberty, is coming under attack from the property and casualty insurance industry.

The huge judgments obtained from juries in personal injury cases by attorneys such as Melvin Belli are leading to proposals that jury trials of personal injury cases be abandoned or even outlawed.

Dr. Werner Pfennigstorf, a research attorney for the American Bar Foundation in Chicago, says nowhere in the world except America do juries any longer hear personal injury cases. He says American society soon will reach the point where it no longer can tolerate "huge damage awards and other abuses to the free enterprise system."

In an article in *The Producer*, a magazine published by the big Crum & Forster insurance group, Dr. Pfennigstorf said he foresees the adoption in the United States of some form of mandatory govern-

ment property and casualty insurance "similar to that which has been available in Europe for hundreds of years."

Dr. Pfennigstorf said his own observation of the jury system for personal injury cases in the United States was that it could work fairly well in smaller communities "where people have a sense of responsibility to each other," but that it breaks down in the large communities where litigants and jurors are protected by relative anonymity. There a public psychology develops that the insurance companies can well afford to pay high damage awards.

However, in a booklet published by the American Bar Foundation in 1975, Dr. Pfennigstorf said that while jury trials in personal injury cases are more expensive than many other kinds of legal services, only a minority of the cases actually go to trial and the legal costs are small in comparison with the judgments that may be obtained.

In this booklet, Dr. Pfennigstorf devoted much of his article to discussion of

the American phenomenon of the lawyers' contingency fee for personal injury cases, which is not permitted in European countries. You can't sue for auto accident injuries in Europe without paying your lawyer in cash and putting up money for court costs. But there are mandatory government insurance plans that provide basic remuneration fairly promptly.

Some insurance leaders in the United States have been campaigning for abolition of the contingency lawyers' fees in accident cases for several years now. If contingency fees were abolished (although hardly anybody believes that will happen) the lawyer's chance of making a killing out of a jury trial of such a case would disappear.

Ironically, this opposition to the contingency fee is being raised in America at the very time when British lawyers, seeing the bonanzas made out of it by some of their American contemporaries, are proposing that the contingency fee finally be permitted in Britain.

Jury trials of personal injury cases were common in Britain until 1940, although not on a contingency fee basis, according to an article in the August, 1977, number of *Best's Review*, another insurance trade paper. But with the outbreak of World War II and the total mobilization of Britain's manpower and womanpower, the article said it became almost impossible to impanel a jury for a civil accident injury case.

After the war, jury trials of civil accident cases were resumed but by 1966, Lord Denning, chairman of the Court of Appeals, said they had virtually disappeared and all personal injury damage cases tried in Britain are heard by the judge alone.

Apparently there is no absolute right to a jury trial of such a case in England and a judge can refuse a jury trial if the plaintiff's lawyer does not cite reasons for it the judge considers imperative.

The article in *Best's Review*, written by John Griffith, a London Queen's Counsel, a type of lawyer peculiar to Britain, said the British Bar and the British Public had gravitated towards non-jury trials of civil accident cases largely on the basis of three considerations other than cost. He listed these as:

Assessability — Judges are believed to be better able than jurors to correctly assess the injuries and the proper compensation.

Uniformity — Judges can be depended on, where jurors cannot, to see that similar claimants get similar compensation and thus preserve the principle of democratic fairness and protect the interest of the community as well as those of the claimants and the defendants and their insurance companies.

Predictability — The English appear to believe that the victim of an accident and the person unfortunate enough to cause it as well as the insurance companies ought to be able to measure with some degree of accuracy months in advance how the court is likely to handle the matter. There should be no shocking surprises as sometimes are handed down by a runaway jury in America.

The insurance people and some lawyers are concerned about much more than the question of whether or not jury trials of personal cases should be gradually done away with. They are concerned by a growing psychology that "people are entitled to legal redress if anyone or anything interferes with their ability to enjoy life," said Chicago lawyer Philip Corboy. He said people seemed to believe society ought to be risk-free.

To which San Francisco lawyer Scott Conley added "this attitude is aided by the belief that there must be a pot of gold at the end of every whirlpool."



## TOP OF THE NEWS

### LOCAL

#### Backgammon game for record

There will be a dance from 9 p.m. to 12 midnight Friday at Bee Creek Pool in College Station. At 1:30 p.m. Saturday, there will be a diving show followed by a mammoth backgammon game on the painted empty pool floor using children as playing pieces in an attempt to make the Guinness Book of World Records. Children ages 10-13 may register as playing pieces 1-3 p.m. Saturday.

### NATION

#### Fiedler's condition 'stable'

Boston Pops conductor Arthur Fiedler was reported in stable condition Monday and resting comfortably after suffering what was described as a "mild heart attack" this weekend.

The maestro, 84, who has suffered four other heart attacks, was admitted to Tufts New England Medical Center in Boston Saturday night and is expected to remain hospitalized for several more weeks.

#### Crews searching for pipe leak

Crews dug up pipe in Alaska's rugged Brooks Range Monday in search of a leak that closed the \$9 billion TransAlaska pipeline and sent crude oil oozing through a snow-covered mountain pass and into the Atigun River. The accident deprives oil companies of more than 1.2 million barrels of precious "black gold" the pipeline has been delivering daily to tankers at the southern Alaska port of Valdez. An undetermined amount of oil leaked from the buried pipe at barrens Atigun Pass, about 165 miles south of the Prudhoe Bay oil fields, and was carried by a small stream into the Atigun River, Alyeska Pipeline Services said. The leaking oil was spotted Sunday by a pilot flying over the pass, who then landed at the pipeline's Pump Station No. 4 to notify officials and the entire system was shut down immediately.

#### Supreme Court denies appeal

The Supreme Court Monday turned down an appeal by Bernard Ferguson, who is on death row in Texas for the 1977 fatal stabbing of an employee of a small grocery store during a robbery. The court let stand Ferguson's conviction and death sentence over the dissents of Justices Thurgood Marshall and William Brennan. Ferguson was convicted for the murder of Randy Tingle, an attendant at a small grocery store in Killeen, Texas, during an armed robbery on Jan. 25, 1977, shortly before midnight. About \$28 was taken from the cash register. In his appeal, he urged the Supreme Court to reconsider its 1976 ruling upholding Texas' capital punishment law, saying practical experience shows the statute is vague and arbitrary and does not permit proper consideration of mercy factors, such as age and lack of a prior criminal record.

Defense lawyers said there was evidence, for instance, that Ferguson had suffered a head injury and perhaps organic brain damage when hit by a car at age 8. The lawyers also challenged a state court's decision that admission of a blood analysis obtained without a search warrant was a "harmless" error that did not require reversal of his conviction. Ferguson's lawyers argued the death sentence was a "disproportionate" penalty for a 17-year-old with no prior prison record, although they conceded the murder was a "relatively brutal" one in which the victim was stabbed four times and the knife was twisted.

### WORLD

#### Pemex oil geyser still burning

Authorities in Campeche, Mexico say they have been unable to stop a 30,000 barrel-a-day flaming oil geyser shooting up from the depths of the Gulf of Mexico and threatening an environmental disaster in some of the world's richest fishing waters. Officials in Campeche, the city closest to the government oil monopoly Petroleos Mexicanos' (Pemex) Itoc I well that exploded into an underwater volcano a week ago, said Sunday a team of firefighters made up of Americans and Norwegians known as "The Red Devils," had been called in to battle the blaze. There were conflicting reports on the size of the slick spreading in the bay, 500 miles southeast of Mexico City.

Pemex said the well produced 30,000 barrels of oil a day, worth \$513,000 at \$17.10 a barrel.

#### Americans to leave Nicaragua

Sandinista guerrillas fought off Anastasio Somoza's troops in Managua Monday in the first battles in the capital in a year, and the United States arranged an armed convoy to the airport to begin evacuating Americans. About 50 Americans went to the U.S. embassy in Managua Monday seeking help in reaching the airport, as fighting erupted at sunrise between the Sandinistas and government troops, who are attempting to stem the Sandinistas' offensive to oust Somoza. The Sandinistas already have captured the interior cities, villages, hamlets and strategic hilltops along the southern border with Costa Rica. In Washington, the Organization of American States called a special session to discuss Nicaragua's charges that the Sandinistas are being equipped with arms smuggled from Panama and Cuba.

## THE BATTALION

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