



SQUEEZE PLAY



THE UNITED STATES, CUBA,
AND THE HELMS-BURTON ACT

By Patrick J. Kiger

John **Kruger**, Chief Investigator

THE CENTER FOR PUBLIC INTEGRITY



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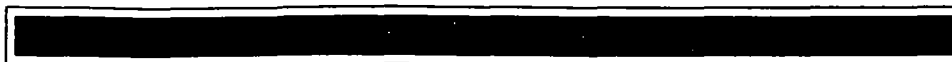
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"The spirit of a government must be that
of the country. The form of a government
must come from the makeup of the country.
Government is nothing but the balance
of the elements of a country."

JOSÉ MARTÍ

"Public confidence in the integrity of the government is
indispensable to faith in **democracy**, and when
we lose faith in the system, we have lost faith
in everything we fight and spend for."

ADLAI STEVENSON



INTRODUCTION

For more than three decades, U.S. policy toward Cuba has focused largely on one goal: getting rid of Cuban dictator Fidel Castro. Toward that end, a succession of U.S. **Presidents—from Dwight Eisenhower to Bill Clinton—have** expended considerable energy and many millions of tax dollars to overthrow a Communist regime that just 90 miles from American shores. In so doing, they have underwritten tactics ranging from armed invasion and assassins armed with poison syringes to building a costly television and radio operation that beams anti-Castro broadcasts at the island. More important, the United States has waged economic war against a country that once was a lucrative U.S. trading partner, imposing an embargo that's meant to force Castro out by strangling Cuba's economy.

Yet none of these tactics has worked; no matter what U.S. policymakers have unleashed to undermine his regime, Castro has remained in power. He has outlasted even the Soviet Union, the superpower that once was his protector. Thus, on March 12, 1996, after Cuban fighter planes shot down two U.S. civilian aircraft in international airspace near the island, President Clinton signed perhaps the most radical and far-reaching attempt to overthrow Castro so far: the Cuban Liberty and Democratic Solidarity (**Libertad**) Act, popularly known as the Helms-Burton act.

"I sign it with a certainty that it will send a powerful, unified message from the United States to Havana, that the yearning of the Cuban people for freedom must not be denied," Clinton said in an emotion-laden White House ceremony as the families and friends of the four civilian aviators who lost their lives over the Florida straits looked on. **"In their memory,** I will continue to do everything I can to help the tide of democracy that has swept our entire hemisphere finally, finally reach the shores of **Cuba."**¹

The Clinton Administration originally opposed Helms-Burton because it takes the unparalleled step of eliminating most of the President's authority to make policy toward another country. Instead, Helms-Burton writes permanently into law the patchwork of executive orders that various Presidents have issued, fixing the economic embargo against Cuba as a permanent policy that cannot be lifted by Clinton or any successive President, unless Castro first leaves power.

But Helms-Burton goes beyond trying to tie the President's hands on Cuba. It attempts to expand the U.S. embargo into a global blockade by forcing other nations to stop doing business with Cuba as well. Title III of Helms-Burton allows U.S. companies and Cuban emigres whose properties were seized after the 1959 Cuban revolution to file federal lawsuits against any foreign companies that they

believe are profiting somehow from seized sugar mills, **farmland**, or nickel mines. Title IV empowers the U.S. government to punish executives of foreign companies that are believed to be "trafficking" in those properties, by barring the executives and members of their families from entering the United States.

To rid itself of Castro, the United States is swallowing bitter medicine with potentially dire side effects. Such important U.S. trading partners as Canada, Mexico, and Europe, which have collectively invested nearly \$1 billion in Cuba, were angered by what they see as the United States's attempt to extend its laws beyond its own **borders**.² They quickly threatened to retaliate with **anti-U.S.** sanctions. The tensions soon threatened to disrupt delicate international trade agreements that are essential to continued U.S. prosperity. **Clinton**, faced with a potential crisis, opted to use the one small bit of maneuvering room that Helms-Burton left him; in July 1996 and again early this **year**, he invoked a provision that allows him to delay the filing of lawsuits under Helms-Burton. In return, the European nations allowed the Clinton Administration to save face by agreeing to urge Castro to adopt political reforms. Even so, the Europeans and other nations remain adamantly opposed to Helms-Burton, and a disastrous trade war could well ensue if the United States ever allows the law to take full effect.

And so U.S.-Cuba policy, as it has since the 1960s, remains a tangled, ineffectual mess. But how did it get that way? Why has the the United States taken such a hard line against Cuba while promoting trade and investment in other **nations**—China, for **example—with** similarly dictatorial regimes and poor records on human rights? Why have a series of Presidents stuck with an economic embargo that, after 37 years, has failed to produce political change in Cuba? And why, compared with other **issues**, has there been so little meaningful public debate in Washington over Cuba policy

These questions are the focus of this report. It is the first in-depth study of the influences that have shaped U.S. policy toward Cuba and, for decades, kept it moving immutably in the same, thus far fruitless direction.

Squeeze Play: The United States, Cuba, and the Helms-Burton Act traces the history of the Cuba embargo from its origins in **1960**, when it was hastily improvised after President Eisenhower's attempts to destabilize the then-new Castro regime with subtle economic pressure backfired. It examines the rise of the conservative Cuban-American lobby and documents how it became a potent, sometimes fearsome force in shaping U.S.-Cuba policy. And the report gives perhaps the first detailed look at the creation of the Helms-Burton **Act—the** behind-the-scenes players for and against **it**, and what each side stood to gain from the battle.

Some key findings:

- Since 1979, individuals and organizations with an identifiable interest or stake in the future of Cuba have poured more than \$4.4 million into the U.S. political system. Of this amount, approximately \$3.2 million came from trustees and directors of the Cuban American National Foundation, which, since its inception in the early 1980s, has become the most powerful voice on U.S. policy toward Cuba, and the Free Cuba PAC, **CANF's** political fund-raising arm. Among the top beneficiaries of its largesse: Republican Senator Jesse Helms of North Carolina, the co-sponsor of the Helms-Burton Act.

- **CANF** and its chairman, **Jorge Mas Canosa**, have created an influence machine that, dollar for dollar, is arguably the most effective lobbying force in Washington. Patterned after the conservative pro-Israel lobby, it includes the Cuban American Foundation, CANF's lobbying arm, and the Free Cuba PAC. The CANF machine successfully pushed Congress to create both Radio and TV **Martí**, which since the 1980s have gotten more than \$280 million in federal funds, despite serious questions about bias and **effectiveness**³; it also successfully secured the passage of the 1992 Cuban Democracy Act, and, four years later, **Helms-Burton**—a remarkable foreign policy hat-trick.

- The Capitol Hill aides who were most deeply involved in conceiving and drafting the Helms-Burton legislation relied heavily on lawyers and lobbyists who have represented, or have other ties to, the Bacardi spirits empire. Bacardi lost its distillery and brewery properties after the 1959 Cuban revolution, but, because it wasn't a U.S. company, it was unable to register a **U.S.-government-backed** claim against Cuba in the 1970s claims process. Under **Helms-Burton**, Bacardi, though it still primarily is a foreign operation, can use the power of U.S. courts to keep competitors from setting up shop in its old Cuban properties.

- One of Mas Canosa's feats has been the conversion of Democrat Robert Torricelli of New Jersey, who served six terms in the House before his election to the Senate in November 1996. In the 1980s Torricelli was a liberal opponent of the Reagan Administration's policies in Central America, which Mas Canosa worked to support; in 1989, Torricelli co-sponsored legislation, ultimately unsuccessful, to partially lift the embargo and allow the sale of medicines and medical equipment to Cuba. But Torricelli, who became the chairman of the House subcommittee with **jurisdiction** over U.S.-Cuba affairs, switched sides. Ultimately, he became one of Castro's fiercest opponents and Mas Canosa's most important allies on Capitol Hill. During that evolution, he received more than \$120,000 in political contributions from CANF's directors and trustees and from the Free Cuba **PAC**.⁴

- In contrast to CANF, those who advocate negotiations with Castro or a lifting of the embargo have been loosely organized, divided on goals and tactics, and, at **times**, silenced by acts of violence by anti-Castro extremists. The pro-dialogue organizations tend to be poorly financed compared with CANF. A notable exception is the **Arca** Foundation, which has spent more than \$1 million since the late 1980s to promote a lifting of the Cuba embargo, and has made grants for various Cuba-related projects, including this **study**.⁵ In contrast to the CANF machine's millions in political contributions, most pro-dialogue organizations have given little or nothing to the political process.

- U.S. business interests, though eager to set up shop in Cuba, have exerted relative little force politically in Cuba policy, compared to their recent lobbying efforts on behalf of the North American Free Trade Agreement and lifting of the embargo against Vietnam. The U.S. companies that fought most vigorously against Helms-Burton were certified claimants whose property had been seized by the Cuban regime in 1960; they feared the chances of ever settling their Cuba claims might be reduced if suits by **Cuban-Americans** flooded the U.S. courts. One of the opponents was **Amstar**, the corporate descendant of American Sugar, whose refineries had been taken away by Castro. Amstar, which no **longer** is even in the

sugar business, hoped to use its claim as leverage in cutting a deal with the Cubans to develop a resort area.

- Others working against Helms-Burton were foreign companies such as the Sherritt Canadian mining **concern**, and Grupo Doms, the Mexican telecommunications company, which invested thousands of dollars a month in lobbyists who tried unsuccessfully to convince Congress that the bill violated international law.

- Although some U.S. business interests fear harm from Helms-Burton, should the law fully take **effect**, it promises lucrative benefits for another group: lawyers. Nick **Gutierrez**, a lawyer for tobacco and sugar growers whose property was confiscated after the Cuban revolution, lined up 85 clients who are potential Helms-Burton litigants before the bill was signed. Maria Elena Prio, a Miami attorney, told a legal industry publication that Helms-Burton litigants could expect to spend \$20,000 to **\$25,000** in legal fees if the alleged trafficker mounted a defense.

Whether current U.S. policy toward Cuba is in the national interest, or even effective in reaching the goal of forcing Castro from power, is not the focus of the Center's report. Such determinations should be **left** to the American people and their elected officials. What this study examines, in great depth, is how a portion of the Cuban exile **community—educated, hard-working**, passionate in its hatred for Castro, and generous to those politicians who take a hard line with the **regime—has** helped to maintain and strengthen a policy that in other cases might have been vastly different.

CHAPTER ONE

DEATH AND OPPORTUNITY

Shortly after 9 a.m. on February 24, 1996, at Opa-locka Airport near Miami, Carlos Costa filed what may have been the most anxiously awaited flight plan in America.¹ Air traffic controllers quickly notified Federal Aviation Administration headquarters in Washington. The FAA, in turn, passed along the details of the plan to officials at the State Department. Word went out to military and U.S. Customs officials, who'd previously been alerted about the possibility of a flight that morning by members of the organization to which Costa belonged, Brothers to the Rescue. Radar operators were poised at their screens.²

The object of all this scrutiny was a trio of twin-engine Cessnas, piloted not by members of a drug gang or terrorist group, but by members of a humanitarian organization who, ostensibly at least, were on a mission of mercy. Brothers to the Rescue was a squad of volunteer pilots who regularly combed the Florida Straits, assisting refugee rafters on their perilous voyages from Cuba. Their efforts had earned them accolades in the Miami community, and the Brothers to the Rescue attracted financial support from such major corporations as American Airlines, Inc., and such celebrities as singer Gloria Estefan.³

The chief reason for the government's surveillance was one of the pilots scheduled to fly that morning: Jose Basulto, the co-founder and president of Brothers to the rescue, a onetime luxury-home builder. He was a man with an exotic past. In his youth, Basulto had been a CIA-trained clandestine soldier; he'd infiltrated Cuba before the ill-fated Bay of Pigs invasion in 1961, and he later slipped into Cuba again to fire a cannon at a hotel full of Russians.⁴ In the 1980s, Basulto had been involved in another covert war, raising money to outfit battlefield hospitals for the contra forces in Nicaragua and airlifting medical supplies.⁵ Since then, however, Basulto had undergone a conversion. In 1991, he and another Bay of Pigs veteran, Billy Schuss, had founded Brothers to the Rescue.⁶ Instead of guns and explosives, Basulto's arsenal was bottled water, life jackets, and smoke bombs.⁷ Inspired by the writings of Martin Luther King, Jr., he espoused nonviolence.

But in addition to his humanitarian efforts, Basulto was also a provocateur—part Gandhi, part Rambo. In 1994, after the Clinton Administration negotiated an immigration accord with Cuba and the Coast Guard started turning back rafters, Basulto was forced to reshape the mission of Brothers to the Rescue. With fewer rafters to save, Basulto shifted his attention to encouraging Cubans to commit civil disobedience against their government. "Our primary interest is saving lives," Basulto told the Center for Public Integrity. "But if you can deal with the source of the problem, then that's better."⁸

'We are in favor of confrontation. My request to the U.S. government is: Let us be. Let us act. Do not impose your designs upon Cuba. Your help in the past has not been successful.'

JOSÉ BASULTO

In November 1994, Basulto and Schuss flew to the U.S. Navy base at Guantanamo Bay in Cuba to pick up some lawyers who were representing refugees; on the way back, they dumped Brothers to the Rescue bumper stickers out over Oriente Province, a stunt that got them banned from the navy base.⁹ In July 1995, Basulto escorted a flotilla of protesters to the edge of Cuban waters, where they were confronted by Cuban gunboats. Basulto then suddenly veered off toward Havana. Buzzing the Cuban capital at low altitude, he showered the city with leaflets and religious medals.¹⁰

The Cuban government, embarrassed by the breach of its air defenses, responded angrily to Basulto's defiant gesture. It threatened to shoot down any pilot who dared invade Cuban airspace again." The FAA launched an investigation of Basulto, and State Department officials met with him in an attempt to dissuade him from provoking the Cubans further.¹²

But Basulto was defiant. He derided the FAA's investigation as a political attack by a U.S. government" that had already betrayed the Cuban refugees with its immigration accord. Several days before the Havana flyover, he'd informed an FAA inspector that if aviation rules stood in his way, he was prepared to violate them.¹⁴ "We are in favor of confrontation," he later told *The Miami Herald*. "My request to the U.S. government is: Let us be. Let us act. Do not impose your designs upon Cuba. Your help in the past has not been successful."¹⁵ The Air Force and Customs Service sometimes helped Brothers to the Rescue avoid trouble by calling their hangar at Opa-locka to warn when Cuban MiGs were aloft. That was all the government interference he wanted."

In January, Basulto's little Cessna had singed Fidel Castro's beard again, showering Havana with a half-million broadsides headlined "Fight for Your Rights," "The People Own the Streets," "The Government Has the Fear," and "Your Neighbors Feel the Same Way You Do—Change Things Now," for example. The Castro government denounced this new invasion of the nation's airspace, though Basulto would later tell U.N. aviation officials that he'd actually released the papers into the air outside the 12-mile Cuban territorial limit and let the wind carry them in."

Over the next month, tensions continued to simmer. Radio Marti, the U.S. government-subsidized operation whose broadcasts are directed at Cuba, aired an interview with Basulto, and in another program a commentator jeered at the Cuban Air Force, saying that its lack of preparedness was a sign of the sad state of Cuba's economy." Cuba sent a diplomatic note of protest about the flights to the U.S. Interests Section in Havana, urging the United States to take action.²⁰

On February 19, 1996, when a delegation of retired U.S. military officers went to Cuba to look at its Soviet-designed nuclear power plant, the Cubans were blunter. A Cuban general asked retired Admiral Eugene Carroll, the deputy director of the Center for Defense Information, what would happen if Cuba shot down a U.S. aircraft.²¹ Carroll reported the comment to the State Department, which expressed its concern to the Cubans and also warned Basulto's organization of Cuba's belligerence. On Thursday, February 22, Castro staged a massive crack-down on the island, arresting the leaders of Concilio Cubano, an opposition group that had scheduled a nationwide conference for the weekend.²² The crackdown

was also an affront to Brothers to the Rescue. Just two weeks earlier, the Cuban-American pilots had publicly donated \$2,000 to Concilio Cubano.²³

As the weekend approached, U.S. officials clearly were worried about the Cuban government's surly mood and the possibility that Basulto might do something risky to express solidarity with the dissidents. On Friday, February 23, the State Department's Office of Cuban Affairs relayed its fears to the FAA's International Aviation Office.²⁴ Had the FAA grounded Basulto, the tragedy that followed later that day might never have happened. But seven months after his Havana incursion, the agency still hadn't taken any action, though the FAA administrator in the case had proposed a 150-day suspension of Basulto's pilots license—a surprisingly mild penalty.²⁵

For all the U.S. government's worries, Basulto's original plans for the weekend were benign. He and his fellow pilots intended to fly to the Bahamas, where they would deliver supplies to Cuban refugees. Late Friday afternoon, however, one of the pilots, Carlos Costa, got a telephone call from Bahamian authorities, who told him that Brothers to the Rescue couldn't come on Saturday because a delegation of Cuban officials would be visiting the refugee camp. Basulto later charged that the Cubans deliberately forced his organization to change its plans, with the intent of luring its pilots into a trap off the Cuban coast.²⁶ Basulto's theory gained credibility when it was discovered that Juan Pablo Roque, a Cuban defector who'd become a sometime pilot for Brothers to the Rescue and Basulto's personal trainer, had quietly slipped out of the United States and, after the Saturday flight, resurfaced in Havana. Roque, apparently a Cuban double agent who'd infiltrated Brothers to the Rescue, soon appeared on Cuban television to brand the members of the organization terrorists.²⁷ (Interestingly, the FBI later admitted that it had unwittingly hired Roque as an informant on Brothers to the Rescue and other Cuban exile groups.)²⁸

Thus, on Saturday, February 24, after eating a lunch of fast-food hamburgers and praying in a circle, Basulto and his fellow pilots climbed into their aircraft. One plane contained pilot Costa and spotter Pablo Morales; pilot Mario de la Pena and Armando Alejandro Jr. were in another; Basulto piloted the third, accompanied by Arnaldo Iglesias and Sylvia and Andres Iriondo.²⁹ The three Cessnas took off from Opa-locka Airport at around 1:15. As they departed, air-traffic controllers in Miami, in keeping with standard practice, notified their counterparts in Havana, although, according to an abridged radio transcript later released by Brothers to the Rescue, the controllers mistakenly told the Cubans about only two of the aircraft.³⁰ The Brothers' flight plan called for them to fly a triangular search route; they were to head south to a point just north of Valadero on the Cuban coastline, about 90 miles east of Havana, and then head west, skirting the edge of Cuba's territorial airspace to the northwest of its capital, and then turn northward to return home.

Instead, as international investigators later determined, Basulto and the other two pilots deviated from the route, flying to a point just north of Havana.³¹ In so doing, they crossed into MUD-8 and MUD-9, two areas that were within international airspace, but designated as danger zones ostensibly because the Cuban military was conducting operations in them.³² Basulto later told *The Miami Herald* that

A minute later,
MiG-23 was calling for
action. **'We have it in
lock-on . . . give us
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it. We have it.'**
**'Authorized to
destroy,'** ground
control responded.

he and his fellow pilots took the official Cuban warning as a bluff meant to keep them away from the coast. At 2:56 p.m., they notified the Havana tower that they intended to search for rafters south of the 24th **parallel**—an area still outside Cuba's territorial airspace but overseen by Cuban air-traffic **controllers**.³³

The Havana tower warned Basulto that he and the other pilots would be endangering themselves. Basulto wasn't dissuaded. They'd crossed the line many times **before**, he told the Cuban air-traffic **controllers**.³⁴ "We are willing to do it," he said. "It is our condition of being free **Cubans**."³⁵

Meanwhile, more than 3,000 miles **away**, in Riverside, California, Jeffrey Houlihan, a specialist with the U.S. Customs Service, was watching the Cuban coast on his radar **screen**.³⁶ At 3:16 p.m., he was startled to see two dots moving rapidly out of Cuban airspace, northward toward the Cessnas. Instead of taking the time to search through his computer database for the telephone number of the Brothers to the Rescue hangar, Houlihan hastily called a technician at **Tyndall** Air Force Base in Panama **City**, Florida, who told him that the Air Force also had seen the **MiGs**. "He responded, **'Yes, we're handling it, don't worry,'**" Houlihan recalled.³⁷ But to Houlihan's **surprise**, no U.S. planes were sent to challenge the **Cubans**.³⁸ At Homestead Air Force Base, National Guard pilots were sitting on the runway in their F-15s, engines running, poised for action in the event a Cuban aircraft crossed the 24th parallel. But as an Air Force spokesman later **explained**, their assignment was to protect the United States, not U.S. aircraft in international airspace. So they stayed **put**.³⁹

Even as the radar operators spoke, the National Security Agency was eavesdropping on the Cuban MiGs as they took instructions from Cuban ground control, which was guiding them to the **Cessnas**.⁴⁰ At 3:18, the MiGs sighted one of the Cessnas. "White and Blue, at a low altitude, a small **aircraft**," radioed a fighter pilot identified in transcripts as MiG-23. "Give me instructions." The two fighters **hesitated**—**not** to warn the Cessna away, as the Cubans would later **claim**—**but** because beneath them on the water, ships were approaching.

But a minute later, MiG-23 was calling for action. "We have it in **lock-on** . . . give us authorization, damn it. We have it."

"Authorized to destroy," ground control **responded**.⁴²

From his aircraft, Basulto saw a MiG dive across his windscreen, but the attack happened too fast for him to get a good **view**.⁴³ On the waters below, vacationers on Majesty of the Seas, a cruise ship on its way back to Miami from **Cozumel**, **Mexico**, heard a loud boom, and, seconds later, another. They turned to see a plume of smoke rise from the **horizon**.⁴⁴ Basulto tried in vain to make radio contact with the other two Cessnas, and then headed north into the clouds for **cover**.⁴⁵ It was not until he returned to **Opa-locka** that he learned that his four friends had been shot down by the **Cubans**.⁴⁶ The Cuban government would insist that they had violated Cuba's territorial **airspace**,⁴⁷ but an international inquiry would later determine that one of the Cessnas had been downed nine miles outside Cuban territory and the other 10 miles **away**.⁴⁸ Only Basulto had inadvertently ventured 1.7 miles into Cuban **airspace**.⁴⁹

Basulto, a man of action, had little interest in **politics**, beyond the simple notion of freeing his homeland from dictatorship. Yet without intending to, he'd foment-

ed a political upheaval of a different sort, one that would radically and perhaps permanently alter U.S.-Cuba policy.

That evening, as Coast Guard vessels and helicopters combed the waters outside Cuba's 12-mile territorial limit for the four missing **aviators**,⁵⁰ four other men boarded an airliner in Miami to fly to Washington, D.C. The leader of the group was Jorge Mas Canosa, the chairman of the Cuban American National Foundation. The Miami-based foundation had long been the nation's most vociferous—and politically influential—**anti-Castro** group. (Mas Canosa did not respond to the Center for Public Integrity's requests to be interviewed for this study.)

Over the years, **CANF's** Free Cuba Political Action Committee and its directors and trustees had pumped at least \$3.2 million into the national political process. The contributions furthered CANF's political agenda, which included millions of dollars in government funding for radio and TV stations that broadcast anti-Castro messages into Cuba, under the supervision of a board headed by Mas Canosa. **CANF** also was a strident advocate of tightening and expanding the 36-year-old embargo against Cuba.

But CANF's mission went beyond merely undermining Castro. It was planning for a future, post-Castro Cuba, appointing such conservative political luminaries as Malcolm (Steve) Forbes, Jr., the magazine publisher and 1996 presidential candidate, and Jeane Kirkpatrick, the U.S. representative to the United Nations in the Reagan **Administration**, to a "blue-ribbon" commission on Cuban reconstruction whose work was financed by \$25,000 contributions from such companies as BellSouth Corporation and General Cigar **Company**.⁵¹ CANF even had explored on Wall Street the possibility of arranging financing for a new Cuban government. Mas Canosa's critics had often suggested that he wanted to be the head of that new government, though Mas Canosa denied having such an ambition.

Like Basulto, Mas Canosa was a veteran of the covert war against Castro, and CANF was a financial supporter of Brothers to the **Rescue**—like Gloria Estefan and American **Airlines**, it had purchased a plane for Basulto's **fleet**.⁵² Otherwise, the two organizations weren't connected. But the Brothers to the Rescue tragedy presented an opportunity for CANF to flex its political muscle in the nation's capital. "[Washington] was where the center of the action was going to occur, and we thought that it was proper to be in that city at that time," Mas Canosa later explained in a deposition. "[We] just made ourselves available to the **press**, and the State Department, and the White **House**."⁵³

That weekend, Mas Canosa talked to Richard Nuccio, President Clinton's special adviser on Cuba. "We are here," Mas Canosa recalled telling him. "We think that the government should respond to this new aggression of the Cuban government against U.S. planes, unarmed, engaged in a humanitarian mission that was being flown by American citizens, and that a response should come about, especially before the United **Nations**."⁵⁴

Using politesse, Mas Canosa didn't say anything to Nuccio about another **mat-**

The Cuban Liberty and Democratic Solidarity (**Libertad**) Act, more commonly known as the Helms-Burton bill, was a sweeping assortment of measures with a common goal: driving Castro from power.

ter of great interest to him: the Cuban Liberty and Democratic Solidarity (**Libertad**) Act, more commonly known as the Helms-Burton bill. The legislation, named after Senator Jesse Helms, a Republican from North Carolina, and Representative Dan **Burton**, a Republican from Indiana, was a sweeping assortment of measures with a common goal: driving Castro from power. To provide an incentive for the Cuban people, one part of the bill offered U.S. economic aid to a post-Castro regime. For the most part, however, Helms-Burton's strategy was to pressure other nations into joining the U.S. boycott against Cuba. One provision, for example, sought to deter international financial institutions such as the International Monetary Fund and the Inter-American Development Bank from lending money to Cuba by threatening to reduce U.S. support to those institutions by the same **amount**.⁵⁵ Another required countries to verify that their food exports contained no Cuban **sugar**.⁵⁶

But the most radical parts of Helms-Burton were Titles III and IV, which sought to reach outside U.S. borders and punish foreign companies for doing business in Cuba. Title III allowed Cuban **émigrés** whose property has been seized by Castro to file federal lawsuits against any foreign companies now **using**, or otherwise deriving benefit from, the property. Title IV allowed the U.S. government to bar not only executives of the foreign companies but also members of their families from entering the United States if the State Department determined that they were "traffickers" in confiscated property.

"These provisions," a 1995 House report **explained**, "are intended primarily to create a chilling effect that will deny the current Cuban regime venture capital, discourage third-country nationals from seeking to profit from illegally confiscated property, and help preserve such property until such time as the rightful owners can successfully assert their **claim**."⁵³

Mas Canosa and **CANF** had lobbied vigorously for Helms-Burton, but the State Department had just as vehemently opposed it, arguing that extending U.S. law beyond the nation's borders in such a fashion was dubious under international law and warning that such a law would antagonize important U.S. trading partners, including Canada and the European **Union**.⁵⁴ The previous fall, Helms-Burton had passed the House but gotten bogged down in the Senate.

Mas Canosa didn't need to bring up Helms-Burton in the wake of the shoot-down. Almost immediately, Republicans who'd backed the legislation were using the Brothers to the Rescue incident to bludgeon the Clinton Administration. Representative Lincoln **Diaz-Balart** of **Florida**, a Cuban-American lawmaker who'd been a key player in Helms-Burton, was already blasting **Clinton's** condemnation of the **shootdown** as "a farce" and accusing **him** of "asking Castro for the facts so that they can do spin control **together**."⁵⁵ Presidential candidate Robert Dole, then the Senate Majority Leader, also quickly weighed in. "It's time for the White House to get on the side of democratic change in Cuba," Dole, who'd tried unsuccessfully to push the full bill through the Senate, said. "Instead of siding with Castro in opposing tougher sanctions, President Clinton should now voice his support for tightening the Cuban embargo and endorse the Dole-Helms **Libertad legislation**."⁶⁰

On Sunday afternoon, Clinton's foreign policy advisers met for three hours at

the White House to discuss possible U.S. responses to the shutdown." The Administration was in a difficult situation, from not one, but several angles. Ever since Dwight Eisenhower tried to play chicken with Castro over Soviet oil imports and sugar quotas in 1960 and ultimately ended up with an economic embargo, a succession of U.S. presidents had pursued Cuba policies that tended to be haphazard, reactive, and inconsistent. But Clinton's Cuba policy had been even more convoluted than most.

As a presidential candidate in 1992, Clinton broke with Democratic orthodoxy, which had long advocated lifting the trade embargo against Cuba." In April of that year, Clinton went to Miami and curried favor with CANF and conservative Cuban-Americans by announcing his support for the Cuban Democracy Act, a piece of anti-Castro legislation introduced by Representative Robert Torricelli, a Democrat from New Jersey." But after the election, the Clinton Administration had danced delicately between Left and Right on Cuba. To control the flow of Cubans landing on U.S. shores, Clinton ended a 30-year policy of automatically accepting Cuban exiles; instead they were interned overseas. The Administration placated Cuban-American conservatives by making some gestures toward a hard-line against Castro, such as limiting the transfer of dollars to the island, and even hinted that a naval blockade was under consideration.⁶⁴ But then, in the Spring of 1995, the Administration aroused their ire by secretly negotiating a controversial agreement with the Cuban government to send rafters back to Cuba.⁶⁵

In succeeding months, Clinton had made moves that some saw as a prelude to lifting economic restrictions against Cuba, such as allowing delegations of business executives to visit the island." More quietly, Clinton's diplomats had sought allies in prodding Castro to reduce political repression. The business executives who went to Cuba were encouraged to talk political reforms as well as shop with Castro.⁶⁷ Just a few weeks before the shutdown, for example, U.S. Ambassador Stuart Eizenstat had persuaded Manuel Marin, commissioner in charge of Latin American relations for the European Commission, to insist upon meeting with the Concilio Cubano dissidents when he went to Cuba for an economic tete-a-tete with Castro.⁶⁸

That delicate strategy was now in ruins, owing to the U.S. government's inability to rein in Basulto, and Castro's willingness to lash out at anyone who challenged his rule. *The Miami Herald* would later report that Anthony Lake, Clinton's national security adviser, asked the Pentagon to provide a list of military options for possible retaliation. The military reported that there was no safe, easy way for Clinton to punish Castro with a missile or bomber attack, as he might have done if Muammar Al-Gaddafi or Saddam Hussein had menaced U.S. planes. The President could order an attack on the Cuban airfield where the MiGs were based, but it would be difficult to inflict damage that could not be quickly repaired. And with South Florida's Turkey Point nuclear power plant vulnerable to attack, nobody was eager to start a fight 90 miles off U.S. shores.⁶⁹ Clinton, therefore, had no forceful gesture with which he could respond.

Without a military option, the Administration needed to find some other way to punish Castro. The previous October, Helms-Burton's opponents, led by Senator Christopher Dodd, a Democrat from Connecticut, had managed by a sin-

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gle vote to keep the bill's supporters from closing debate and passing Helms-Burton with its most punitive provisions intact. **Now**, there was little chance that it wouldn't pass. In 1995, Secretary of State Warren Christopher had advised Clinton to veto Helms-Burton if Congress passed it.⁷⁰ In an election year, such a move might give ammunition to Clinton's adversaries.

At the same **time**, however, by allowing Helms-Burton to become law, Clinton was likely to antagonize trading partners that also traded with Cuba, and possibly invite retaliation. That same Sunday, even before Clinton had announced what actions he would take, Canadian Foreign Affairs Minister Lloyd Axworthy announced that Canada condemned the shootdown but would resist any attempt to restrict its trade with Cuba. "We still want to keep an engagement, as we've done with many other **countries**, to try to bring them into a position where the international rules and laws would be more clearly adhered to," Axworthy **said**.⁷¹

Late that **evening**, Clinton's advisers sent him their recommendations, and on the morning of Monday, February 26, they met with the President to reach a **decision**.⁷² Monday afternoon, the Administration belatedly started spin control. The President met with Representative Robert Menendez of New Jersey, the only Cuban-American Democrat in Congress and a supporter of Helms-Burton, and some Cuban-Americans who were Democratic Party activists and longtime contributors, including Maria Elena Torano of Miami and Carlos **Portes** of New **York**.⁷³ Meanwhile, over at the State Department, Deputy Assistant Secretary of State Ann Patterson briefed a group of conservative Cubans, including Mas **Canosa** and **José** Basulto himself, on the **response**.⁷⁴ Clinton had decided against a blockade or air strike in favor of less violent retaliation. The United States would suspend charter air travel to Cuba, tap into frozen Cuban assets to compensate the families of the downed aviators, and seek U.N. condemnation of the shootdown. Most significantly, Clinton wanted to negotiate a compromise with Congress and sign the Helms-Burton **bill**.⁷⁵

At day's end, Mas Canosa was upbeat. There was no longer a chance that the Clinton Administration would roll back the embargo against **Cuba**.⁷⁶ Instead, out of the shootdown had come an opportunity to vastly expand it. Over the next two days, Mas Canosa would talk to Helms-Burton's chief supporters and their staffs. "We should try to get as much support as we can out of Congress to work out a deal with President Clinton, as Clinton announced he was going to work with Congress," Mas Canosa later recalled saying. "We should make certain that that deal was **struck**."⁷⁷

Over the next two **days**, Helms-Burton's supporters put together a final version of the bill. Assured now of a veto-proof majority, **Diaz-Balart** was emboldened to make Helms-Burton even tougher. The U.S. embargo of Cuba wasn't really a single law or regulation, but a patchwork of executive orders that had been issued by Eisenhower and successive Presidents. Diaz-Balart inserted a provision that took all those orders and incorporated them permanently into federal law. That way, no longer would Clinton or any other President be able to lift or even modify the

embargo unless Congress first gave permission. The only legal power the President had was to further tighten the restrictions. In the words of Steve Vermillion, an aide to Diaz-Balart, Helms-Burton would be "a huge shackle around the executive branch."⁷⁸

Since the embargo long had been the major instrument of U.S. policy toward Cuba, Clinton would, in effect, be giving up most of his authority to negotiate with Castro. (In fact, Helms-Burton's mechanism for eventually lifting sanctions against a "transition government" required that the latter not include either Castro or his brother Raul.)⁷⁹ It was remarkable that a President would agree to this, but Clinton's aides felt that they had little choice. Instead, they concentrated on finding, as one later called it, "a fig leaf of compromise."⁸⁰

Menendez provided it for them. In early February, before the shootdown, the Democratic lawmaker had cornered Clinton at a fund-raising event in New Jersey." He'd pitched a concession dreamed up by Roger Noriega, an aide on the staff of the House International Relations Committee: A waiver provision that would allow the President temporarily to suspend Title III, whose provision allowing suits against foreign companies was most likely to cause the United States difficulties with other nations.

On the afternoon of February 28, the final language of the bill was worked out. On March 12, with Mas Canosa and family members of the slain flyers present, Clinton signed the Helms-Burton bill. In his remarks, he expressed concern that the legislation "could be read to impose overly rigid constraints on the implementation of our foreign policy," but he expressed the hope that he could work with Congress to restore some flexibility.⁸² It wasn't the first time that a President had miscalculated on Cuba and been forced to improvise. But it would be more difficult for Clinton, because the improvised policies of the past three decades were now seemingly written in stone.



CHAPTER TWO

THE ACCIDENTAL EMBARGO

Over the past 36 years, like the apocryphal cockroach that survives a nuclear blast, the economic embargo against Cuba has shown more staying power than just about any other part of U.S. foreign policy. Embraced by Presidents of both parties, and at times by both liberals and conservatives, the embargo has outlived the Cold War era in which it was created. Since then, even the most dramatic changes in the diplomatic **landscape**—*détente* with the Soviets and Chinese in the 1970s, the reduction of nuclear arsenals and the crumbling of the Berlin Wall in the 1980s, the collapse of Soviet communism and the resurgence of democracy in Central America in the 1990s—**have failed to alter it.**

To the contrary, with the recent passage of Helms-Burton, the embargo has become more **entrenched—and expansive—than** ever. It now not only governs U.S. dealings with Cuba, but also threatens to affect U.S. relations with Canada, Mexico, and the nations of the European Union as well.

"Lifting the embargo has never really been an issue," Peter Hakim, the president of **Inter-American Dialogue**, a Washington-based think tank with close ties to the Clinton Administration, told the Center. "There's been a lot of debate on TV and in academic **circles**, but no one debates it on Capitol Hill or in the White House." Instead, he notes, "the only real debate has been about whether to sustain the current policy or to harden it."

One reason the embargo has been a constant for decades is that its purpose has often shifted to match the times. American politicians and diplomats have wavered among several major goals: retaliation, toppling Castro's government, seeking compensation for seized American assets, compelling Castro to end Cuban intervention in other countries, securing political reforms or human rights for Cubans. It's been possible to graft such different and often contradictory goals onto the embargo because it wasn't conceived as part of some carefully crafted, grand strategy for bringing democracy to Cuba. To the contrary, the embargo wasn't really conceived at all; instead, it evolved over time from bits and pieces of policy—U.S. reactions to Cuban moves, fallout from diplomatic gambits gone awry.

In July 1953, when 26-year-old Fidel Castro fired the first salvo in his revolution with an unsuccessful attack on an army barracks in Santiago de **Cuba**,² he shook a nation that had been both enriched and troubled by its relationship with the United States. In many ways Cuba was dominated by the United States as pervasively as it had once been ruled by colonial Spain. Cuba's **raw-materials—sugar, nickel, tobacco—went** to the United States, which consumed two-thirds of all Cuban exports. In return, three-fourths of all Cuban imports came from the

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**PETER HAKIM, PRESIDENT,
INTER-AMERICAN DIALOGUE**

United States. Cubans ate Louisiana and Arkansas rice with their beans, drove **Fords**, and bought Sears & Roebuck **appliances**.³

It wasn't merely a matter of proximity. Since the Spanish-American War, trade treaties and laws had opened the island to U.S. business and locked the two nations in a special relationship. The United States allotted more than 90 percent of its quota for imported sugar to Cuba. In return, Cuban exempted U.S. products from the 20 percent duty it imposed on all imports from other **nations**.⁴

What's more, U.S. companies and investors actually owned much of the Cuban economy outright. The U.S.-owned Cuban Electric Company generated 90 percent of the nation's electricity. The Cuban Telephone Company was a subsidiary of International Telephone & Telegraph Corporation, a U.S. company. A fourth of all bank deposits in Cuba were in branches of U.S. banks. Two of the four oil refineries that supplied Cuba's gasoline were owned by American companies (a third was owned by another foreign company, Royal Dutch **Shell**).⁵ The island's rich deposits of nickel were mostly mined and processed by Americans. The largest industrial facility on the island, the **Nicar**o nickel plant, had been built by the U.S. government during World War II and for years was operated by the General Services Administration. (It was exempt from Cuban taxes.) Americans also owned sizable farms and ranches, such as the King Ranch of Texas's 40,000-acre spread in **Camuguey**.⁶

Americans even profited from Cuban exports bound for the United States. Although the sugar cane plantations that produced the island's biggest export were controlled by Cuban families, 40 percent of the crop was refined in U.S.-owned mills in **Cuba**.⁷

The influx of U.S. investment to Cuba, which by 1958 had reached \$1 billion, helped to pump up the nation's standard of living, which was one of the highest in Latin America. Cuba ranked second to Venezuela in per capita income, and Cubans owned more television sets, telephones, and automobiles than residents of any other Latin American country. Cuba also ranked near the top in medical care and **literacy**.⁸

Even so, Cuba's economic and political systems were in deep trouble. Despite all the investment, Cuba remained heavily dependent on sugar, so much so that when the 1948 Sugar Act was up for renewal in 1956, Cuban sugar interests hired at least 40 lobbyists to work Capitol Hill and ensure that their franchise was **preserved**.⁹ But sugar prices fluctuated dangerously, and the Cubans could never be sure exactly how much sugar the United States was going to buy because the import quota was pegged to U.S. production. With increasing competition from U.S. beet-sugar **growers**, the future relationship was **uncertain**.¹⁰

In addition, Cuba was ruled by a despotic strongman, Fulgencio Batista, who'd overthrown a democratic independent-minded Cuban government in 1933 with the help of U.S. ambassador Sumner Welles and then held power off and on for 16 of the next 25 years." During that time, through theft and corruption, Batista accumulated a personal fortune of perhaps as much as \$300 million. As much as a fourth all of government expenditures were siphoned off as **graft**,¹² greatly hindering the **economy**.¹³

Consequently, Cuba's gross national product increased a total of just 1 percent

from 1950 to 1958,¹⁴ compared with 58 percent growth in the United States. Wealth was concentrated in Havana and other urban areas, with many rural people living in poverty. Unemployment reached as high as 16 percent, with another 7 percent able to find only part-time or seasonal work. Middle-class Cubans worried about the stagnant economy and lack of opportunities.¹⁵

Cuba was ripe for upheaval. But even though the United States had \$1 billion worth of investment at risk, the Eisenhower Administration paid scant attention until it was too late. As former U.S. diplomat and Cuba specialist Wayne Smith has noted, Eisenhower appointed two wealthy businessmen—and GOP political contributors—with no previous diplomatic experience to be ambassadors to Cuba: Arthur Gardner from 1954 to 1957, and Earl E.T. Smith, from 1957 to 1959. "They were entirely out of their depth and must be held partly responsible for the failure of American policy during that period," Wayne Smith wrote in his memoir, *The Closest of Enemies*.¹⁶

Ambassador Smith supported Batista even after the dictator's forces tortured or killed hundreds of Cubans, many of them innocent noncombatants, in a desperate attempt to suppress the growing popular uprising; he even condoned Batista's use of U.S.-supplied bombers and tanks to attack a mutinous garrison at the Cienfuegos naval base in December 1957. The attack violated the Batista regime's promise, in a treaty with the United States, that it would never use U.S. military aid against its own people. Secretary of State John Foster Dulles disagreed with Ambassador Smith that the United States should continue supplying weapons to the Cuban government, and in March 1958 the United States imposed an arms embargo on Batista. Eventually it became obvious to both the ambassador and to his State Department superiors that Batista had to go; even then, however, rather than promote an untarnished Cuban moderate who might have provided an alternative to Castro, Ambassador Smith wanted Batista to appoint a successor from his circle of cronies.¹⁷

Instead, on New Year's Day 1959, Cuba got Castro. Castro quickly distinguished himself as an authoritarian by executing supporters of Batista and by imprisoning Huber Matos, a respected military hero in the rebellion against Batista who'd complained about Communists in the regime." Even before Castro publicly espoused communism, he was vociferous about his distrust of the United States and about his desire to drastically reduce Cuba's economic dependence on its larger neighbor. Castro instructed his diplomats to refuse all offers of U.S. aid," and his government used currency restrictions and other measures to curb U.S. imports, including food, even though it caused steadily increasing shortages in Cuba.²⁰ He urged rebellions against two dictators who were U.S. allies: Rafael Trujillo in the Dominican Republic and Luis Somoza Debayle in Nicaragua.²¹

The issue that escalated U.S.-Cuba tensions wasn't Castro's repression of his own people or his exporting of revolution, but his treatment of U.S. owners of Cuban property. In May 1959, the Castro regime enacted the Agrarian Reform Law, which provided that no person or company could own more than 3,300

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acres. It established a government **agency**, the Agrarian Reform Institute, with broad, ill-defined powers to seize and redistribute land. In lieu of cash compensation for their land, the former owners were to receive 20-year Cuban government bonds that paid 4.5 percent interest. The American farmers and ranchers sometimes didn't even get the bonds, nor did they get the cash payments for buildings and livestock to which they were, under the law, **entitled**.²²

After the enactment of the law, Philip Bonsai, the new U.S. ambassador (**who**, unlike his predecessors, was a Spanish-speaking professional diplomat), tried unsuccessfully to negotiate with Castro over the seizures. Bonsai sent Castro's government an open letter in which he recognized the Cuban government's right to expropriate land but expressed concern about whether U.S. owners would be compensated **adequately**.²³ Castro met with **Bonsai**, and the Cuban government indicated that it was willing to negotiate further on the compensation issue. A few weeks later, however, Castro's land bureaucrats seized three **U.S.-owned ranches**.²⁴ In the months that followed, even as diplomats for the two nations discussed compromises, the Cuban government continued to seize other U.S.-owned **farms**.²⁵

The Cuban revolution had veered sharply in a radical direction by January 1960, when Bonsai sent Castro another public note of protest over the seizures. **Castro** reacted **angrily**,²⁶ and in response the U.S. government recalled **Bonsai**.²⁷ In a **statement**, President Eisenhower pledged that the United States had no intention of intervening in internal Cuban affairs. Publicly, Castro responded with defiance. "In early February, he welcomed Soviet Deputy Prime Minister **Anastas Mikoyan** to Havana and signed Cuba's first major trade agreement with the Soviet **Union**.²⁹ Privately, in late February, Cuba gave the U.S. mission in Havana a note indicating its willingness to negotiate on the compensation issue, on the condition that the United States take no unilateral action to damage the Cuban economy. The U.S. government, which by that point was suspicious of Castro because of his apparent cozying to the Soviets, rejected the **condition**.³⁰

Eisenhower decided that it was time to do something about Castro. In March 1960, he quietly authorized the CIA to orchestrate a future covert operation to overthrow Castro, as the United States had done with the Arbenz regime in Guatemala in 1954 to prevent the nationalization of United Fruit Company's holdings **there**.³¹ In the meantime, Eisenhower asked Congress, which was in the process of reauthorizing the Sugar Act, to give him the power to cut Cuba's sugar quota if he determined it would be in the national interest. He insisted to critics that he had no intention of using the quota as a club against Castro, even though in four months' time, he would do precisely **that**.³²

Although the Soviets would help prop up Cuban communism over the next three decades, the 1959 Soviet-Cuban deal wasn't a particularly good one for Castro. It only partly furthered Castro's goal of freeing Cuba from its dependence on the United States; the Soviets agreed to buy only about a third of the amount of Cuban sugar that the United States usually purchased, and they were willing to pay only **half** of the five-cents-per-pound price that Cubans were guaranteed under the American quota system. Beyond **that**, the Soviets would pay only a fifth of their bill in hard currency; the balance came in a voucher for Soviet products. The Soviets also threw in a \$100 million line of credit that could be used to pur-

chase more of their exports. The problem was that the Soviets had little to export, except crude oil.³³

On the other hand, Soviet crude was cheaper than the Venezuelan variety that U.S. and British oil companies imported and refined for the Cubans. In May 1960, the Cuban government presented the foreign oil refiners with a deal. If they hoped to receive the \$50 million that the Cuban government already owed them in back payments for importing and refining oil, for the rest of the year they'd have to use Soviet crude rather than Venezuelan to meet 50 percent of their production. The companies objected, but to avoid a fight with the Cubans and protect their virtual monopoly on the island's gasoline, they'd been willing to go along. Later, they hoped, they'd be able to work out the issue in court.

Instead, the U.S. oil companies found themselves becoming another tool in Eisenhower's effort to topple Castro. On June 3, 1960, representatives of Esso and Texaco were summoned to the office of Treasury Secretary Robert Anderson. Anderson told them that the Eisenhower Administration wanted them to refuse the Cubans' demand that they refine Soviet oil, and that it would even exempt them from federal antitrust laws so that they could take a joint stand. The idea, apparently, was to put Castro in a financial bind by sticking him with a \$30 million shipment of Soviet oil that he wouldn't be able to use and to cause a disruptive gasoline shortage on the island.³⁴ The State Department's Cuba experts weren't **consulted**, and Bonsai, for one, would have argued against it.³⁵ But the die had been cast.

But things didn't go as planned. Three weeks later, Cuban officials took over the three refineries and kicked out the **management**.³⁶ Under the supervision of Soviet engineers, the Cubans were able to refine enough Soviet oil to meet their country's entire needs for the rest of the year. Not only had the Castro regime averted a gasoline shortage, but it also had been emboldened by winning a victory against the United States.³⁷

On July 3, Congress revised the Sugar Act, and on July 6, Eisenhower used his new power to cut Cuba's share of the U.S. sugar market by 856,000 **tons**, virtually eliminating Cuban imports. Overnight, the move deprived the Cuban economy of \$92 million in national income. It was a far more severe retaliation than had been **expected**.³⁸ Bonsai was informed of the decision only hours before and vainly lobbied against it by telegram. He would later theorize that the aim wasn't to wean the United States from dependence on a supply of Cuban sugar that might be interrupted by Castro, as Eisenhower claimed, or even merely to punish Castro for taking over the refineries. "The suspension of the sugar quota," he wrote in 1971, "was a major element in the program for the overthrow of **Castro**."³⁹

In Bonsai's view, the move was a blunder. For generations, the U.S. and Cuban economies had been interlocked, with generations of Cubans earning a living from supplying a product for which the United States had been willing to pay a premium price. **Now**, a relationship that pumped at least \$340 million a year into Cuba's **economy**,⁴⁰ Bonsai wrote, "was destroyed by a stroke of the presidential **pen**—a stroke which had done for Castro something it might have taken him years to do himself, indeed something he might not have been able to encompass at all in the face of resistance from his own **people**."⁴¹

The CIA coup plotters were not content merely to topple **Castro's government**. They wanted to get rid of Castro himself. To that end, the agency contemplated various schemes, including providing the Cuban leader with a box of **cigars—his favorite brand—treated with a deadly poison**.

Castro had already threatened to seize all U.S.-owned property in Cuba if United States cut the Cuban sugar **quota**.⁴² On July 9, Cuba enacted the Law of Nationalization, which put a gloss of legality on seizures by offering the owners compensation in the form of 30-year Cuban bonds. (The bonds essentially were a sham, because they were to be financed by the proceeds of future sales of sugar to the United States.)⁴³ Castro waited a **month**,⁴⁴ however, before he announced the mass nationalization of 31 U.S.-owned sugar mills, valued at approximately \$100 **million**.⁴⁵ By late August, the Castro government had seized most of the U.S. assets on the **island**.⁴⁶ Years later, in 1973, the Foreign Claims Settlement Commission of the United States certified 5,911 claims against Cuba, with an aggregate value of \$1.8 billion. Nearly \$1.3 billion of that belonged to 20 U.S.-owned **companies**,⁴⁷ including ITT, which lost \$131 million in property; United **Fruit**, which lost \$85 million; and Esso, which lost \$71 million. It would become the largest set of claims ever filed by U.S. citizens and companies against a foreign **country**.⁴⁸

The United States lost little time in retaliating. On August 24, the U.S. Senate voted to cut off aid to nations that supplied arms or economic aid to Cuba* On October 12, Eisenhower blocked most U.S. exports to Cuba, allowing only food and medicine shipments. The partial embargo was more a gesture of disapproval than one with the potential to harm Castro or compel the return of seized assets. Because Castro already had curtailed U.S. exports to Cuba drastically, the one-way ban had little additional impact. And the sanctions still allowed Cuban exports to the United States, which had earned Cuba \$120 million in 1959.⁵⁰

Eisenhower's partial embargo was blasted as too little, too late by Democratic presidential candidate John F. **Kennedy**, who urged the United States to aid Cuban exiles in their drive to overthrow **Castro**.⁵¹ In a televised debate between Kennedy and Vice President Richard M. Nixon, the Republican nominee, Kennedy hammered Nixon on the ineffectiveness of the Eisenhower embargo; Nixon, in turn, branded Kennedy's ideas "dangerously irresponsible," saying that they might lead to a civil war and possibly even drag the Soviet Union into the **conflict**.⁵² Nixon, of course, was being disingenuous. He couldn't reveal that planning was underway for the CIA-backed exile invasion, that the U.S. government secretly planned to use force to regain the property of U.S. citizens and companies. Later, Nixon would claim that Kennedy also had been briefed by the CIA about the planned invasion yet pretended otherwise so that he could attack Eisenhower and put Nixon on the **defensive**.⁵³

As a U.S. Senate investigation would reveal a decade later, the CIA coup plotters were not content merely to topple Castro's government. They wanted to get rid of Castro himself. To that end, the agency contemplated various schemes, including providing the Cuban leader with a box of **cigars—his favorite brand—treated with a deadly poison**. **Ultimately**, the CIA turned to another outfit with a grudge against Castro: the Mafia, whose lucrative gambling operations and rackets had been shut down by the new government. In August 1960, CIA operative Robert Maheu met with mobster Johnny Roselli to get his help in recruiting Cuban **assassins**.⁵⁴ The CIA provided Roselli with pills containing a lethal botulism **toxin**⁵⁵; he in turn passed them to a Cuban operative who was to slip them into Castro's food in a Havana restaurant around the time of the scheduled April **inva-**

sion.⁵⁶ The assassination attempt never took place because Roselli's operative got cold feet and backed out.

Even after the disastrous invasion attempt at the Bay of Pigs in April 1961, the new Kennedy Administration continued to rely on covert action, secretly backing anti-Castro exiles who infiltrated Cuba to blow up oil storage tanks and burn sugar cane fields. The raids were part of Operation Mongoose, a plan by Attorney General Robert F. Kennedy to disrupt Cuba's economy and stir unrest on the island.⁵⁷ At the same time, the Administration also sought to expand and tighten the embargo Eisenhower had started. In February 1962, with Cuba in the throes of an economic crisis, President Kennedy banned virtually all remaining trade with Cuba. The move deprived the Castro government of \$35 million **annually**—a third of its income of much-needed Western **currency**.⁵⁸ A month later, Castro announced the nationwide rationing of rice and beans and lard and cooking oils, blaming the scarcities on the United States's "brutal economic **blockade**."⁵⁹

But Kennedy would go further. After the October 1962 Cuban Missile Crisis, Kennedy also brought pressure on other countries to reduce their trade with Cuba. In February 1963, he barred U.S. government-financed cargoes, such as subsidized agricultural products, in the holds of any foreign ships that also handled cargoes going to or from **Cuba**.⁶⁰ That July, Kennedy froze \$33 million in Cuban bank deposits in U.S. banks and barred U.S. banks and their overseas subsidiaries from providing dollars to Cuba, except under special license from the U.S. government."

And even as the CIA considered increasingly bizarre plans for killing **Castro**—from placing an exploding seashell next to him on the beach to dosing his wetsuit with a deadly **bacteria**⁶²—Kennedy came close to working out a compromise with Cuba. In September 1963, the Cubans passed word through an intermediary to William **Attwood**, an adviser to the U.S. delegation at the United Nations, that Castro was disenchanted with the Soviets and looking for a way out of the relationship. After conferring with Robert Kennedy, **Attwood**, in turn, spoke with Carlos Lechuga, the chief Cuban delegate, and told him that the United States was willing to have a secret meeting, provided that the Cubans propose an agenda." A few weeks later, President Kennedy sent Castro a message via a French reporter, suggesting that he was willing to explore a settlement between Cuba and the United States." But Kennedy's assassination ended the negotiations before they started.

In interviews with U.S. journalists, Castro continued to make overtures, saying that if the United States and Cuba normalized relations and resumed trade he would be willing to discuss compensation for seized U.S. properties and to release most of his 15,000 political **prisoners**.⁶³ But Kennedy's successor, President Lyndon B. Johnson, opted to continue the hard-line economic sanctions. In July 1964, the United States won a victory when it persuaded the **Organization** of American States to impose a hemispheric economic embargo that lasted a decade.

But the Kennedy-Johnson strategy of pressuring trading partners to shun Cuba resulted mostly in tensions with European countries. Great Britain's **Leyland** Motor Corporation defied the pressure by selling 450 buses to **Cuba**,⁶⁴ leading the United States to cut military aid to Great Britain in reprisal. France and Spain

faced similar U.S. **sanctions**.⁶⁷ Even if it had worked, the Soviet Union had established itself as the Cuba's economic protector. In 1964, the Soviet Union and Cuba signed a long-term trade agreement, under which the Soviets subsidized Castro by paying above the world market price for **sugar**.⁶⁸

By the mid-1970s, it had become increasingly clear that for all of the strident political rhetoric attached to it, the embargo wasn't very effective. The Soviets paid Cuba five to six times the world market price for sugar, bought nickel at premium prices, and sold oil to the Cubans at a **discount**.⁶⁹ With that level of support, the Cuban economy could survive even extreme mismanagement by Castro's government. Roughly 85 percent of Cuba's foreign trade was with the Soviet bloc nations. U.S. pressure had a minimal effect on Cuba's remaining needs; it made the goods that Cuba obtained from the rest of the world only slightly more expensive.⁷⁰ By 1973, Argentina, Chile, and Peru had re-established relations with Cuba, and the Hemispheric embargo was falling apart.

The following year, President Nixon's Secretary of State, Henry Kissinger, sent a note to Castro through Frank **Mankiewicz**,⁷¹ a former aide to Robert Kennedy, who had arranged to interview Castro for a television **documentary**.⁷² Kissinger initiated a series of secret talks between Lawrence Eagleburger, one of his top aides, and Ramon Sanchez Parodi, an aide to **Castro**.⁷³ In July 1975, the United States voted with the majority of the OAS nations to end the multinational sanctions against **Cuba**.⁷⁴ In August, the Ford Administration went even further, announcing that it would grant licenses to the foreign subsidiaries of U.S. companies that wanted to trade with **Cuba**.⁷⁵ The move in some ways was cosmetic, because many U.S. companies had already quietly begun the practice; the Big Three automakers, for example, sold tens of thousands of cars to the Cubans though their Argentine **subsidiaries**.⁷⁶

But the Ford Administration's talks with Castro were unsuccessful. With Castro's economic situation feeling more secure, he was less inclined to compromise. Reversing his earlier **position**,⁷⁷ he now insisted that the United States had to lift its embargo before formal talks on restoring relations could begin. Ultimately, Kissinger ended the talks after Castro sent Cuban troops to Africa to fight in the Angolan civil war and introduced a U.N. resolution calling for Puerto Rican **independence**.⁷⁸

Democrat Jimmy Carter, who replaced Ford in the White House, made an even more earnest effort. In January 1977, at his Senate confirmation hearing to be Secretary of State, Cyrus Vance proclaimed that it was time to begin removing obstacles blocking the **U.S.-Cuba** relationship. In **March**, after the Cubans sent a diplomatic note indicating their desire to talk, Carter allowed restrictions on travel by U.S. citizens to Cuba to expire. Carter also supported a partial lifting of the embargo, so that food and medicine could be sold to Cuba.

Cuban and American diplomats met at the Roosevelt Hotel in New York City for confidential talks, and the following month, Carter sent U.S. diplomats on the first official visit to Cuba in 16 years. The diplomats were permitted to open a U.S. interests office in the Swiss embassy in Havana, and the United States agreed to allow Cuba to open a similar office at the Czech embassy in **Washington**.⁷⁹

Ultimately, **however**, the Carter effort to come to an understanding with Cuba

also fell short. The Administration was hampered by internal struggles between the National Security Council, which wanted to make Cuban intervention in Africa and Central America the key **issue**, and the State Department, whose diplomats wanted to pursue Carter's human-rights agenda and bargain for the release of political **prisoners**.⁶⁰

In **turn**, Cuba, despite its Soviet aid, was hit by an economic recession, triggered in part by a drastic worldwide drop in sugar **prices**.⁶¹ The resulting hardship drove increasing numbers of Cubans to try fleeing the island. When the United States proved reluctant to punish emigres who'd hijacked boats to cross the Florida Straits, Castro eventually responded by allowing many thousands of **Cubans—including** criminals released from **jails—to** flee at **once**, creating a refugee nightmare for the United States." The Mariel boat crisis in April 1980 became another election-year millstone around the neck of beleaguered President Carter. In November, he was defeated by the Republican candidate, Ronald Reagan, whose conservative advisers wanted to take Cuba policy in a radically different direction.



CHAPTER THREE

THE RISE OF THE CUBAN-AMERICAN RIGHT

In the days before he was a prosperous Miami businessman, Jorge Mas Canosa had volunteered for the Bay of Pigs and helped to wage the covert war against Castro. Now, he had an idea for a better way to fight his enemy. At a Cuban coffee shop at 27th Avenue and Coral Way in Miami, he told Mario Elgarresta about his **plan**.¹

It was 1981, and the Cuban-American exile community in Miami, had become a dangerously turbulent place. By the mid-1970s, 350,000 Cuban exiles has settled in South Florida, and thousands continued to arrive each year. But even as hard-working, educated exiles prospered **economically**—by one estimate, for example, they came to control a third of the construction industry in South **Florida**²—a bitter schism had developed. On one side were exiles who wanted to maintain a hard-line, confrontational stance against Castro; the other group favored engaging the Cuban dictator in dialogue and attempting to negotiate reforms, such as the legalization of opposition parties and the holding of free and fair elections. In 1974 and 1975, Miami was rocked by 50 bombings that police attributed to Cuban exiles, including a blast at a local television **station**.³ In March 1975, after Luciano Nieves, who'd written pro-dialogue newspaper articles, was shot and killed in a hospital parking lot, Miami Mayor Maurice Ferre found it necessary to ask for federal law enforcement agencies to step in and help combat the **violence**.⁴ Miami police investigators later estimated that as many as 50 different exile groups were involved in terrorist **activities**.⁵ In the years that followed, more pro-dialogue exiles were **murdered**⁶ and there were other bombings at embassies and newspaper **offices**.⁷

"Miami was under a lot of bombings, explosions, and people that were killed in the streets," Mas would later recall in a deposition. "We made an effort to show them that there were other civilized ways to struggle for the democraticization of **Cuba**."⁸

Mas Canosa wanted to create a respectable organization that would correct what he believed was a stereotype held by some Anglos: that the Cuban-Americans were **terrorists**.⁹ Unlike the extremist groups with their bombs and guns, the new organization would turn to a nonviolent **weapon—mainstream American politics**—to fight for an end to Castro's rule. **Elgarresta**—a fellow anti-Castro activist who'd gone to work for Richard Allen, the national security adviser to the new President, Ronald **Reagan**—had an idea of his own to go with it. He wanted to create a **Cuban-American** political action committee to raise money and make contributions to candidates. "I thought that was a good idea," Mas Canosa recalled, "and we went ahead with that **plan**."¹⁰

Mas **Canosa** discussed his idea with a few **friends**, such as Francisco (Pepe) Hernandez, Raul Masvidal, and Carlos Salman. Some time after that, more than a dozen supporters held their first meeting in the conference room of Miami's Republic National Bank. Each of the prospective directors of the new organization was asked to pledge an annual contribution of \$10,000." The board, as it would for the next 15 years, elected Mas Canosa as its **chairman**.¹² The Cuban American National Foundation, soon to become a powerful influence in Washington, had been born.

Through the foundation, Mas Canosa would become a power to be reckoned with in U.S.-Cuba relations, to the extent that presidential candidates would come to Miami to curry favor and seek his counsel. It was quite an evolution for a man who'd once been bitterly disappointed by an American politician's false promise. In 1961, after the Bay of Pigs disaster, Mas Canosa and other surviving members of Brigade 2506 had gathered in the Orange Bowl. In a speech, President Kennedy invited the Cuban exiles to join the U.S. armed forces, to train for the second invasion attempt that would never come. In a deposition years later, Mas Canosa explained, with a trace of sarcasm: "He promised at the Orange Bowl that he will return the flag, the Cuban flag, into a free Havana. I think that he meant probably **Free** Havana [a bar] in **Calle Ocho**."¹³

But then again, Mas Canosa had had a remarkable odyssey of discontent. He'd been an activist and exile even before Castro. He was born in Cuba in 1939, and **his** father, a veterinarian, was a major in the Cuban **army**.¹⁴ As a 17-year-old student, Mas Canosa appeared on a hometown radio station and criticized the Batista dictatorship. Afterward, he was arrested and held overnight at the military **bar-racks**.¹⁵ His brother Ricardo **Mas**, who was eight years old at the time, watched Jeeps circle the house and troops ransack the house, looking for dissident material. As Ricardo later recounted, the military men told their father "that he had 72 hours to get Jorge out of the country, or **else**."¹⁶ The next day, his father put young Jorge on a plane for the United States, where he enrolled at Presbyterian Junior College in Maxton, North **Carolina**.¹⁷

The following year, after Batista's fall, Mas Canosa went back to Cuba. But he didn't like Castro, the new dictator, either. Several times, Mas Canosa was arrested for pasting **anti-Castro** posters to walls and other protest activities. In a 1988 interview with *The Miami Herald*, Mas Canosa recounted a horrific experience during one such arrest. Revolutionary officers handcuffed Mas Canosa to another suspect and then began to question the man, who refused to talk. By Mas **Canosa's** account, the officer shot the man, killing him. "I was so terrified," he told *The Herald*, "that it took me years to talk about **it**."¹⁸

After his release from jail in July 1960, Mas Canosa fled to Miami, where he enlisted in the **U.S.-sponsored** exile army that was training to overthrow Castro. Mas Canosa sailed for Cuba as part of the invasion force, but when he and his unit reached the coast, their commander assessed the dire situation and decided to turn the boat **around**.

Back in the United States, Mas Canosa enlisted in the U.S. Army," which was quietly recruiting Bay of Pigs veterans—a move that some speculate was intended primarily to keep the fighters under control.²⁰ He trained at Fort Benning,²¹ where he became friends with another exile, Felix Rodriguez.²² (Rodriguez later became a CIA operative and in the mid-1980s coordinated, for Lieutenant Colonel Oliver North, the effort to resupply the Nicaraguan contras.)²³ Mas Canosa won a commission as a second lieutenant, but the second invasion of Cuba—the one that Kennedy hinted at in his stirring speech—never came. He left the Army and returned again to Miami, where he washed dishes and delivered milk to earn a living.²⁴

But even in those humble circumstances, Mas Canosa was a man with higher ambitions. He and his uncle Alberto Mirando got the idea of starting an anti-Castro organization. For backing, they went to Jose Bosch, the president of Bacardi, the Cuban rum maker, for whom Mirando had once worked as a brewery manager.²⁵ Bosch had a score to settle with Castro. As an enemy of Batista, Bosch had donated \$1 million to finance Castro in the late 1950s.²⁶ When Castro returned triumphantly to Havana in 1959, he stopped along the way for a luncheon appointment at Bacardi's Hatuey brewery (which was decorated with a banner bearing the message, "Gracias, Fidel").²⁷ But after taking power, Castro's ingratitude had been such that he'd nationalized Bacardi's distillery, three breweries, and other properties—assets worth \$76 million in all.²⁸ Now, Bosch subsidized Mas Canosa's new organization, Cuban Representation in Exile—known by its Spanish acronym, RECE²⁹—to the tune of hundreds of thousands of dollars.³⁰ To give the group credibility, Bosch bankrolled an unofficial referendum in 1963 in which Cuban-Americans were asked to approve a slate of five leaders—Mas Canosa among them—who would spearhead the effort to free Cuba. (Mas Canosa's slate won with 60,000 votes; the opposing slate attracted only 4,000 votes.)³¹

Publicly, RECE published a monthly newspaper that Mas Canosa and his brother Ricardo delivered to local grocery stores.³² Privately, it ran commando raids from Florida shores against Castro. Mas Canosa's role was to funnel financial support to the commandos. "We helped a lot in destabilizing the country, doing sabotage in the sugar mill, in the sugar plantation, in the factories . . . just to paralyze the economy as much as we could."³³ In a deposition years later, Mas denied that the CIA had supported RECE,³⁴ a sponsor of numerous clandestine anti-Castro activities. But Ricardo Mas, who's now estranged from his brother, would say in a deposition that Orlando Bosch and Luis Posada Carriles,³⁵ both CIA contract employees,³⁶ were involved in RECE's paramilitary arm. And Mas Canosa was a part-time broadcaster for Radio SWAN, the CIA-backed radio station that broadcast to Cuba in the 1960s.³⁷

But the clandestine war turned into a dead end. Tony Cuesta,³⁸ Mas Canosa's friend and anti-Castro compatriot, was maimed and imprisoned as the result of a failed mission to assassinate Castro in the late 1960s." Afterward, Ricardo Mas recalled seeing his brother hurriedly trying to get rid of a boat that was parked in front of Mas Canosa's house, because it had been used in raids and "the federal government was looking for it."⁴⁰ Mas Canosa concluded that a new approach was

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PRESIDENT REAGAN, 1983

needed. "We were not being effective in destabilizing the economic machinery of the Castro government because of the huge subsidy they were getting from the Soviet Union," he later testified. "So, you could destroy the very valuable piece of machinery to the Cuban government. They will replace it the next day with the assistance of the Soviet **Union**."⁴¹

After years in menial jobs that financed his **activism**, Mas Canosa began striving for material success. In 1968, he went to work for Church & Tower, a construction business founded by two Cuban exiles. When the owner offered him an equity stake if he could rescue the slumping company, Mas Canosa took the offer. In 1971, with the help of a \$50,000 loan from Republic National Bank, he acquired Church & Tower. Mas Canosa built a lucrative business in digging ditches, laying cable, and setting telephone poles for Southern **Bell**.⁴² Ultimately, Church & Tower would become part of MasTec, Inc., a far-flung publicly held empire that installed underground cables and other equipment for telephone, cable TV, and utility companies. MasTec's ventures have ranged from building a jail in Dade County to interests in Mexican pay phones, Argentine cable television, and a Ecuadoran cellular phone **company**.⁴³ By 1995, the company was earning \$175 million in **revenues**.⁴⁴

But Mas Canosa didn't forget about Cuba. As he grew in stature as a businessman in the 1970s, he also began the transition from covert warrior to mainstream political activist. In 1974, according to *The Miami Herald*, Mas Canosa made his first political contribution, supporting Richard Stone, a conservative Democrat from Florida who ran successfully for a seat in the U.S. Senate. (After leaving office in 1980, he became a lobbyist for the authoritarian government in **Guatemala**.)⁴⁵ During the Carter Administration, Mas Canosa lobbied Congress, advocating the establishment of a government-financed "**Radio Free Cuba**" that would beam broadcasts to the **island**.⁴⁶ In 1980, he supported the Republican nominee, Ronald Reagan. After Reagan's election, Mas Canosa became a U.S. **citizen**⁴⁷—and a substantial political donor; in 1981 and 1982, he and his wife gave \$33,000 to congressional candidates and the national political **parties**.⁴⁸

In contrast to the Carter Administration's attempts to negotiate with Castro, the Reagan Administration quickly adopted a hard-line, confrontational stance. In September 1981, Richard Allen, Reagan's national security adviser, and Thomas Enders, an Assistant Secretary of State, announced the creation of Radio Marti. (Mas Canosa later was appointed chairman of the station's presidential advisory board.) In April 1982, the Reagan Administration barred U.S. travelers to Cuba from spending any money on the island (outright bans on travel had been ruled **unconstitutional**)⁴⁹ and tried to tighten the economic embargo by prohibiting U.S. companies from dealing with a list of foreign firms that were allegedly fronts for the Cuban **government**.⁵⁰

Beyond that, Reagan became the first President to actively court conservative Cuban-Americans. In 1983, he gave a speech to 2,500 Cuban-Americans at the Dade County Auditorium (another 60,000 people gathered outside) in which he

proclaimed that "we will not permit the Soviets and their henchmen in Havana to deprive others of their freedom. . . . **Someday**, Cuba will be free." **Afterward**, Reagan **lunched** with 200 Cuban-American supporters, including Mas Canosa.⁵¹ And among its **Cuban-American** supporters, the Reagan Administration paid particular attention to **CANF's** chairman; he was invited to meet on numerous occasions with President **Reagan**—as he later would with President Bush as **well**—at the White **House**.⁵²

In turn, Mas Canosa and the Cuban-American National Foundation provided an organized, well-funded constituency to support the Reagan Administration's policies in Central America and the Caribbean. Mas Canosa's organization actually was a series of entities. One, a tax-exempt nonprofit foundation, was eligible to receive federal grants and dispense them to smaller anti-Castro causes. Another dispensed political contributions. A third organization was set up to lobby Congress. These organizations were all legally separate, so as not to run afoul of campaign finance, lobbying, or tax laws. But they all served a common mission.

"I know pretty well the legal line," Mas Canosa explained in a deposition. "I do not make representation on behalf of the foundation, but the Free Cuba PAC something that is called the Cuban American **Foundation**."⁵³

While the line between Mas Canosa's role as a teacher on the situation in Cuba and his role as a lobbyist is clear legally, it less so organizationally. Many of the officers of the Cuban American National Foundation also sit on the boards of the Free Cuba PAC and the Cuban American **Foundation**, the lobbying group. In 1992, for example, Mas Canosa was CANF's chairman and a director of the Cuban American Foundation, as was CANF's president, Francisco Hernandez. Alberto Marino served as vice-treasurer of **CANF** and treasurer of the Cuban American Foundation and the Free Cuba PAC. Neither of the foundations responded to requests from the Center for Public Integrity for lists of their officers and directors.

But no matter whom he technically **represented**, Mas Canosa was an energetic lobbyist. "Now I am a more civilized, sophisticated militant," he told *The Miami Herald* in 1988.⁵⁴ He would waylay lawmakers in the halls of Congress, bend their ear about **Cuba**, invite them down to Miami for **dinner**.⁵⁵

Jacqueline **Tillman**, a former executive director for the Foundation, told the Center Mas Canosa's style was "entrepreneurial."

"He would say, This is what it **is**, this is what we **want**," Tillman said. "He figured, '**What** do I have to **lose**?' And they [Capitol Hill lawmakers] appreciated the **candor**."⁵⁶

Mas Canosa pressed for the creation of an anti-Castro television station to augment Radio Marti. (**Eventually**, in 1989, Congress established TV Marti and gave it an annual budget of \$7.5 million, which rose to \$16 million the next year, when broadcasts began.) Since its inception, the federal government has bankrolled the Cuba broadcasting program to the tune of \$288 **million**.⁵⁷

In turn, the political fund-raising arm of Mas Canosa's organization repaid that generosity. In January 1984, the Free Cuba PAC staged a radiothon on three Miami stations with promises of raising **\$200,000** to help re-elect Reagan and other friends of the Cuba broadcasting program. When critics questioned whether the President Reagan's name had been used **properly—under** federal election **law**,

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JORGE MAS CANOSA

Reagan's re-election committee could accept no more than \$5,000 from any PAC—Mas Canosa and the other fund-raisers donated the \$200,000 to various congressional campaigns. **Then**, to keep their promise to Reagan, they raised an additional \$200,000 for the Republican National **Committee**.⁵⁸

Mas Canosa was an enthusiastic advocate of the economic embargo against Cuba. "For every dollar that Castro gets into the hands, 80 cents goes into the repressive machinery to oppress the Cuban people," he said in a deposition. "If you deprive Castro of resources of **money**, hard currency, [it] weakens repressing machinery."⁵⁹

But Mas Canosa supported other foreign policy goals of the Reagan Administration that dovetailed with his Cuba agenda. He lobbied for the repeal of the Clark Amendment, a 1975 measure that prohibited aid or the use of U.S. forces to assist insurgents in the Angolan civil **war**.⁶⁰ He became an ally of Jonas Savimbi, whose **UNITA** organization was fighting the Cuban-backed Angolan regime. When the ban was lifted, Savimbi obtained \$30 million in U.S. aid." In April 1988, Mas Canosa went to Angola to visit Savimbi, who presented him with a full-sized replica of an **AK-47**, carved out of **ivory**, as a token of his appreciation.⁶² Two months later, Mas Canosa reciprocated by giving Savimbi \$250,000 in gifts from the foundation, including supplies and equipment to outfit a 200-bed hospital.⁶³ Ultimately, Mas Canosa helped to broker a 1991 treaty between the Angolan government, which had severed its ties with the Cuban military, and **Savimbi's** forces." Savimbi later broke the peace after losing Angola's presidential election.⁶⁵

Mas Canosa also pushed another Reagan cause, the U.S.-orchestrated resistance against the Sandinista Front, which had overthrown Nicaraguan dictator **Anastasio Somoza** in 1979. **CANF's** chairman talked to Capitol Hill lawmakers, advocating the continuation of military assistance to the **contras**.⁶⁶ "Now is the time for the political struggle," he told *The Miami Herald* in 1986. "By defeating the totalitarian government of Nicaragua, we will achieve a tremendous victory against **Castro**."⁶⁷

According to his brother Ricardo, however, organizers of the contra effort called upon Mas Canosa to go further than mere advocacy. Ricardo Mas, in a recent deposition, recalled that Felix Rodriguez, Mas Canosa's former Fort Benning compatriot, former CIA operative, and supply coordinator for the contras, was a frequent visitor to Church & Tower's offices in the early 1980s. Although Ricardo never saw any money change hands, he recalled being told that the purpose of Rodriguez's visits to Mas Canosa was "to raise funds and keep the pipeline open to the Contras in **Nicaragua**."⁶⁸ Ricardo Mas recalled that his brother also told him about a meeting with George Bush and Oliver North in the early 1980s at the Omni Hotel in **Miami**.⁶⁹

In addition, Mas Canosa's name turned up three times in notebooks kept by North, the former National Security Council aide who orchestrated the secret effort to fund the contras after Congress barred U.S. assistance to the Nicaraguan rebels by passing the **Boland** Amendment in August 1984.⁷⁰ One entry, dated February 4, 1985, reads: "Felix Rodriguez, still have not gotten dollars from Jorge Mas." (In testimony before a Senate subcommittee in 1988, Rodriguez declined to

explain the meaning of the **entry**, though he admitted having unsuccessfully asked Mas Canosa for \$50,000.)⁷¹ Mas Canosa, in a recent deposition, denied having contributed to the **contras**, and said that he didn't even meet North until long after he left his position in the Reagan White House.⁷² (North did not respond to the Center's request for an interview.)

In his sworn deposition, Ricardo Mas also testified that his brother financed the escape of Luis Posada Carriles,⁷³ a former CIA operative who trained in the same program as Mas Canosa at Fort **Benning**,⁷⁴ from a Venezuelan prison in 1985, where he was awaiting trial on charges of bombing a Cuban airliner in 1976. Posada subsequently was harbored by Rodriguez, who at the time was running the contra supply operation from a base in El **Salvador**.⁷⁵ (Mas Canosa has denied that he was involved in Posada's **escape**.)⁷⁶

Mas has contended that **CANF's** positions reflect the view of the majority of **Cuban-Americans**,⁷⁷ but critics charge that its stridency has stifled debate in the Cuban-American community. In the late 1980s, he once stood on **Biscayne** Boulevard, among a crowd of exiles. Some of **them**—**though** not Mas Canosa himself, he would later say in a **deposition**—**were** throwing eggs and stones at **Miamians** protesting U.S. aid to the **Contras**.⁷⁸ Indeed, Mas Canosa, claiming that South Florida is infested with Cuban government **agents**,⁷⁹ has traveled in a bullet-proof **Mercedes**.⁸⁰ "When I say Cuban agents," he explained in a deposition, "I'm talking about Cubans or people who are recruited by the Cuban government, who are on the payroll of the Cuban government, and follow the instructions of the Cuban **government**."⁸¹

And while **CANF** demanded that Cubans on the island be allowed to vote for their leaders, Mas Canosa was elected not by **CANF's** 54,000 **members**⁸² but by its **144-member** board of directors, which had re-elected him chairman each year since the foundation's **inception**.⁸³ During a deposition, Mas Canosa was asked why the foundation's **rank-and-file** members weren't given the opportunity to vote. "It would be very complicated, because we have 250,000 members," he said, spontaneously inflating the foundation's membership. "To organize an election of that nature would be a major, gigantic **task**."⁸⁴

In any case, by the early 1990s, **CANF** had become arguably the most resonant voice on Cuba policy. But **CANF** also had become more than an advocacy group. It sought to write the definitive plan for Cuba's future after Castro. The foundation created the Blue Ribbon Commission for the Economic Reconstruction of **Cuba**⁸⁵ and recruited such conservative luminaries as magazine publisher Malcolm (Steve) Forbes Jr. and former U.N. Ambassador Jeane **Kirkpatrick** as members, in addition to Capitol Hill lawmakers, including Senators Bob Graham (a Democrat) and Connie Mack (a Republican) and Representatives Dante **Fascell** (a Democrat, now retired) and Ileana **Ros-Lehtinen** (a Republican). Other prominent members included Arthur Laffer, the conservative economist whose "**Laffer Curve**" was an underpinning of **Reaganomics**, and Jay **Pritzker**, the chairman and chief executive officer of Hyatt Hotels **Corporation**.⁸⁶ To promote the commission,

**'Jorge Mas Canosa is
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in Miami . . .[and]
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come calling.'**

**BILL MCCLOSKEY,
BELLSOUTH CORPORATION**

CANF organized conferences in Atlanta, Chicago, Dallas, Los Angeles, Miami, New Orleans, New York City, and Washington, D.C.⁸⁷ Among the guests at the Miami conference was President **Reagan**.⁸⁸

Major corporations with an interest in doing business in Cuba were asked to contribute \$25,000 apiece to help finance the **commission**.⁸⁹ Citibank, which had been identified as a sponsor in several news accounts, denied having any participation. BellSouth Corporation, which contracts work to Mas Canosa's MasTec, Inc., said that it put up the \$25,000 because, in the words of Bill McCloskey, its director of media relations, "Jorge Mas Canosa is an important citizen in Miami . . . [and] it is important to meet the requests of important civic leaders when they come calling." Several other companies contacted by the Center for Public Integrity did not respond to its inquiries.⁹⁰

The commission's plan, according to a summary obtained from CANF, will be **submitted** after Castro's fall "to the people of Cuba for their consideration and **approval—or rejection—by** means of a truly free and open democratic **process**."⁹¹ On the other hand, CANF's presentation to potential corporate sponsors noted that "an avoidance of protracted debate on these issues during the initial stage of Cuba's democratic transition" would make it easier for Castro's successors to rebuild Cuba's trade and **economy**.⁹²

The recommendations call for dismantling the present Cuban system and replacing it with a drastically smaller, decentralized **government**, whose duties **would** be confined to regulating the environment and utility companies; in addition, the new government would float a bond issue on Wall Street and in other international financial markets to stabilize the Cuban peso.

Instead of a centrally controlled socialist economy, the commission envisions Cuba going in the opposite direction, toward **libertarianism**. The nation's **infrastructure—power** plants, airports, railroads, public **transportation—would** be rebuilt and run by private investors. Cubans would pay into a system, similar to Social Security, whose assets would be looked after by private-sector investment managers. The present state-run Cuban economy would be rapidly broken up and privatized. The matter of how the assets would be distributed, though, is fuzzy. Small businesses would be sold to existing residents of the island; as for the large farms, mines, and industrial facilities, the plan simply calls for "negotiating, selling, or returning the remaining assets in a form consistent with the best interests of the nation" and that makes the residents the "prime **beneficiaries**." **As** for foreign companies that had invested in Cuba during Castro's regime, CANF warned that their Cuban assets would be confiscated by the new government; in its anti-Castro fervor, CANF's panel aimed to do precisely what the bearded one himself had done decades before to American Sugar, ITT, and other foreign companies that had done business there under Batista."

CANF's effort to lead the way in shaping a post-Castro Cuba goes further. The foundation also commissioned a survey of executives of major U.S. corporations and South Florida businesses to determine their interest in investing in Cuba and whether U.S. government export incentives or tax policies would be a **lure**.⁹⁴ CANF also enlisted Arthur Laffer's consulting firm to help develop a flat-rate income tax **system**.⁹⁵ And Mas Canosa discussed raising funds for post-Castro

reconstruction "in general terms" with Lazard Freres, the Wall Street investment banking firm that has been a financial adviser to MasTec.⁹⁶

In light of that sweeping vision, it's not surprising that some Cuban-Americans call Mas Canosa "El Presidente," suggesting that he eventually might return to Cuba and take Castro's place as the Cuban head of state. "I don't entertain that idea for a second," he said in a recent deposition.⁹⁷ In the past, however, he's hinted that it's not beyond the realm of possibility. Once Cuba is free, he told *The Miami Herald* in 1988, "I want to make a contribution—nobody can deny me the right to run for elective office if I choose to do that."⁹⁸

Some of the companies that hoped to invest in Cuba wanted Mas Canosa to play such a role.⁹⁹ But others in the Cuban-American community looked on CANF's plans for a post-Castro Cuba with less enthusiasm. CANF leaned toward an auction of commercial properties in Cuba rather than returning them to their original owners.¹⁰⁰ That alarmed Cuban-Americans who'd been property owners under the old regime. With the crumbling of the Berlin Wall seeming to signal the start of communism's decline, those old-line Cuban families had revived their hopes of reclaiming their sugar mills and tobacco farms. They'd even begun reviving the old Cuban industry associations that had been dormant since the 1950s. They balked at the notion of ceding their ancestral rights to corporate investors or to Miami moguls such as Mas Canosa, who'd made fortunes after coming to the United States.

"We like almost everything he [Mas Canosa] has ever done," Nick Gutierrez, a young Miami lawyer whose family's sugar mill was seized by Castro, told the Center. "But we thought . . . an auction, where people like him and foreigners could outbid us for our own property, . . . we always felt that of course, the property should be returned to the legitimate owners."¹⁰¹

But as CANF worked to further its economic vision for Cuba, its lobbying and campaign-finance arms also continued to push a legislative agenda. Although Mas Canosa was a Republican and CANF was strongly aligned with the Reagan Administration, the movement broadened its political clout by courting Democrats as well. In the 1980s, for example, Mas Canosa began cultivating a relationship with a seemingly unlikely political ally: Representative Robert Torricelli of New Jersey, a liberal Democrat and vigorous opponent of the Reagan Administration's policies in Central America. (Torricelli did not respond to the Center for Public Integrity's requests to be interviewed for this study.)

Torricelli publicly advocated a dialogue with Castro, on the condition that the dictator made concessions on human rights and kept his promise to stay out of Angola. "To have an American policy that is based upon the idea that we wish the revolution didn't happen, that he'd go away, is foolish going into a fourth decade," Torricelli said in a 1989 television interview.¹⁰² That same year, Torricelli co-sponsored legislation to partially lift the embargo against Cuba to permit shipments of medicine and medical equipment and supplies.¹⁰³

In a deposition, Mas Canosa recalled that "after many discussions," he per-

It's not surprising that some Cuban-Americans call Mas Canosa 'El Presidente,' suggesting that he might eventually return to Cuba and take Castro's place as the Cuban head of state.

suaded Torricelli to support Radio **Martí**.¹⁰⁴ Although Torricelli had visited Cuba in 1987 and met with Castro, by 1991, in Mas's opinion, Torricelli had come around to the correct view on **Cuba**—i.e., a hard line against **Castro**.¹⁰⁵ As his views shifted, Torricelli also became a recipient of the Free Cuba PAC's largesse. Since 1987, he has received \$26,750 from the committee, in addition to at least \$93,900 in contributions from **CANF's** directors and trustees and members of their families.

In 1992, Torricelli introduced the Cuban Democracy Act, the first substantive anti-Castro **initiative** since the currency and travel restrictions in the early years of the Reagan Administration. The intellectual force behind the legislation was then-Torricelli aide Richard Nuccio, who would later become a State Department official and, for a **time**, President Clinton's special adviser on Cuba. Nuccio aimed to bridge the gap between two bitterly opposed groups: the liberals who wanted a dialogue with Cuba to foster democratic reforms, and the conservatives who sought to topple Castro by isolating him economically.

Consequently, the Cuban Democracy Act had two different thrusts. Cuba's economy was near collapse after the abrupt loss of Soviet subsidies, and the legislation sought to put Castro under even more economic pressure. The bill closed the old mid-1970s loophole that allowed the foreign subsidiaries of U.S. companies to do business in Cuba. The loophole, paradoxically, had resulted in a \$750 million annual trade with a country that the United States was trying to isolate **economically**.¹⁰⁶

But at the same time, the Cuban Democracy Act also sought to promote more interaction between the United States and the **island**. An early draft of the legislation would have made it easier for Cuban-Americans to visit their relatives on the island, promoted cultural exchanges, and allowed U.S. companies to work with the Cubans to upgrade telecommunications between the two countries. Although that would put millions of dollars in long-distance telephone tolls in Castro's coffers, it was thought that increased **communication**—a strategy that came to be known as "Track **II**"—**would** also spread dissent and gradually undermine Castro.

Track II, however, was soft by **CANF's** standards. Conservative lawmakers on Capitol Hill worked to harden it—**especially** the provisions governing academic and scientific **exchanges—through amendments**.¹⁰⁷ But Mas **Canosa** was big on closing the subsidiaries loophole, and he'd met with Torricelli on a number of occasions to push his **view**.¹⁰⁸ Putting on his hat as a director of the Cuban-American **Foundation—which**, unlike **CANF**, can lobby without running afoul of the **law—he** mounted a vigorous effort on Capitol Hill to win support for the Cuban Democracy **Act**.¹⁰⁹ He also lobbied President Bush, who had vetoed a previous attempt to bar foreign subsidiaries of U.S. companies from trading with **Cuba**.¹¹⁰ Mas Canosa, however, was unable to persuade Bush to back the **bill**.¹¹¹ Bush argued that the legislation would actually weaken the embargo. In **April**, to dissipate its momentum, he ordered a milder trade sanction, restricting ships that traded in Havana from docking in U.S. ports, while making it easier for Cuban-Americans to send packages to their **relatives**.¹¹³

Thus stymied, Mas Canosa turned to another option. In the Spring of 1992, with the assistance of then-Representative Steven **Solarz**, a Democrat from New York,

he met in Tampa with Democratic presidential candidate Bill Clinton. In a sense, they were the most unlikely of **allies**—the Bay of Pigs veteran who felt betrayed by John F. Kennedy, and the youthful Democrat who hyped the boyhood incident in which he'd shaken hands with JFK. At the **30-minute** session, Mas Canosa pitched Clinton on the need to strengthen the Cuba embargo. Clinton told Mas Canosa that he'd consult with Representative Dante Fascell, a Democrat from Florida (now retired) and CANF ally who was also present, on any Cuban issues. That pleased Mas Canosa.

A few weeks later, on April 23, Clinton visited Miami and met with several hundred wealthy Cuban-Americans at Victor's Cafe. (One journalist described the restaurant as a place "where business deals are cemented and political strategies are drawn over flan de maney and Cuban **coffee**.")¹³ "I have read the Torricelli-Graham bill and I like it," Clinton told the audience, sticking in a plug for Senator Bob Graham, a Florida Democrat and friend of CANF. Clinton declared that the Bush Administration had "missed a big opportunity to put the hammer down on Fidel Castro and Cuba." Clinton's backing would force Bush to sign the bill. The Democratic candidate, in turn, left Miami with \$275,000 in campaign contributions.¹⁴

Mas Canosa hadn't even been at the Victor's Cafe **event**.¹⁵ But Clinton's approval was no doubt crucial. After the meeting in **Tampa**, Mas Canosa had told other conservative **Cuban-Americans** that "if Clinton is elected President, I don't think that we should have anything to **fear**."¹⁶ But over the next four years, just as John Kennedy had disappointed them, so at times would Bill Clinton.

CHAPTER FOUR

THE CUBA HUSTLERS

CANF's 1992 campaign to pass the Cuban Democracy Act, in a way, was an acknowledgment of what for many conservative Cuban exiles was a discomfoting reality: Many U.S. companies were eager to do business in Cuba, even if the dictator that Mas Canosa and others so loathed was still in power.

This, however, was nothing new. Back in 1974, Kirby Jones and Frank Mankiewicz went to Cuba to interview Castro for a television documentary, which eventually aired as a segment of CBS Reports. (As previously noted, Mankiewicz also secretly bore a note for Castro from then-Secretary of State Henry Kissinger.) Shortly afterward, Jones recently recalled, "We got letters from businesses. They all wanted to know, 'What's up? What is there to do with Cuba?'"

Jones saw enough business interest in exploring trade possibilities with Castro that he set up a consulting company. From 1975 to 1982, he escorted representatives of more than 200 U.S. companies, ranging from a copper mining firm to a big U.S. aircraft manufacturer, to meetings with Cuban officials.¹ When the Reagan Administration tightened restrictions on travel to Cuba in 1982, however, Jones figured that his future as a Cuba promoter was bleak. He closed up shop and took a job at the World Bank.

But by 1988, after he returned to Havana to interview Castro again for a PBS documentary, Jones noticed that businesses were even more interested in Cuba than ever before. By the early 1990s, corporate America was looking at Cuba as the latest hot prospect, and for good reason. Back when Jones had arranged his exploratory business tours in the late 1970s and early 1980s, Cuba still was locked securely into the Soviet bloc. It depended on the Soviets to buy Cuban sugar at above the market price, and to sell it oil at such a deep discount that it could make additional money by reselling what it didn't use to other countries. "Eighty percent of Cuba's business was with the socialist world," Jones told the **Center**. "the slice of the pie available for everyone else was really too small."²

But then, in the mid-1980s, Mikhail Gorbachev had ascended to power in the Soviet Union. Gorbachev's desperate attempts to restructure the rapidly crumbling Soviet economy didn't bode well for continuing support of Cuba. Relations between Cuba and the Soviet Union grew strained. In late 1989, the situation grew direr when the Communist regimes in Eastern Europe collapsed and the Comecon, the Soviet bloc trading community, fell into disarray. Within two years, Comecon would be effectively dissolved, and the Soviet Union itself would no longer exist. Suddenly, Cuba had to do without the patron that had propped up its inefficient, ill-managed economy with subsidized trade. The effect was disas-

Polling by the anti-embargo activists showed, as Arlene Alligood of the National Council of U.S.-Cuba Relations put it, that 'Americans didn't give a damn about Cuba—many people didn't even know there was an embargo.'

trous. In 1991, only 35 percent of the expected Soviet wares arrived in Cuban ports.³ And from 1989 to 1992, Cuba's imports dropped by 75 percent, from \$8.8 billion to \$2.2 billion.⁴

Many U.S. companies had already taken notice. "Now, 100 percent of the pie was available," Jones said.⁵ Despite its confrontational rhetoric, the Reagan Administration had neglected to eliminate the old Kissinger-era loophole in the embargo that legalized overseas subsidiary trade, and U.S. corporations exploited it with a passion. Trade with Cuba by foreign subsidiaries of such companies as Cargill, Inc., Dow Chemical Company, E.I. du Pont de Nemours & Company, Union Carbide Corporation, and United Technologies Corporation had grown from \$56 million in 1988 to \$500 million in 1990, and to more than \$718 million in 1992.⁶ The Treasury Department, in a study, concluded that the subsidiary trade was helping Castro's government survive catastrophic losses of food imports from the Soviet bloc.⁷ CANF complained that the only nation with an embargo against Cuba had, thanks to the subsidiary-trade loophole, also become its largest trading partner.⁸

As companies found ways to do business with Cuba, activists, academics, and politicians who favored normalization of relations with Cuba also added to the pressure for change. The impetus behind many of the efforts was the Washington-based Arca Foundation, whose president is Smith Bagley, the son of Reynolds tobacco heiress Nancy Susan Reynolds and a former national finance vice-chairman of the Democratic Party National Committee. Starting in the late 1980s, Arca spent \$1 million to promote a dialogue with the Cuban government. Arca financed researchers at Johns Hopkins University who generated a study concluding that within five years of lifting the embargo, U.S. trade with Cuba would hit \$6.5 billion.⁹

It also helped to underwrite the National Council of U.S.-Cuba Relations, headed by Arlene Alligood, a former journalist who'd worked in Democrat Walter Mondale's 1984 presidential campaign. The council's mission was to recruit and organize support for lifting the embargo. Along those lines, Alligood enlisted 21 former ambassadors, members of Congress such as Representative Joseph Kennedy II, a Democrat from Massachusetts, and retired Admiral Eugene Carroll. In late 1987, Alligood went to Cuba and met with Castro for a five-hour session, in which she sold him on the idea of hosting trips of Americans to the island¹⁰; that enabled the council to circumvent the ban that the Reagan Administration had imposed on Americans spending money in Cuba. Subsequently, Alligood organized tours, such as a group of U.S. real estate developers who toured Cuban housing projects." The anti-embargo activists needed such opinion-shapers, because they lacked a public constituency. Their polling showed, as Alligood put it, that "Americans didn't give a damn about Cuba—many people didn't even know there was an embargo."¹²

Into the 1990s, Arca would continue to spend hundreds of thousands of dollars to influence the debate about Cuba. In 1995, for example, it awarded \$400,000 in grants to organizations ranging from the Cuban Committee for Democracy, a moderate anti-Castro exile group that favors negotiating with the Castro government,¹³ to Pastors for Peace, a Minneapolis-based group that has exported food,

bibles, and other items to Cuba without Treasury licenses as an act of civil disobedience against the embargo.¹⁴

The anti-embargo forces, however, were no match for **CANF**, which had developed a sophisticated lobbying and campaign-contribution infrastructure. Now **CANF** scored another big victory. Instead of moving to normalize relations with Cuba, Congress enacted and President Bush signed the Cuban Democracy Act, which went in the opposite direction. The law aimed to tighten the noose that had been placed around Castro's neck by the loss of Soviet economic aid.

Despite the Cuban Democracy Act and Cuba's dire economic circumstances, however, Castro didn't fall. Instead, in late 1992, Castro's government opened a host of state-run industries, from fishing to rum distilling, to private foreign investment.¹⁵ U.S. companies looked on jealously as companies from Canada, Mexico, and Europe moved in and took the place of the Soviet bloc. More than 50 foreign companies had set up shop in a quasi-free trade zone set up by the Cuban government in Havana." Spanish and German companies took over the management of resort **hotels**.¹⁷ Benetton, the Italian fashion manufacturer and retailer, opened a store in Havana." The British and Canadians imported Cuban sugar." A French beverage maker, the Pernod Ricard Group, entered into a joint venture with the state-owned Cuba Rum & Liquors **company**.²⁰ Netherlands-based ING became the first foreign bank to operate in Cuba since the nationalization of foreign banks in 1960, participating in a Curacao-registered joint venture, Netherlands Caribbean **Bank**.²¹

For Mas Canosa, who'd worked hard to forge ties with **Israel**,²² it must have been a particularly galling irony that Cuba's biggest citrus plantation was managed by Tel Aviv-based BM Corporation, whose founder and president, Rafael Eitan, was a former Mossad intelligence agent. The \$22 million venture aimed to upgrade the quality of Cuban oranges, grapefruits, and other citrus fruits so that Cuba could begin large-scale exports to Western **Europe**.²³

Perhaps the biggest individual corporate investor was the Canadian mining firm, Sherritt. Back in 1991, Sherritt's chief executive, Ian Delaney, had ventured to Cuba to woo Castro. Sherritt got into the oil business, but the bigger prize was access to Cuba's rich deposits of nickel. In eastern Cuba, amid the pine-covered hills surrounding Moa **Bay**, Cuban workers clad in Canadian-made steel-toed boots and hard hats scooped **nickel-cobalt** ore from the ground, and processed it in a plant built by a U.S. company in 1950, now operated by Sherritt in a joint venture with the Cubans. The Moa Bay plant, still equipped with Honeywell and General Electric instruments installed by **Freeport-McMoRan Inc.**, its original owner, was refurbished by Sherritt. By 1995, with the help of the Canadians, the operation would yield 20,000 tons **annually**.²⁴

But the nation that moved most aggressively to grab franchises in Cuba was Mexico. In the early 1990s, Mexpetrol, a joint venture of the Mexican state-owned oil company **Pemex** and private investors, announced plans to buy a 49 percent stake in Cuba's Cienfuegos refinery, making a reported \$200 million investment in

'Nixon opened up trade with China, Bush went much further with Russia, Reagan outdid both of them . . . but this little island, why? Because every presidential candidate is invited to Miami to make a speech to a handful of rich Cubans, and the candidate says, "I will never speak to Castro." The result is that to the rest of the world, we look like idiots. Beautiful little island, and we're the only people in the world who won't trade with them.'

**DWAYNE ANDREAS, CHAIRMAN,
ARCHER DANIELS MIDLAND COMPANY**

Cuba's state-run oil industry. In 1994, the Mexican firm **Grupo Doms** announced plans to invest \$700 million to purchase a stake in the domestic Cuban telephone industry.²⁵ (It later sold 25 percent of the venture to STET, the Italian state-controlled telecommunications giant, for \$291 million.)²⁶

By late 1995, according to figures compiled by the U.S. Cuba Trade and Economic Council, an organization that promoted trade with Cuba, Mexican companies had committed to invest nearly \$2.3 billion in Cuba. After Mexico came Canada (\$741 million in commitments), Australia (\$500 million), South Africa (\$400 million), Spain (\$350 million,) and the Netherlands (\$300 million). Pro-embargo skeptics say that those numbers are inflated and suggest that the actual amount of capital expended by foreign investors was a tiny fraction of the announced size of the deals. ("I would call on everyone to maintain a healthy degree of skepticism when reading such reports," Mas Canosa said in a January 1996 speech.)²⁷

But no matter whether the numbers were accurate or inflated, many U.S. business leaders were irked by what the conservative Cuban-American lobby had wrought. A few, such as **Dwayne Andreas**, the chairman of the agribusiness giant Archer Daniels Midland, have openly called for the end of the embargo. "Nixon opened up trade with **China**, Bush went much further with **Russia**, Reagan outdid both of them . . . but this little island, why?" he said in an interview. "Because every presidential candidate is invited to Miami to make a speech to a handful of rich Cubans, and the candidate says, 'I will never speak to **Castro**.' The result is that to the rest of the world, we look like idiots. Beautiful little island, and we're the only people in the world who won't trade with them."²⁸

But many U.S. businesses weren't merely willing to sit back and leave the Cuba market to their international competitors. Nor were all of them willing to wait until Castro fell, so that a transition government could follow **CANF's** plan for privatizing the economy. After the Clinton Administration lifted the economic embargo against Vietnam in February 1994, many thought that an opening with Cuba, the other remaining Soviet surrogate from the Cold War, might soon follow.

Meanwhile, the impatient would-be Cuba investors received encouragement from the Cuban government, which in April 1994 opened a U.S. division in its foreign investments ministry. Over the next year, several hundred U.S. executives,²⁹ including representatives of a third of the Fortune 500 companies,³⁰ visited Cuba to explore future deals. The Cuban government's guests ranged from representatives of Merck & Company, Inc.,³¹ the largest U.S. pharmaceutical house, who visited Cuban biotechnology facilities,³² to former Chrysler Corporation chairman Lee Iacocca, now in the entertainment and gaming business, who spent five days in July 1994 meeting with Castro and other high-ranking Cuban officials.³³

Another visitor was Jude Wanniski, a onetime *Wall Street Journal* editor and economics adviser to several prominent Republican politicians. His May 1994 visit to advise Cuban officials on "a successful transition to a market economy"³⁴ aroused the ire of Cuban-American conservatives. Then-Senate Minority Leader Robert

Dole, who at the time was being advised by Wanniski, subsequently met with Mas Canosa to smooth things over.³⁵ Later on, Wanniski became an adviser to Malcolm (Steve) Forbes, Jr., during his 1996 campaign to win the Republican presidential nomination, even though Forbes was an honorary chairman of CANF's Blue Ribbon Commission.³⁶

Embargo regulations allowed only U.S. companies to actually consummate deals with Cuba. After the Cuban Democracy Act provided for improved communications with Cuba, for example, WilTel, Inc., an Oklahoma-based telecommunications firm, was allowed to ink a deal with Cuba's state-run EmtelCuba in March 1994 to build the first fiber-optic telecommunications link between the two countries.³⁷ But companies could sign informal letters of intent with the Cuban government, and by December 1994, more than 60 U.S. companies had concluded such agreements.³⁸ A consortium of 12 U.S. companies, mostly banks and financial-services firms, proposed raising a \$2 billion investment fund that in part would be targeted at rebuilding Cuba's infrastructure—a competitor, of sorts, to CANF and its notions of raising money on Wall Street for the same purpose. Ishmael Sene, the Cuban official in charge of the U.S. investment division, boasted that the investment fund "could even be ready before the embargo is lifted."³⁹

In the United States, the Securities and Exchange Commission already had given one brokerage the go-ahead to pitch potential investors on a fund that focused on the stock of companies that seemed likely to profit from an eventual opening of trade with Cuba.⁴⁰

Even Texaco Inc., whose refinery had been seized by the Cubans in 1960 after the company refused to process Soviet crude, developed detailed plans to reenter Cuba if and when the embargo was lifted. "We're ready," one of its executives told *Business Week*. "It's all a matter of getting back into business under U.S. law."⁴¹

In addition, promoters began to appear, offering to provide information and contacts and in some cases arranging to trips to Cuba for companies that wanted to explore opportunities there. One of the most visible was John Kavulich, a New York City-based marketing entrepreneur in his early 30s whose previous projects included marketing the "Tass Top 20," a compilation of Soviet radio favorites, to American stations, and devising a promotional T-shirt for the 1988 U.S.-Soviet summit in Moscow.⁴² In June 1994, Kavulich started the U.S. Cuba Trade and Economic Council⁴³ and obtained letters from 11 Cuban ministries promising access to information. For dues that ranged from \$2,500 to \$12,000 (depending on a company's size), Kavulich offered to coordinate visits to Cuba, arrange private briefings by Cuban officials in the United States, and other services. (Kavulich has declined to name the council's members but has said there are more than 100.)⁴⁴

As the business people who hoped to cash in on Cuba grew increasingly hopeful, the conservative Cubans had increasing reason to be frustrated. In front of a Cuban-American audience in Miami, candidate Clinton came off sounding like a anti-Castro hard-liner, and he'd promised to check with a key CANF ally, Representative Dante Fascell, before making any moves on Cuba. But the Clinton

Administration almost immediately broke that promise. Two days before the Inauguration, *The Miami Herald* had reported that Clinton intended to appoint New York lawyer Mario Baeza to be the Assistant Secretary of State for Inter-American Affairs.

Baeza, a black Cuban-American lawyer experienced in Latin American business, had no diplomatic expertise, though he was a friend of Washington lawyer Ronald Brown, who'd run the Democratic National Committee and was Clinton's choice to be Commerce Secretary, and Vernon **Jordan**, a powerful Washington lawyer and Clinton confidant. Brown and Jordan both pushed for his appointment. But Baeza had a big political liability: He had few ties to the Cuban-American community in Florida. Worse yet, he'd traveled to Havana the previous June to attend a European-sponsored business conference, at which he'd met with senior Cuban officials and attended a reception hosted by Castro **himself**.⁴⁵ Maria Elena **Torano**, a prominent Democrat in Miami's Cuban-American community, called Clinton's likely nomination of Baeza "a slap in the face." Mas Canosa also branded Baeza **unacceptable**.⁴⁶ Secretary of State Warren Christopher soon received calls from Senators Bill Bradley of New Jersey and Bob Graham of Florida and Representative Robert Torricelli of New Jersey, all Democrats, asking for Clinton not to nominate **Baeza**.⁴⁷ Clinton ultimately nominated Alexander Watson, a former U.S. ambassador to Peru, **instead**.⁴⁸

But that was just the start. In **May**, at a White House ceremony marking the traditional Cuban holiday on the anniversary of independence from Spain, Clinton reaffirmed his support for the Cuban Democracy **Act**, and said that his Administration sought "a rapid and peaceful transition to **democracy**."⁴⁹ Noticeably uninvited to the event, for the first time in years, was Mas **Canosa**.⁵⁰ It was almost as if Clinton were declaring his independence as well.

In June, Secretary of State Christopher announced a review of Cuban travel restrictions, with an eye to allowing more **contact**.⁵¹ The following month, the State Department issued rules for the improved telecommunications that were provided for in the Cuban Democracy Act. Although the Administration declined to release the \$80 million that American Telephone & Telegraph Company technically owed the Cuban state telephone company for putting through long-distance calls over the previous three decades, the rules were otherwise expansive and gave Cuba an important new source of hard **currency**.⁵² While Clinton supported the Cuban Democracy Act, it seemed clear that the Administration was emphasizing the parts that improved links with Cuba, rather than the punitive portions.

In January **1994**, Watson went to Miami to allay suspicions that the line on Cuba was softening. He met separately with **CANF** and moderate Cuban-American groups who favored easing the **embargo**, and told them both that the Administration had no intention of easing the sanctions against **Cuba**.⁵³ But a few months later, the lifting of the Vietnam embargo reignited such speculation.

That spring, another crisis developed that strained the relationship between Clinton and the conservative Cuban-Americans even more. Economic hardship in Cuba was stirring unrest and once again prompting tens of thousands of refugees to attempt to flee to the U.S. shores. In **Cuba**, tensions mounted between police and the refugees, culminating on July 13 by a Cuban Coast Guard boat's ramming

of a hijacked ferry full of would-be exiles.⁵⁴ Forty-one Cubans were killed.⁵⁵ In Florida, fears grew of another Mariel crisis.

The Administration had to act. On August 19, at the White House's request, a delegation of Florida politicians and Cuban-American leaders chartered a plane and flew to Washington. The group included Florida Governor Lawton Chiles; Dade County Commissioner Art Teele; Torano; Luis Lauredo, a lawyer with the Miami firm of Greenberg, Traurig, Hoffman, Lipoff, Rosen & Quintel; and Miami City Manager Cesar Odio (who later gained national notoriety, and lost his job, after he was caught in an FBI sting operation and indicted).⁵⁶ Another invitee was Mas Canosa, whom Clinton finally was inviting to the White House for the first time in his term.⁵⁷

Just as he'd done in Tampa two years earlier, Mas Canosa pitched Clinton on a hard-line approach with the Cuban regime. He told Clinton that it was Castro, rather than the rafters, who should be punished. He wanted the United States to continue giving the rafters political asylum. He asked Clinton to institute a naval blockade—nothing goes out, nothing comes in. That was the way to shorten Castro's stay in power, Mas Canosa said. While he had the President's ear, he advocated expanding TV and Radio Marti and other punitive measures against Castro, such as curtailing travel and the flow of dollars that exiles sent to help their relatives to the island.⁵⁸ (Mas Canosa hated Castro and his regime so much that he didn't even send money to his own aunts and uncles in Cuba.)⁵⁹

Mas Canosa came out of the meeting with mixed feelings.⁶⁰ Clinton had agreed to curtail travel to Cuba and cash transfers, two of the gentler punitive measures that Mas Canosa had suggested. But Clinton had rejected the idea of a blockade, saying that he'd reserve it as a future option. Instead, Clinton had decided to break, for the first time in three decades, with the tradition of automatically accepting Cuban refugees who showed up on U.S. shores. Instead, the rafters would be detained at Guantanamo, the naval base that the United States still maintained on the Cuban coast. That idea disgusted Mas Canosa.⁶²

Still, Clinton had consulted Mas Canosa, and given him some of what he wanted. Mas Canosa was a man of honor. He went home and dutifully supported Clinton. He gave credibility to Clinton among Cuban-Americans by appearing on television stations in Miami to describe his consultation with the President," and he was quoted in *The New York Times* praising Clinton as "a man who stands for democracy and freedom . . . he took the initiative on a policy based on principle."⁶⁴ His admiration, though, was qualified; later, Mas Canosa would deny that he'd endorsed the Administration's detention policy or helped persuade Cuban-Americans who were outraged.⁶⁵

But the flood of rafters continued. The Clinton Administration paid lip service to the idea getting tough with Castro, hinting about a naval blockade⁶⁶ as it unsuccessfully held publicly-announced talks with the Cubans. The following April, Peter Tarnoff, the Undersecretary of State for Political Affairs, secretly met in a New York City hotel with Ricardo Alarcon, the president of the Cuban National Assembly. Ten days later, they met again in Toronto. At the clandestine parleys, kept secret even from the Administration's official negotiating team, Tarnoff and Alarcon hammered out a deal that radically altered U.S. immigration policy. In

exchange for assurances that a quota of Cubans would be allowed to apply for emigration and leave the island in a **safe**, orderly fashion, the U.S. government agreed for the first time to turn back refugee rafters to **Cuba**.⁶⁷

On the day the deal was to be announced, Secretary of State Christopher paid Mas Canosa the courtesy of calling beforehand to break the news. Even so, Mas **Canosa** was unhappy. Not only did he oppose the deal, but Clinton had said that he would consult the Cuban-Americans before making any such decisions. He'd gone back on his **word**.⁶⁸ But by **then**, Mas Canosa was already supporting a new piece of legislation that, if passed, would give Clinton little room to wiggle on Cuba in the future.

CHAPTER FIVE

THE MAKING OF HELMS-BURTON

The day after the 1994 elections, which gave the GOP control of Congress, Jesse Helms found himself suddenly in line to become the next chairman of the Senate Foreign Relations Committee. In an appearance in Raleigh, North Carolina, Helms ticked off a 10-point agenda for changing the course of U.S. foreign policy. Cuba was at the top of Helms's list.¹

In Washington, Dan Fisk got to work. Fisk, a State Department aide in the Bush Administration and a former aide on the Republican staff of the House Foreign Affairs Committee, was just starting his new job as a member of the Republican staff of Helms's committee. His task was to channel Helms's animus toward Castro into a piece of legislation. Fisk started by reviewing all Cuba-related legislation that had been proposed in the previous session of Congress. Representative Lincoln Diaz-Balart, a vehemently anti-Castro Republican from Florida (who, oddly, also happened to be Castro's nephew from the dictator's first marriage²), had proposed four different anti-Castro bills and a resolution to press for an international embargo.³ Representatives Robert Torricelli and Robert Menendez, two Democrats from New Jersey, had also proposed measures.

Fisk worked with Roger Noriega, his counterpart on the House International Relations Committee (as it was renamed in January 1995), to organize a group that included aides to Senator Richard Lugar, a Republican from Indiana; Diaz-Balart; Menendez; and Representative Ileana Ros-Lehtinen, a Republican from Florida.⁴ Through the end of 1994, the working group held regular meetings at which they debated how to go after Castro. "For example, did we want to address [expanding] Radio Marti?" one of the staffers later recalled. "Or, what about keeping Castro out of the OAS [Organization of American States]?"⁵

The group quickly put together the first draft of the Cuban Liberty and Democratic Solidarity Act of 1995, also known as the **Libertad** Act in deference to the Cuban-American conservatives who would lobby for it.

Nevertheless, most people, including journalists, would refer to the proposal as the Helms-Burton bill, after Helms and its chief sponsor in the House, Republican Dan Burton of Indiana. Up to that point, Burton, a college dropout and former insurance salesman, had been perhaps best known for his opposition to sanctions against South Africa.⁶ (Burton did not respond to the Center for Public Integrity's requests to be interviewed for this study.)

The Republican takeover of Congress elevated Burton to the chairmanship of the International Relations Subcommittee on the Western Hemisphere. It was the same platform that Torricelli had used to become one of Capitol Hill's most influential voices on Cuba policy, and Burton moved to exploit it. Burton contributed

**'I have no axe to grind
as far as Castro is
concerned, other than
I would like to see
Fidel Castro swim for
his life.'**

REPRESENTATIVE DAN BURTON

little of substance to the bill that bore his name but shepherded it through the committee and took every opportunity to denounce Castro with fiery rhetoric. "I am not from Florida," Burton said at one committee hearing. "I am from a city called Indianapolis, right in the heart of America, and I have no axe to grind as far as Cuba is concerned, other than I would like to see Fidel Castro swim for his life."⁷

Like so many other pieces of legislation, Helms-Burton has been stitched together from bits and pieces of previous bills. Title I of the legislation borrowed heavily from **Diaz-Balart's** barrage of proposals for harassing Castro. To an **extent**, it also revived tactics that had been tried 30 years before, such as the Kennedy Administration's squeeze on the Cuban government's finances and the Johnson Administration's pressure on U.S. trading partners not to deal with Castro. The provisions of Title I, for example, included one that threatened to reduce U.S. contributions to international financial institutions that made loans to the Castro government,⁸ another that required countries to verify that the food products they exported to the United States contained no Cuban **sugar**,⁹ and another that barred U.S. companies from helping to improve the Cuban telephone **system**.¹⁰

Title II essentially was a Menendez bill, the Free and Independent Cuba Act, which authorized the President to draw up a plan for aiding a post-Castro transition **government** and defined the conditions necessary for relaxing the embargo, such as the release of political prisoners, the scheduling of elections, and the removal of Castro and his brother Raul from the government. Title IV instructed the Secretary of State to deny visas to investors and executives of companies, along with members of their families, who profited from using property that had been confiscated by Castro from Americans; it reprised pieces of legislation that previously had been introduced by Torricelli and Helms."

The most original part of **Helms-Burton—and** the most **radical—was** Title III. Just as his liberal opponents focused on the violence that right-wing dictators perpetrated against their political opponents, Helms was fixated on seizures of private property by left-wing regimes. In 1992, for example, Helms had managed to persuade President Bush to hold up \$100 million in relief aid to Nicaragua by charging that the Chamorro government had been slow to return American and Nicaraguan property that had been previously confiscated by the socialist Sandinistas. Looking at Congress's passage of legislation that allows torture victims to sue officials in other **countries**,¹² Fisk reasoned, why not give the former owners of seized property the same rights?

Thus, Title III allowed U.S. citizens and U.S. companies to file federal lawsuits against foreign companies that took control of farms, factories, or other assets confiscated by the Cuban government. But unlike the old Claims Commission in the **1970s**, Title III widened eligibility to include Cuban exiles who'd since become U.S. citizens or owned U.S. companies.

For its architects, Title III accomplished several things. In a broad sense, it furthered Helms's **philosophy**, putting the rights of property owners on the same level internationally as the human rights or environmental issues that liberals pushed. As Fisk later explained in a speech at a conference on Helms-Burton, "I find it very interesting that we do more to protect marine life than the rights of property **claimants**."¹³

In particular, proponents of the bill hoped that the specter of lawsuits would wreak havoc on Castro's efforts to rebuild Cuba's economy. Title III plaintiffs that won verdicts against foreign companies would be eligible under the law for potentially huge damage awards: three times either the 1959 value of the property plus interest or three times the present market value, whichever would be greater. Although the Cuban government undoubtedly would not recognize the validity of the claims, the plaintiffs could go after whatever assets the foreign defendant had in the United States. The "hassle factor," as Fisk called it,¹⁴ would, by deterring foreign companies from doing business in Cuba, deprive Castro of the foreign investment he so desperately needed to survive.

As critics would later note, Title III was a radical attempt to reshape not only U.S. law, but international law as well. It gave U.S. courts an unprecedented right to challenge another sovereign nation's authority in dealing with property inside that nation's borders. Fisk, who in his spare time was completing a law degree from Georgetown University,¹⁵ didn't see why that should be a problem for other nations to accept. To him, property rights were only a natural extension of the basic human rights that the United Nations and other international organizations recognized.

In early December, Fisk gave an initial draft of the bill to the committee's legislative counsel." Over the next two months, the bill would go through numerous revisions. Mas Canosa got an early draft of the bill through CANF's Washington office.¹⁷ Mas Canosa subsequently met with Helms and offered some suggestions, as he later recalled, "to make the embargo stronger against the Cuban Communist government."¹⁸

Despite Mas Canosa's reputation as a power broker in U.S.-Cuban policy, however, he and CANF had little influence on the content of Helms-Burton." The congressional aides who wrote the bill deliberately excluded them from the process, in fact, because they feared that CANF's stridency might cause problems. "You can't have flexibility in drawing up legislation," one of the aides recalled, "if someone is constantly questioning your patriotism."²⁰

In addition, in its attempts to plan the post-Castro reconstruction of Cuba, CANF had raised the possibility of the new government auctioning Cuba's major commercial assets to investors—the sort of thing that was anathema to private-property advocates.²¹

Instead of relying on Mas Canosa and CANF, Fisk, in refining the legislation, turned to another set of players who stood to benefit from anti-Castro legislation, but in a different way than CANF. He leaned heavily for advice on a coterie of Washington and Miami lawyers,²² many of whom represented clients who might file suits under the new law. Some, like Brice Clagett, a partner in the Washington law firm of Covington and Burling, represented U.S. companies who'd lost property in Cuba. Nicholas Gutierrez, a senior associate in the Miami law firm of Adorno & Zeder, represented the National Association of Sugar Mill Owners of Cuba and numerous other Cuban exiles who'd lost property.

The congressional aides who wrote Helms-Burton deliberately excluded Mas Canosa and CANF from the process because they feared that CANF's stridency might cause problems. 'You can't have flexibility in drawing up legislation,' one of them recalled, 'if someone is constantly questioning your patriotism.'

Fisk also received advice and assistance from several officers of the U.S.-Cuba Business Council. The council had been founded in the spring of 1994 by Thomas Cox, the coordinator of its Blue Ribbon Commission on the Economic Reconstruction of Cuba; Robert Freer, Jr., a partner in the Washington law firm of Freer & McGarry, who's been a lobbyist for Amstar Corporation; and Otto Reich, a former U.S. Ambassador to Venezuela and a partner in the Brock Group Ltd., a Washington lobbying firm that represents the Bacardi empire. Like CANF, the council was interested in studying and promoting business opportunities in a post-Castro Cuba, but from a somewhat different angle. In the press release issued at its formation of the council, its chairman, Manuel J. Cutillas, had said that the organization would "inform U.S. policy makers and the general public of the advantages of respect for free enterprise, the rule of law, and private property rights as necessary conditions for U.S. business activity and economic development in Cuba."²³

Cutillas's concern about property rights wasn't hard to understand. He was the chief executive of Bacardi, Ltd., the venerable Cuban rum-making giant whose former chief, Jose Bosch, had backed Castro in the 1950s and then been double-crossed by him. After Castro had seized Bacardi's plant in Santiago de Cuba in October 1960,²⁴ Bacardi had reestablished itself outside Cuba, and then spent years fighting to keep the Castro regime from pirating the Bacardi brand name.²⁵ In the 1990s, Castro had sought to revive the Cuban rum industry, which had fallen upon hard times, by inviting in foreign investors. Cutillas had sent letters to the rest of the world's distillers, warning them that any competitor who used Bacardi's confiscated assets "may be unpleasantly surprised by the outcome of such a gamble."²⁶ Nevertheless, in December 1993, France's Pernod Ricard Group had announced a joint venture with the Cuban government to market Havana Club rum, its main brand.²⁷ Bacardi believed that its distillery was being used to make Havana Club.²⁸

Title III of Helms's new anti-Castro law might provide Bacardi with a convenient, potent means of retaliation against both Castro and Pernod Ricard. Bacardi, though it was a Bermuda company, had a Miami-based U.S. subsidiary that could file a Title III lawsuit. Pernod, in turn, had U.S. properties—it owned the Yoo-Hoo brand, for example—that Bacardi could tap for damages. A federal lawsuit might scare Pernod Ricard out of Cuba, not only hurting Castro but taking out a potentially powerful competitor to Bacardi's rum products.

On the other hand, if Pernod refused to leave Cuba and Bacardi won a Title III lawsuit, Bacardi might even end up with a better deal. Because it wasn't a U.S. company, Bacardi—unlike Texaco, ITT, and the other U.S. firms that had lost property in Cuba—hadn't been eligible to have its claim certified by the U.S. government in the 1970s. If the U.S. government ever negotiated to normalize relations with Cuba, by law, it had to press the Cuban government to compensate the U.S. claimants for the value of their property at the time of expropriation, with interest.²⁹ Bacardi's owners, because they were Cubans, not Americans, had been entitled under the existing law to nothing. They were worse off than unsecured creditors in a bankruptcy. Now, Bacardi might have a chance to use the U.S. courts to collect hundreds of millions of dollars.

Bacardi hadn't dreamed up Title III. But the company, whose shareholders were scattered around the world, would have been hard-pressed to come up with a more beneficial piece of U.S. legislation. (Representatives of Bacardi did not respond to the Center for Public Integrity's inquiries for this study.) Not surprisingly, a number of the people who helped Fisk to put together Helms-Burton had connections to Bacardi. Otto Reich, who, as the president of the U.S. Cuba Business Council, early on provided advice to Fisk³⁰ and later testified in congressional hearings on behalf of the bill,³¹ is a partner in the Brock Group, a Washington lobbying firm that represents Bacardi. (According to federal disclosure forms, the Brock Group received more than \$110,000 from Bacardi in a recent six-month period.)³² Through Robert Freer, Fisk also received research assistance and legal language from Ignacio Sanchez, a Miami lawyer who'd been involved in American Bar Association seminars on the Cuban property issue; in 1995, during Senate hearings on Helms-Burton, Sanchez later testified and submitted a legal brief in support of the bill.³³ Sanchez is a partner in the Miami office of Kelly, Drye and Warren, a New York City-based law firm that represents Bacardi. When Helms-Burton was introduced in February 1995, Sanchez's law firm issued a press release touting his role in drafting the legislation,³⁴ though later, Sanchez would play down both his contribution and any connection to Bacardi, noting that the company didn't pay him for his work. (He conceded, however, that "clearly, they would be a beneficiary of this.")³⁵

Bacardi also showed its gratitude to Helms. In April 1995, according to *The Miami Herald*, Rodolfo Ruiz, the head of Bacardi's U.S. subsidiary, co-hosted, with CANF, a \$500-a-plate dinner that raised an estimated \$75,000 for Helms's reelection campaign.³⁶

On February 9, 1995, Helms held a press conference to unveil the anti-Castro bill, his first major initiative as the chairman of the Foreign Relations Committee. Flanked by Senator Bob Graham, a Democrat from Florida, and Republican House Members from South Florida, Helms proclaimed that "We have an obligation, to our principles and to the Cuban people, to elevate the pressure on Castro until the Cuban people are free."³⁷ Burton, in Senate testimony a few months later, would compare negotiating with Castro to "working with Stalin, or Hitler, or Ceaucescu, or Honiker."

Burton went on to bluster: "Businesses that are ignoring our embargo, and dealing with Fidel Castro, are going to lose their shirt when that country becomes free. They need to realize this. I have had businessmen come to me and suggest that we normalize relations with Cuba and work with Fidel Castro to change things from the inside. . . . Well, we have not done it in China, and we are not going to do it in Cuba. The only way to get a free Cuba is to drive Castro from power. He sticks out like a sore thumb on the hand of freedom and democracy."³⁸

In the March hearing that Burton held on the bill, there was no shortage of similarly impassioned rhetoric. Menendez evoked grisly images of torture and political executions and called the bill "a beacon of light to the Cuban people." Ros-

'The only way to get a free Cuba is to drive Castro from power. He sticks out like a sore thumb on the hand of freedom and democracy.'

REPRESENTATIVE DAN BURTON

Lehtinen branded Castro "the most repressive and brutal dictator that this hemisphere has ever **known**"³⁹ and quoted the words of Jose **Martí**, the 19th-century Cuban patriot: "Man is not free to watch impassively the enslavement and the dishonor of men, nor their struggles for liberty and **honor**."⁴⁰

In particular, Torricelli touted the Helms-Burton act's aim of punishing foreign companies for daring to use seized assets. "**You** can seek to profit by the nationalization of American property, you can seek to purchase or rent or otherwise exercise control over the property that has been seized or stolen from American citizens, . . . but you will not have access to the United States of America," he said. "You can stay in your own country, comforted with your stolen property, but you will not do business **here**."⁴¹

For the Clinton Administration, Helms-Burton was a major headache. Unbeknownst to Congress, Peter **Tarnoff**, the Undersecretary of State for Political Affairs, was about to begin secret negotiations with Ricardo Alarcon, the president of the Cuban National **Assembly**, over immigration. During their clandestine meetings in hotels in New York City and Toronto, Alarcon brought up the subject of Helms-Burton, criticizing the legislation. Tarnoff apparently soothed Alarcon by telling him that the Administration hadn't yet taken a position on the bill but would be making its concerns known to **Congress**.⁴²

The Administration's worries were articulated in Tarnoff's testimony to Helms's committee in June 1995. As the State Department saw it, the legislation **infringed** on the President's constitutional authority to conduct foreign policy, and its provisions would violate a slew of treaties, including NAFTA, **GATT**, and the delicate **aid-for-arms** control agreements with Russia, as well as obligations to the International Monetary Fund and the World Bank. Most of the companies doing business in Cuba were from nations that were also major U.S. trading partners; if the United States began denying visas to executives of foreign companies, Tarnoff testified, their governments were likely to retaliate.

Title **III**, the clause that granted claimants the right to sue foreign companies in U.S. courts, also alarmed the Administration. If the United States claimed this kind of authority under Helms-Burton, what would stop courts in other countries from asserting authority over actions of the U.S. government inside U.S. borders? Tarnoff argued that it would disrupt the fragile international legal system by which countries negotiated compensation for their citizens' **claims**—a system that had managed to resolve tens of thousands of U.S. claims against other countries, even if it hadn't worked so far against Cuba.

As for giving the Cuban exiles the right to sue, the Administration was definitely against it. "When a state expropriates property within its own borders belonging to its own national, the United States has no recognized basis under international claims law for asserting a connection to the state's action," Tarnoff argued. "That the national in question may subsequently become, or transfer the claim to the property to, a U.S. citizen, does not alter this **fact**."⁴³

The State Department wasn't alone in its concern over Title III. The Joint Corporate Committee on Cuban Claims, an organization of U.S. companies that lost property in Cuba in 1960, vehemently opposed Helms-Burton. The committee's 30 members include such big names as Boise-Cascade Corporation, Chase

Manhattan Bank, the Coca-Cola Company, and ITT, with combined claims valued at more than \$1 billion plus interest.⁴⁴ The committee was headed by David Wallace, the chief executive officer of Lone Star Industries, a concrete maker with a \$25 million certified claim for its **seized** Cuban properties, including a plant in Mariel that Castro had turned over to a Mexican competitor.

Theoretically, the original corporate claimants such as Lone Star stood to benefit from the new legislation, because they could file lawsuits against the foreign companies that were using their property. Instead, the claimants feared an onslaught of Cuban exiles filing lawsuits and obtaining judgments that would somehow compete with their claims. Wallace meant the former Cuban citizens no malice, but he argued that their claims against Castro didn't belong in U.S. courts.⁴⁵

"Recognition of a second tier of claimants will delay and complicate the settlement of certified claims and may undermine the prospects for serious settlement negotiations with the Cuban government," Wallace said in a statement prepared for Helms's committee. In an interview with a reporter for *The Miami Herald*, Robert Muse, an attorney for **Amstar Corporation**, another certified claimant, put it more succinctly: "We drown in a pool of Cuban-American claims."⁴⁶

Exactly how this would happen was unclear, because Helms-Burton still gave the corporate claimants preference in many ways over the exiles. The exiles had to wait two years after the corporate claimants to file Title III lawsuits; any claims the exiles made against the Castro government, whose agencies were partners in joint ventures with foreign companies, were non-enforceable if a new government took power. If a pool of assets was set up to satisfy Title III claims, the certified claimants got first crack at it.⁴⁷

But Title III definitely limited the options of the certified claimants. The conservative Cuban exiles and the anti-Castro politicians saw the embargo as a weapon to overthrow Castro, but to the corporate **claimants**, the embargo's *raison d'être* always had been to get them some compensation for their losses.

Today, the certified claimants "are not the people who were in Cuba," Nicholas Gutierrez, the attorney for the Cuban sugar mill owners and other **exiles**, says. "They're lawyers for the companies. The ones who are still in business, the Cuba claims are a **small** portion of their assets. They don't have brothers and uncles who were in prison. The Cuban claimants, on the other hand, are people who fought in the Bay of Pigs The mindset of the big corporate claimants is, "'We want to negotiate separate deals with **Castro**.'"⁴⁸

The prime example was Amstar, whose general counsel, Roger Chesley, went to see Senator Christopher Dodd, a Democrat from Connecticut, in early 1995 to express his concerns about the Helms-Burton bill. Amstar was the corporate descendant of American Sugar, the old **U.S.-owned** firm whose property in Cuba included 1,000 square miles of land, two sugar refineries, and a pair of nearby **islands**.⁴⁹ Over the years, American Sugar had metamorphosed into Amstar, gone through a leveraged buyout, diversified into other businesses, and sold its sugar cultivation and refining business to the British firm of Tate & **Lyle**.⁵⁰ Although it was now in the electric tool business, Amstar retained its \$81 million certified claim against the Cuban regime for its sugar properties.

**'Nobody lobbied the
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NICHOLAS GUTIERREZ

"If compensation were possible, then I would love to receive a check," Chesley explained in a recent **interview**.⁵¹ But he had little hope of collecting that money, either from the virtually bankrupt Castro government (**assuming** it had been willing to pay compensation) or its eventual successor. And with Amstar out of the sugar **business**, it no longer had a use for its two refineries, even if it could somehow get them back.

"Our approach has been to think through internally what kind of resolution makes sense in 1996 or 1997," Chesley said. "Going back to **1959** . . . is not **doable**."⁵²

Searching for a way to recoup something from its claim, Amstar zeroed in on the two islands that it originally had acquired as shipping areas for its sugar. The islands, Cayo Romano and Cayo Cruz, had alluring beaches, and Amstar owned some tourism-related subsidiaries. Consequently, Amstar had some conversations with representatives of the Cuban government about the possibility of cutting a deal. Amstar could assist the Cubans in developing the islands; the Cubans, in turn, could pay compensation out of the tourism **income**.⁵³

For such a deal with the Castro government to become a reality, of course, the embargo against Cuba would have to be loosened. Helms-Burton would make that an impossibility. Amstar, not surprisingly, became a vigorous opponent of Helms-Burton. Its Washington attorney, Robert Muse, constructed disturbing predictions of the chaos Helms-Burton might **cause**—for example, that **Title III** would clog the federal courts with **300,000** to **400,000** lawsuits and generate \$2 billion in court costs. Dodd drew heavily on Muse's doomsday scenarios to pump up the speeches that he made on the Senate floor in the fight against **Helms-Burton**.⁵⁴

In early May, the Clinton Administration disclosed its secret immigration deal with the Cuban government, in which the U.S. government agreed for the first time to return future Cuban rafters to the island. The Administration also announced that it would accept 15,000 refugees quarantined at **Guantanamo Bay**,⁵⁵ though that made little difference. Conservative Cuban-Americans responded with outrage. In South Florida, hundreds of protesters blocked expressways and **tollbooths**.⁵⁶ A month later, a thousand Cuban-Americans travelled from Miami to Washington, some on buses supplied by **Bacardi**.⁵⁷ Waving placards inscribed with such slogans as "Clinton: You're a **Communist**," they listened to a speech by Mas **Canosa**, in which he suggested that Clinton was going **back** on his commitment to a free Cuba. Ros-Lehtinen used the immigration accord to browbeat Clinton on Helms-Burton. "By September, we'll see if it's on his desk," she said. "We'll tell him he has to sign it."⁵⁸

Although CANF had been allowed little input into Helms-Burton, it wasn't going to miss a chance to regain whatever stature it had lost from its faltering relationship with **Clinton**.⁵⁹ **CANF's** high-powered lobbying machine kicked into gear, with Mas Canosa and others making frequent trips to Capitol Hill. "Nobody lobbied the bill as methodically and in as well-funded a fashion as **CANF**," recalls Gutierrez, who says that he would often see Mas Canosa when he took a Miami-Washington **flight**.⁶⁰

Helms-Burton's opponents were scrambling to catch up. In March, **Katy Donahue**, an official of the Center for Foreign Policy, a liberal not-for-profit organization opposed to the embargo, had begun to contact various interests that might oppose Helms-Burton. She contacted business leaders, certified **claimants**, religious organizations, and the embassies of Canada, Mexico, Germany, Spain, and the European Union. At first the diplomats didn't seem to view Helms-Burton as much of a threat, though later some would become quite active in the battle against it. "Their first reaction was, This is not going to **pass**," she recalled in an interview."

But organizing the opponents would prove to be a daunting task. There was no highly focused, well-financed, politically sophisticated organization such as **CANF** to mount a lobbying effort. Instead, Donahue found that Helms-Burton's opponents came from disparate backgrounds and often opposing ideologies. Corporations who mainly wanted to make money in Cuba were matched uneasily with left-leaning religious groups that wanted to ease the embargo but were also worried about the possible negative effects of reintroducing capitalism to Cuba. And liberal Democrats found themselves on the same side of the debate as Gary Jarmin of the U.S. Cuba Foundation, a lobbyist who'd worked for such ultra-conservative groups such as Christian Voice and the American Freedom Coalition."

"Some of these people would never have sat down at the same table before," Donahue said. "When we structured meetings, it took a long time to get a certain Level of trust. People were very touchy. And even among the moderate Cuban-Americans, you had different and strong opinions. The other side had years to develop **unanimity**."⁶³

Some of the organizations that joined Donahue's ad-hoc strategy group had a common denominator; like the Center for Foreign Policy itself, they received funds from the **Arca** Foundation.

While activists such as Jarmin and Alfredo Duran of the Cuban Committee for Democracy published articles in the opinion pages of newspapers and testified in Congress against the embargo, other opponents of Helms-Burton quietly worked on their own. A few of the foreign corporations with major Cuban investments hired lobbyists to make rounds on Capitol Hill. **Grupo Doms**, the Mexican telephone giant, retained Hill & **Knowlton**.⁶⁴ Sherritt, the Canadian mining firm that is the biggest foreign investor in Cuba, retained Washington lobbyist Candice Hooper at a fee of \$15,000 a **month**.⁶⁵ In addition to trying to persuade legislators that the law might generate a flood of litigation, Hooper also prodded other corporate lobbyists to take a more aggressive stance against Helms-Burton, but it nearly always was a hard sell. Cuba, she explained, "is not an issue where people like to have **visibility**."⁶⁶

In the summer and fall of 1995, as Helms-Burton moved through Congress, tensions escalated to the south. On July 11, the House International Relations Committee approved the House version of Helms-Burton, sending it down the

path toward a vote in the full chamber. Two days later, a flotilla of pleasure boats piloted by Cuban-Americans sailed toward the Cuban coast to hold a memorial protest on the first anniversary of the sinking of a tugboat jammed with escaping refugees. They were met by Cuban navy **vessels**, which sideswiped the flotilla's lead craft, *Democracia*. Dade County Commissioner Pedro Reboredo had one of his toes severed as a result of the **collision**.⁶⁷ Amid the chaos, two Cessnas that had been accompanying the flotilla broke away and zoomed down the Cuban coast toward Havana. At least one of the planes, piloted by Jose Basulto, made a low-altitude run over the city, showering the streets with leaflets and religious medals and arousing the Cuban government's **ire**.⁶⁸ In September, a second flotilla ended in tragedy, when an exile craft sank in an accident 10 miles south of Key West and a passenger died of heart **failure**.⁶⁹

Not long after that, on September 12, Mas Canosa led a delegation of **CANF** officials to Washington for several days of meetings on Capitol Hill to gather support for **Helms-Burton**.⁷⁰ On the 19th, he met with House Minority Leader Richard Gephardt of Missouri and other key House Democrats to lobby them on the **bill**.⁷¹

The next day, Secretary of State Warren Christopher informed House Speaker Newt **Gingrich** in a letter that if Congress passed Helms-Burton, he would recommend that the President veto it. In particular, Christopher objected to the bill's "overly rigid" definition of a transition government with which the Administration would be permitted to establish relations. "These inflexible standards for responding to what may be a rapidly evolving situation [in Cuba] could leave the United States on the sidelines during a transition," he wrote. In addition, he warned that the pile of lawsuits generated by Title III might actually hinder U.S. businesses from entering the Cuban market after Castro's **fall**.⁷²

Christopher's grim predictions, however, had little impact. When Gephardt, along with numerous other Democrats, opted to support Helms-Burton, the die was cast. On September 21, Helms-Burton passed the House by a lopsided 294-130 **vote**.⁷³ The result didn't surprise the loose-knit coalition against Helms-Burton; early on, the activists decided to concede the House and focus their lobbying efforts on stopping the bill in the **Senate**.⁷⁴

The Clinton Administration, meanwhile, was ready to unleash a secret weapon of its own. It had quietly been trying to drum up opposition to Helms-Burton in the corporate world, hoping to create a constituency that would serve as a counterbalance in the embargo debate to the conservative **Cuban-Americans**.⁷⁵ On October 6, a group of nearly 50 executives from major U.S. corporations, led by Gerald Levin, the chairman and chief executive officer of **Time Warner Inc.**, flew to Washington to meet with Leon Panetta, then the White House Chief of Staff, and some of Clinton's foreign policy advisers. After being classified by the Administration as "**journalists**"—a bit of licensing legerdemain by the Treasury **Department**—the executives flew to Cuba for a meeting with **Castro**.⁷⁶ The list of corporate bigwigs included John G. **Smale**, the chairman of General Motors Corporation; Arthur C. Martinez, the chairman and chief executive officer of Sears, Roebuck and Company; **Darryl Hartley-Leonard**, the chairman of Hyatt Hotels Corporation; and Jerry Pearlman, the former chairman and chief executive officer of Zenith Electronics **Corporation**.⁷⁷

That same day, in a speech to Freedom House, the human-rights organization, President Clinton announced that he was modifying travel restrictions to make it easier for exiles, academics, relief workers, and journalists to visit Cuba.⁷⁸ "We will promote democracy and the free flow of ideas more actively," he said.⁷⁹

Essentially, these were the more liberal parts of the original draft of the Cuban Democracy Act that had been excised three years before to make it more palatable to conservatives.⁸⁰ Richard Nuccio, that bill's author and now Clinton's special adviser on Cuba, was at last seeing his ideas become a reality.

In making the announcement, Clinton also threw down the gauntlet at then-Senate Majority Leader Dole, who increasingly had linked his name to Helms-Burton. Within an hour, Dole responded with a press conference, serving notice that he was going to speed up the vote on the Senate version of the **Libertad Act**.⁸¹ "On Cuba, the President has once again made a decision to ease sanctions on Cuba," Dole said. "All signs point toward **normalization**, secret negotiations with Castro, allowing Castro to visit the U.S., returning the Cuban refugees, and, now, easing travel restrictions. This latest action makes it even more important for Congress to move ahead on the legislation, and tighten the **embargo**."⁸²

On October 12, Helms rose to speak on the Senate floor. He hammered Helms-Burton's opponents, comparing them to Neville Chamberlain, the British prime minister who tried to negotiate with Hitler prior to World War II. "Nobody could do business with Adolf Hitler, and we should not be doing business with Fidel Castro," he said. "They are two peas in the same pod." Dole derided the White House's "lobbying barrage," which he characterized as an effort to make Helms-Burton a party-line vote, and pointed out that such Democratic Senators as Bob Graham of Florida and Charles Robb of Virginia were co-sponsors of the bill. At the same time, **however**, moderates such as Nancy Landon Kassebaum, a Republican from Kansas, were wavering; Kassebaum was worried by the Administration's argument that Title III might lead to a backlash of retaliation against U.S. companies **overseas**.⁸³ Still, she voted 'yea' to Dole's and Helms's first attempt to invoke **cloture**, which failed by a vote of 57-37. (Sixty votes are need to close debate on a bill.)

The next day, Dole tried to turn up the political heat. He submitted an amendment to Helms-Burton, calling for the President to deny a visa to Fidel Castro. It was clearly a slap at Clinton, who was about to allow Castro to enter the United States to speak at the United Nations and to hold a series of meetings with journalists and business leaders in New York City.⁸⁴ On October 17, amid Democratic warnings that Helms-Burton might provoke another rafter crisis, Dole and Helms tried again to close debate. By that time, Kassebaum's qualms had grown stronger. She changed her vote to "nay," and the motion to shut off debate fell short by a single vote (59-36).⁸⁵

By October 18, the Helms-Burton phalanx had started to crumble. With more moderate Republicans saying that they would vote against **cloture**, Dole and Helms were forced to concede. They announced that they were deleting Titles **III** and **IV**, the lawsuit and visa portions of the bill. "White House inflexibility has forced the changes made today," Dole complained. "The strength of this bill was Title **III**."⁸⁶

**'Nobody could do
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They are two peas in
the same pod.'**

SENATOR JESSE HELMS

The defeat of Title III brought joy to the corporate interests that were eager to get into Cuba. **Finally**, they saw the tide turning, and although the Administration up to that point had supported a continuation of the embargo, they dared envision a day not far ahead when that obstacle would recede as well. "The defeat of the main provision in the Helms bill is so stunning that this may give us some courage," proclaimed Peter **Blyth**, the president of Radisson Hospitality International, which coveted Cuba's tourism **potential**.⁸⁷

A few days after Helms-Burton was gutted, Castro arrived in New York to attend the festivities for the 50th anniversary of the United Nations. Business leaders eagerly sought contacts with the Cubans. Castro sat next to **Dwayne** Andreas, the chairman of Archer Daniels Midland Company, at a dinner at the headquarters of the Council on Foreign Relations and attended a soiree thrown in his honor at publisher **Mortimer Zuckerman's** posh apartment on Fifth **Avenue**.⁸⁸ John **Kavulich**, the president of the U.S.-Cuba Trade and Economic Council, who'd helped to organize some of the meetings, claimed that Castro received more than 70 luncheon invitations during his five-day **visit**.⁸⁹

Helms and his allies hadn't given up. As 1996 began, they still hoped to put the teeth back in Helms-Burton in a Senate-House conference. **Meanwhile**, the Clinton Administration continued with its strategy of promoting contacts with Cuba. Pushing the Administration's agenda was a condition of getting permission to visit Cuba. According to one official, it hoped to use business executives and other prominent visitors as surrogate diplomats, privately telling them that if Castro could be prodded into starting the transition toward democracy, the United States might gradually reduce economic restrictions, as it had with Vietnam. To drive home the point, the Administration encouraged the visitors to insist on being allowed to meet with dissidents as well as Cuban **officials**.⁹⁰ But on February 24, that delicate strategy would perish in the fiery carnage off the Cuba Coast.

CHAPTER SIX

A PYRRHIC VICTORY

In early July 1996, at a hotel outside Washington, many of those who'd helped to create the Helms-Burton bill gathered at a conference to ponder what they had wrought.¹ In an upstairs meeting room, Representative Lincoln **Diaz-Balart**, a Republican from Florida whose numerous anti-Castro initiatives at last had become law, gave a fiery speech. He **chided** U.S. trading partners that were "screaming" about the bill, and complained that Congress hadn't gone far enough in pressuring them to stop doing business in Cuba. "I would have liked a secondary boycott," Diaz-Balart said. "I would have liked to see legislation that said if you invest in Cuba, you don't come into the United **States**. . . . We did not pass the bill that some of us would have wanted, that would have been extraterritorial. We passed a bill limiting itself to American property and American **citizens**."²

But then again, **Diaz-Balart's** rage against his Uncle Fidel and "collaborationism" by foreign companies was so great that perhaps no mere piece of legislation could satisfy it. Abandoning the topic of Helms-Burton, he launched into his vision of a post-Castro Cuba: a fiercely nationalistic state that "will have numerically as large an army as it has today, or security forces," launching a campaign of retribution against anyone who had economically aided Castro. "The people who have collaborated with the regime by dealing in stolen property are not only going to face that crime, from democratic Cuba's prosecutors and courts, but with the legal enhancement of collaborationism with the **tyrrany**. . . . It's going to make that crime very serious, that enhancement. Collaborationism with the tyranny. I don't think that less than 10 years in prison will be called for, for any investor in Cuba who is convicted. So we're not talking about sanctions on investments!"³

Comparing foreign investors in Cuba to the German companies that aided the Holocaust, he fantasized about Cuban agents "**extraterritorially** grabbing a few investors and bringing them to Cuba, a la **Eichmann**." That risk, he warned darkly, is "something the businessman should think **about—whether** or not it is worthwhile."⁴

Diaz-Balart's vengeful vitriol was an odd contrast to the sedate, temperate luncheon remarks of Robert E. Freer, Jr., the lawyer who'd played a key role in crafting the bill and who chaired the conference. Freer told the conferees that Helms-Burton wouldn't have cataclysmic effects. He explained that the bill's much-feared Title III, the provision that gave Cuban-Americans the right to sue foreign companies, had been weighted down with restrictions to lessen its impact. The property in question had to be worth at least \$50,000 in 1996 dollars, without interest, which would exclude, he said, all but 75 of the certified claimants and

probably most of the Cuban-Americans ("You can't **tell**, but it couldn't be very many"). Potential claimants also had to pay a yet-unspecified, but probably **substantial**, filing fee, which would weed out the less-wealthy. Only those Cuban exiles who'd become citizens, or had incorporated U.S. companies, before the signing of the bill in March 1996 were eligible to file. And in addition to being able to document their ownership of a property, claimants needed a suitable target: a foreign investor that also had a corporate presence in the United States. Taken together, Freer said, the strictures meant that "rather than a flood of litigation, there'll be a **trickle**."⁵

If Freer lacked **Diaz-Balart's** expansive passion for vengeance, it was for a good reason. To **Diaz-Balart**, companies that wanted to set up shop in Cuba were aiding and abetting Castro's crimes. To a lawyer with an international practice such as Freer, they were a source of income. "I do have foreign clients who are trying to comply with this law," he admitted. "The law doesn't say that you can't trade with Cuba. It says you can't trade with stolen U.S. **property**."⁶

That upstairs-downstairs dichotomy was just part of the uneasiness that pervaded the conference. Now that U.S.-Cuba policy had been **radically—and perhaps irreversibly—altered**, no one was really sure what the real effects would be. Although Helms was gleefully predicting that "Castro's days are truly numbered," would the law really be enough to chase out the foreign investors that Castro needed to prop up his economy? Or would it hurt the U.S. economy instead, by driving a wedge between the United States and its trading partners? Who would really benefit from the law and who would really *be* hurt? Would the Clinton Administration, which had once opposed Helms-Burton as vehemently as the President now expressed support for it, actually implement the law in anything resembling the manner its creators had intended? Or would it merely go through the motions?

"As we give birth to a child like this, we have to nurture it, correct it, and guide it, so that it grows up to be a law we can be proud of," Freer warned, cautiously. "[**But**] the child grows up on its own and is not exactly the child we thought we were raising. It has its own attributes, and its own **character**."⁷

Just as the law's opponents had predicted, the foreign backlash against Helms-Burton wasn't long in coming. Within days of the bill becoming law, both Canada and Mexico asked for consultations with Washington under the dispute settlement process of the North American Free Trade Agreement (NAFTA). On March 19, at a meeting of the World Trade Organization in Geneva, Cuba protested the Helms-Burton bill as "incompatible with the principles and norms in international trade." It was quickly joined by a host of other members: The European Union, Canada, Chile, India, Mexico, Nicaragua, and other nations raised objections to the U.S. statute. To European Union Ambassador Jean-Pierre **Leng**, it was "particularly unacceptable to have a third country direct us over **trade**."⁸

But angry words were the least of the Clinton Administration's worries. Helms-Burton threatened to disrupt the free-trade agreement with Mexico and Canada

that the Clinton Administration had expended much domestic political capital to create. Canada was a particular problem. Trade between Canada and Cuba was growing fast: In the previous year, Canadian exports to Cuba had more than doubled, to \$255 million, with the Canadians buying \$200 million worth of Cuban sugar and other products.⁹ Canada was now Castro's biggest trading partner. The Canadian mining giant **Sherritt**—whose chairman, Ian Delaney, displayed a picture in his office of Castro posing with Delaney's family—was the most conspicuous investor on the island.¹⁰ The day before the **shootdown**, Sherritt International, a publicly held company spun off by the corporate parent to do business on the island, announced that it had turned a profit of \$28 million in Canadian dollars in its first quarter of operation, and its executives talked of exploring additional ventures in Cuba."

Even after the passage of Helms-Burton, Sherritt would remain defiant. In late November 1996, the company announced its plans to raise \$225 million through the sale of short-term notes to finance an expansion of its Cuban operations and suggested that it might try to raise another \$225 million if the demand from investors was sufficiently strong. "It's full steam ahead," Patrice **Merrin-Best**, a Sherritt vice president, told a Canadian newspaper.¹²

Beyond the profits at stake, the Canadians bristled at the notion of the United States attempting to dictate their trade relations. After the Cuban Democracy Act in 1992 forbade the foreign subsidiaries of U.S. companies from trading with Cuba, the Canadians had passed a law, the Foreign Extraterritorial Measures Act, that forbade any U.S. subsidiaries in Canada from following the law. During the Helms-Burton **debate**, Canada had further strengthened that **statute**.¹³ Now, the Canadians were talking about passing "**clawback**" legislation that would allow Canadian companies to turn the tables on U.S. companies that sued them in U.S. courts; the Canadian companies would be able to countersue the U.S. companies in Canadian courts.¹⁴ With other countries—**France** and the United Kingdom, for example—looking at similar measures, a trade war seemed to be in the making.

The Clinton Administration publicly kept up its strident rhetoric, denouncing Cuba as an outlaw nation and pressing for international condemnation of the shootdown. At the same time, however, it quietly began to back away from the parts of Helms-Burton that it had opposed. On March 27, Secretary of State Warren Christopher met with Canadian Foreign Minister Lloyd Axworthy and assured him that the new U.S. policy might not be as extreme as the Helms-Burton law **appeared**.¹⁵ A few days later, in Rome, President Clinton met with Italian President Oscar Luigi **Scalfaro**. Afterward, Clinton all but promised to block the Title HI lawsuits against foreign companies. "The Helms-Burton bill provides the President with a waiver authority," Clinton said, "which I believe makes it possible for me to implement that bill in a way that does not violate the commercial rules and regulations governing nations, and that will not undermine our strong, broad-based and consistent commitment to open trade among nations."¹⁶

At the same time, however, Clinton continued to proclaim a hard line against Cuba. Four weeks later, on April 29, in front of a Democratic Party audience at the **Biltmore** Hotel in Coral Gables, Florida, he gave himself a pat on the back for signing the same bill that his Administration had so vigorously opposed. "I know that

'The United States was a great champion of the campaign against secondary boycotts with regard to Israel. I have heard no explanation as to why a secondary boycott is wrong in principle when it applies to Israel but becomes right in principle when it applies to other countries.'

MALCOLM RIFKIND,
BRITISH FOREIGN SECRETARY

there are things that if we don't do them they won't be **done**," Clinton said. "That's why we stood up for peace in Bosnia. That's why we took the initiative to try to bring peace in Northern **Ireland**, working with the Irish and the British governments. That's why we have worked so hard for so long in the Middle East and why the Secretary of State was there to try to bring an end to the violence between Lebanon and Israel. And that's why I signed the Helms-Burton bill and why I am working for a free **Cuba**."¹⁷

Title **IV**, the provision that directed the U.S. government to deny visas to executives whose companies used seized **property**—and to members of their families as **well**—presented the Clinton Administration with its initial test, since Helms-Burton gave it a timetable for moving ahead on the restrictions." The provision especially angered Canadian Trade Minister Art Eggleton, who ridiculed the United States for denying the children of Canadian executives the opportunity to visit **Disneyland**.¹⁹

On May 8, State Department spokesman Nicholas Bums revealed that the Clinton Administration would apply the visa restrictions in a gingerly fashion. Only companies that took over a confiscated property after the law went into effect on March 12, or made a significant capital investment in a confiscated **property**, would be targeted. Companies that already were doing business on confiscated property could continue without punishment, so long as they didn't make any additional **investments**.²⁰ Even for companies that were "**traffickers**" of stolen property, the Secretary of State would reserve the option of waiving punishment. In addition, the Administration indicated that it would not make public the list of companies that it accused of **trafficking**.²¹ "In general, we're seeking to maximize pressure on the Castro regime," Bums **said**, "and we want to minimize the impact on our allies and on our trading **partners**."²²

But the Administration was under increasing political as well as statutory pressure to act on Title IV. Then-Senate Majority Leader Robert Dole, already Clinton's presumed Republican opponent in the fall election, visited Miami on May 20 for a Cuban Independence Day celebration. To a Cuban-American audience, Dole blasted Clinton and promised that if he became President, "the appeasement policy of the Clinton Administration will be replaced with an iron resolve to bring Fidel Castro down and end his regime of terror in **Cuba**."²³ Meanwhile, foreign diplomats continued to make ominous noises about retaliating against the United States because of Helms-Burton. Four days after Dole's speech, in Strausbourg, European Commissioner **Karel** Van Miert warned that "we will not hesitate to take all the necessary steps to protect our **interests**."²⁴ On May 27, British Foreign Secretary Malcolm **Rifkind**, in Washington for a meeting with Clinton, attacked the Helms-Burton bill in a speech at the National Press Club. Rifkind pointedly compared the Cuba embargo with the attempts of Arab nations to pressure companies from the United States and other countries not to trade with Israel. "The United States was a great champion of the campaign against secondary boycotts with regard to Israel," he said. "I have heard no explanation as to why a secondary boycott is wrong in principle when it applies to Israel but becomes right in principle when it applies to other **countries**."²⁵

Two days later, on May **29**, the State Department announced that it was send-

ing its first Title IV letters to several unidentified foreign companies, notifying them that they had been identified as traffickers and faced possible sanctions." The **targets**, however, didn't remain unidentified for long. First there was **Grupo Domos**, a Mexican conglomerate, and STET, an Italian government-owned firm to which Domos had sold a 25 percent share of its \$1.4 billion joint venture with Cuba to modernize its telephone **system**.²⁷ The two companies were alleged to be using property owned by ITT. The other target was **Sherritt International**, which operates a nickel mine and processing facility along **Moa Bay**. By the end of the summer, the companies' executives and their families would be formally barred from entering the United States.²⁸

The State Department, however, was slow to move against any of the other corporate participants in the more than 200 joint ventures that the Cuban government had **permitted**.²⁹ In a talk before a business group on June 19, Michael Ranneberger, the director of the State Department's Office of Cuban Affairs, said that the U.S. government was still trying to research and identify possible **traffickers**.³⁰ Later, in congressional testimony, Ranneberger said that even if the State Department hadn't yet begun to enforce Title IV, the law was having its desired effect. "There are a number of foreign companies to whom we were going to send advisory letters," he said, "who have come to see us and who have preemptively, in **essence**, pulled out—**provided** documentation that they are pulling out."³¹

By then, **however**, Clinton had a more pressing problem: the rapidly approaching mid-July deadline for him to decide whether Title III, the lawsuit provision, should take effect. Activating Title III was sure to antagonize the United States's trading partners, perhaps spurring them to enact retaliatory sanctions that might have a disastrous effect on the U.S. economy in an election year. In a July 1 **letter**, the U.S. Chamber of Commerce and other business groups warned Clinton that "Some of our closest allies and most important trading partners are contemplating or have legislated **countermeasures**" and that "U.S. firms will bear the brunt" of any **sanctions**.³² But waiving Title III would give Dole, who'd already touted his role in what he called the "Helms-Dole" bill, a chance to attack him as weak against Castro, and perhaps prompt conservative **Cuban-Americans**, a small but potent factor in two contested states, to actively work against Clinton.

On July 13, as a protest flotilla of **Cuban-American** boats sailed to the edge of Cuban waters to commemorate the 1994 tugboat **sinking**,³³ Clinton studied a briefing paper on Title III at Camp **David**.³⁴ Two days later, on the eve of his deadline, he had still not reached a **decision**.³⁵ In Brussels, the European Union's foreign ministers approved an assortment of retaliatory measures, including requiring that American tourists who go to Europe have **visas**—a painful slap, at the height of the vacation **season**—and compiling a blacklist of U.S. companies that file Title III suits against **Europeans**.³⁶

The next afternoon, Clinton announced an ingenious solution. He authorized Title III to take effect, so that after a three-month warning period, foreign companies still using U.S. companies' and Cuban-Americans' confiscated property

'Helms-Burton is working. That's the reason Fidel Castro has the nervous jitters. Businesses are fleeing Cuba. If he thinks it's bad now, he ain't seen nothing yet.'

SENATOR **JESSE HELMS**

would be technically liable to be sued. At the same time, however, he blocked U.S. claimants from actually filing any lawsuits for at least six months. "At the end of that period, I will determine whether to end the suspension, in whole or in part, based upon whether others have joined us in promoting democracy in Cuba," Clinton explained.³⁷

Dole, Helms, **Diaz-Balart**, and the rest of Helms-Burton's congressional patrons were irate. Helms railed that "Mr. Clinton has capitulated to Fidel Castro and his foreign business collaborators."³⁸ Dole, mixing metaphors, denounced Clinton as "rudderless when it comes to standing up for American principles." But Clinton had **outmaneuvered** them politically. He gave the appearance that he was pushing U.S. trading partners to join him in pressuring Castro, although he imposed no specific conditions on them. The Europeans were still talking tough, but they held back on their sanctions. The conservative Cuban-Americans were pacified. "We are not completely satisfied, but this is a first positive step," Francisco (Pepe) **Hernandez**, **CANF's** president, said. "What the President has done today is really to give investors another few months to make up their minds or pack their bags to get out of Cuba."³⁹ And Clinton had bought himself some additional time. The next deadline for whether or not to continue the waiver was in January, after the presidential election.

Clinton's action delayed the answers to other pressing questions about Helms-Burton. The Clinton Administration and Helms both trumpeted Helms-Burton's power to drive potential foreign investors away from Cuba, even before its punitive measures had time to kick in. They pointed to such examples as the Mexican concrete maker Cemex, which announced that it was halting operations in Cuba after learning that it was about to receive a notification letter; the Canadian firm **Redpath**, which had been buying 100,000 tons of sugar a year from Cuba until it pulled out from apparent fear of Helms-Burton; or the Spanish firm Occidental Hoteles, which runs or owns 56 hotels, including the Occidental Plaza and **Marriott-Dadeland** in Miami, and canceled its plans for a four-hotel Cuban venture after the passage of Helms-Burton.

"Helms-Burton [the law] is working," Helms said in May in a speech to CANF. "That's the reason Fidel Castro has the nervous jitters. Businesses are fleeing Cuba. If he thinks it's bad now, he ain't seen nothing yet."⁴⁰

The Cuban government acknowledges that Helms-Burton has deterred some foreign investors. **Still**, since the bill took effect in March, the Cubans claim to have signed 25 additional foreign companies to joint ventures, bringing to 240 the number of such **projects**.⁴¹ Helms-Burton's boosters played down such deals, claiming that the Cubans wildly exaggerated the numbers and the amount of money involved.

Even so, there were plenty of signs that countries would continue doing business with Cuba, even if it meant incurring the displeasure of the U.S. government. **Turkey**, a key U.S. ally, ignored **Helms-Burton**, signing a \$6 million trade pact with Cuba.⁴² Saudi Arabia, another U.S. ally, reportedly was exploring Cuba as a sup-

plier of sugar for a new refinery on the peninsula that was scheduled to come on line in 1997."

If Helms-Burton ever takes full effect, what will happen? Even its supporters admit that the law has certain glaring flaws. Its authors, for example, defined trafficking "extraordinarily broadly," in the words of Samuel (Sandy) Berger, Clinton's deputy national security adviser.

In Title IV, the definition of trafficking was no problem, since the U.S. government had ultimate authority to make the call. (The lack of due process, however, alarmed the Organization for International Investment, which in a May 9 letter to Secretary of State Christopher, implored the State Department to allow accused persons and companies to respond to the allegations before a determination was made.)⁴⁴

The test of trafficking, Dan Fisk liked to say, was whether a company benefited economically from seized **property**—when in doubt, "follow the money," he said at the July Helms-Burton conference.⁴⁵ But the concept was so vague that no one seemed to be sure quite what it meant. Berger, for example, noted that trafficking conceivably could even include doing business with companies doing business in Cuba.⁴⁶

The intent of that vagueness was to make it difficult for foreign companies to evade Helms-Burton's reach. Yet the law had glaring **loopholes**, particularly in Title III. Companies that don't have wholly owned U.S. subsidiaries were invulnerable to Title III lawsuits, no matter how much confiscated property they used. And there was nothing to prevent foreign companies with a U.S. presence from spinning off their Cuban **operations**—not as wholly owned subsidiaries that were easily linked to their U.S. operations, but as publicly held, separately capitalized companies.

The prototype for that was Sherritt International. When the company began doing business in Cuba in the early 1990s, its Cuban mining and oil operations were part of what was then the main Sherritt company, Sherritt Inc. Although Sherritt Inc. was profitable, the company's stock price was depressed, possibly because investors feared that it would be the subject of U.S. retaliation. As a major exporter of fertilizer to the United States, Sherritt was vulnerable to U.S. **sanctions**.⁴⁷

Finally, in late 1995, Sherritt responded by splitting itself in two. One company, which took the name of Viridian, **Inc.**, controlled the core of **Sherritt's** original Canadian fertilizer and mining **business**.⁴⁸ The Cuban operations were spun off as a new firm, Sherritt International, which was capitalized through a public stock offering. Although Ian Delaney, the former chairman of Sherritt, Inc., also headed the new company, and many of the shareholders undoubtedly were the same (Sherritt, Inc.'s shareholders had the option of buying a special class of shares in the new company, at a discount price), the two companies were legally distinct and **separate**.⁴⁹ With investors no longer fearing that the parent company would be a target of U.S. retaliation, its stock price **rose**.⁵⁰ As for the spinoff, it was so popular with investors that Delaney's cloned company succeeded in selling \$359 million worth of **stock**.⁵¹

Would Sherritt International, because it had no U.S. assets, be safe from Title

'Nobody can object, especially you, an attorney, the right that your citizen has to go to a U.S. court and claim what has belonged to them . . . especially when it comes to litigation, you know, it would open an unlimited amount of opportunity for people like you.'

JORGE MAS CANOSA

III? Delaney, for one, seemed to think so. "This structure will, in the Cuba side of the business, attract lightning bolts from the United States," he told a reporter.⁵² Not only did Sherritt have no intention of pulling out of Cuba, but the company had the temerity to hold the most recent meeting of its board of directors on the island.⁵³

Helms-Burton also failed to plug another gaping leak in the embargo. Under a Treasury Department ruling issued in 1994, Americans can invest in a foreign company that does business in Cuba, so long as they don't acquire a controlling interest.⁵⁴ Consequently, though Archer Daniels Midland Company, the Illinois-based agricultural giant, was prohibited from shipping Cuban sugar, it could profit from owning stock in a British company, Tate & Lyle, which did.⁵⁵ Sherritt, Inc., the company that spawned Sherritt International, was 25 percent owned by Americans.⁵⁶

Helms-Burton, in fact, even allowed Americans to invest in companies such as Sherritt International, albeit indirectly. A section of the bill expressly exempts "the trading or holding of securities publicly traded or held, unless the trading is with or by a person determined by the Secretary of the Treasury to be a specially designated national."⁵⁷ That clause protects Americans who own shares of international mutual funds that in turn own stock in traffickers.

Critics of Helms-Burton have suggested that because Title III allows claimants to negotiate settlements without government approval, and that settlements could include participation in a joint venture, the law may actually open a backdoor channel for U.S. companies to do business in Cuba. Fisk clearly didn't want to allow claimants to do business in Cuba, but his libertarian leanings led him not to write in any controls on settlements; instead, he gambled that courts would decide that settlements had to be consistent with existing bans on doing business in Cuba.

Helms-Burton also had a certain troubling irony for conservatives who complain about lawyers and litigation clogging the courts. Will the new law generate a tidal wave of lawsuits? Freer and Fisk play down the numbers. On the other hand, the Clinton Administration estimated that claimants would file lawsuits seeking nearly \$100 billion.⁵⁸ And Mas Canosa, when deposed in a court case, seemed to agree: "Nobody can object, especially you, an attorney, the right that your citizen has to go to a U.S. court and claim what has belonged to them . . . especially when it comes to litigation, you know, it would open an unlimited amount of opportunity for people like you."⁵⁹

Indeed, whether Helms-Burton generates hundreds of lawsuits or tens of thousands, it seemed likely that one group would definitely benefit from it: lawyers. They could make a lot of money investigating and preparing lawsuits for plaintiffs (and, in the case of Freer and others, also helping companies to avoid liability). Maria Elena Prio, a Miami lawyer, tells potential claimants to be prepared to pay \$20,000 to \$25,000 in legal fees, assuming the alleged trafficker mounts a defense.⁶⁰

It seems likely that the fees from Helms-Burton-related issues will be concentrated among a relatively small group of lawyers. Before the passage of the law, Nicholas Gutierrez lined up 85 potential clients and began forming corporations, to which he had his clients transfer their rights to sue. "We didn't transfer all the property rights," he explained in an interview, "in case they're able to go back to Cuba eventually." For the handful of clients who weren't U.S. citizens, the corporations filled an added function: They gave them standing in court as U.S. citizens. "Helms-Burton," Gutierrez told the Center, "is turning into a major part of my practice."⁶¹

Another who already was benefiting from Helms-Burton was Jesse Helms, who was facing another tight re-election race. In May, Helms visited Florida, where he was a guest of honor at the Cuban Independence Day dinner and a series of fundraisers. Helms, according to *The Miami Herald*, raised more than \$48,000 for his campaign from these events. "We all feel down here that Helms more than earned whatever money he made," Gutierrez told a reporter. "We're very appreciative of Helms."⁶²

'We all feel down here that [Jesse] Helms more than earned whatever money he made. We're very appreciative of Helms.'

NICHOLAS GUTIERREZ

By late summer, the Clinton Administration's strategy seemed to have taken shape. It clearly wanted to twist Helms-Burton around, restoring the presidential prerogative that the law had aimed to take away. The Administration would use its ability to selectively enforce Titles III and IV as a bargaining chip in its dealings with foreign trading partners. It would seek to persuade those countries to act as U.S. proxies, to push Castro for concessions.

In effect, Clinton could continue indefinitely, at six-month intervals, to postpone the ability of claimants to actually file suits. Beyond that, the Administration interprets the law as giving Clinton the power to waive the law **selectively**, exempting certain countries or even individual companies from liability. Clinton's rhetoric about Castro and Cuba has had a much harder edge than his actions, and he **doesn't** seem to have the same sense of urgency as the adherents of Helms-Burton.

"The fundamental purpose of Administration policy is to promote the transition of democracy to Cuba," Berger (whom Clinton has since tapped to be his national security adviser) said at a White House press briefing. "It has not happened since 1957, so the next six months is a time we ought to use wisely, but I don't think . . . everything has to happen in six **months**."⁶³

To that end, in mid-August, Clinton appointed veteran Washington lobbyist Stuart Eizenstat, who was President Carter's chief domestic policy adviser and more recently was U.S. ambassador to the European Union, to be his special Helms-Burton envoy. Eizenstat's assignment: to work out an accommodation with U.S. trading partners on the Cuba issue. "I want to make it clear that we don't have a set of stone tablets with commandments on it that have to be met," Eizenstat told reporters."

In late August and early September, Eizenstat met with government officials in Canada, Mexico, and various European countries. Among other things, he reiter-

ated the message that the Clinton Administration was going to interpret Title IV very narrowly. Eizenstat went to Ottawa to meet with the **Canadian** trade and foreign ministers. And he suggested that Clinton might continue to extend the waiver if the United States's allies agreed to press Cuba on human-rights issues. As for Title IV, Eizenstat's aides let it slip that the U.S. government had only a dozen companies under investigation **worldwide**—out of the hundreds that have been doing business in **Cuba**.⁶⁵

"We're not **saying**, join us in an embargo," Eizenstat said. "We understand the reality. We're not naive. What we're saying is, 'If you're going to trade and you're going to invest, do it in ways that help the Cuban people; if you're going to channel assistance to Cuba, channel it to the independent sector rather than to a government that's going to siphon it off.'"⁶⁶

Spain, one of Cuba's major trading **partners**, seemed willing to go along with the Clinton strategy. Prime Minister Jose Maria Aznar opposed the Helms-Burton sanctions, but on a subsequent trip to Mexico and the Dominican Republic, he publicly called for democratic reforms and free elections in Cuba. The Spanish newspaper *El Pais*, quoting an unnamed official of the Spanish government, reported that Spain's cooperation had been secured by a promise that Spanish firms would be exempted from Helms-Burton. The U.S. government denied the **report**.⁶⁷

Eizenstat frequently got a cooler reception. German economics minister Guenter Rexrodt, even after meeting with Eizenstat, stuck to the line that "U.S. threats of extraterritorial sanctions against German and other European companies are the wrong way to promote democratization," adding, "We will not accept **this**."⁶⁸

"At the government level, quite **frankly**, it was quite difficult to get them to work through their anger at the Helms-Burton **act**," Eizenstat told **reporters**.⁶⁹

The anger continued to simmer. In late **September**, the European Union announced plans to keep an official list of U.S. companies that filed Helms-Burton suits against European **firms**.⁷⁰ Despite another visit by Eizenstat on October 28, the Europeans approved a law that prohibited European companies from complying with Helms-Burton.

On November 20, in a speech to the American Chamber of Commerce of Cuba, Eizenstat struggled to explain the obvious inconsistency between the United States's stern treatment of Cuba and its comparatively soft handling of China, another dictatorship with a poor human rights record.

"Essentially the distinction between our policy on Cuba, which I think can be characterized as trying to isolate for 35 years the Castro regime, and one with China . . . can be characterized as constructive engagement between the two countries," Eizenstat told his audience that day. "That is to say that any effort to isolate China, which has a quarter of the world's population and one of the largest economies, would be **self-defeating**—would be a very fruitless effort of punishing ourselves and our own companies; and that we believe that the best policy is engagement, while continuing to stress the human-rights deficit there, as we did only a couple of weeks ago with the arrest and sentencing of a pro-democracy advocate there.

"In addition, China, unlike Cuba, is not 90 miles from our shore. It's not part of the hemisphere in which we've always had a very special interest. And China, unlike Cuba, has not confiscated U.S. property and then given that property to foreign companies to further profit without any compensation to U.S. companies.

"That's not the situation that exists in Cuba. So that's a very **different** situation, and one has to take these one at a time rather than trying a blanket approach to the **world**."⁷¹

A month later, after President Clinton's reelection, the Europeans finally warmed a little to Eizenstat's repeated pleas. In a November 28 resolution, the European Union agreed to privately approach the Cuban government about political **reforms**.⁷² On December 14, the Europeans officially spelled out their intentions in a communique, affirming their wish to see progress toward a peaceful transition to pluralist democracy, respect for human rights, and fundamental freedoms in Cuba, "in addition to economic policies designed to bring about a sustainable recovery and an improvement in living **standards**."⁷³

The concessions were not so much a victory for the Clinton Administration as they were an opportunity to save face. The Europeans remained opposed to Helms-Burton and were continuing with their plan to join with the **Canadians**⁷⁴ in challenging its legality before a World Trade Organization **panel**.⁷⁵ And **Mexico**, like Canada, had made clear that it intended to defy Helms-Burton; in **October**, Mexico's Chamber of Deputies had approved legislation that barred Mexican companies, under threat of heavy fines, from doing anything to comply with the U.S. **law**.⁷⁶

Even so, as the January 16, 1997, deadline approached for Clinton to decide whether to allow Helms-Burton to fully take effect, he could claim that the Europeans were starting to come around. On January 3, Clinton announced that he would invoke the waiver for another six months. And, he went on to say, "I would expect to continue suspending the right to file suit so long as America's friends and allies continue their stepped-up efforts to promote a transition to democracy in **Cuba**."⁷⁷

It was a masterful bit of spin. But in truth, Clinton, like every President since Eisenhower, found himself trapped by a Cuba policy not of his making, scrambling to react to crises rather than move forward toward some resolution of the tensions between the two nations.

In the week following Clinton's announcement, a bipartisan group of former Members of Congress returned from a fact-finding visit to Cuba with a distinctly less upbeat assessment of U.S. policy toward the island. Although Cuba had been hurt by the **embargo**—"The economic situation remains poor and the people are forced to tolerate a very meager limited **diet**," the delegation's report **noted**—there seemed to be no signs that Castro's hold on power was weakening. "Castro is running that country and, as far as we can **see**, is going to be running that country until he dies," former Representative Louis Frey, Jr., of Florida, a Republican who headed the delegation, told a reporter. "That is a fact of life that we have to deal with."

Frey and his colleagues concluded that, after 37 years without success, it was time for the United States to reconsider its economic embargo and move toward a

dialogue with Cuba. "If we went the route of **engagement**, I don't think we would be helping Castro," explained former Representative Toby Roth of Wisconsin, a Republican. "But we would be helping those **people**."⁷⁸

Meanwhile, Jose **Basulto** was having better luck overcoming adversity. In May, Basulto, who only three months before had been ushered into the White House for a **post-shootdown** briefing, suffered the ignominy of having the Federal Aviation Administration revoke his pilot's license for his 1995 violation of Cuban **airspace**.⁷⁹ An appeals judge later reduced his suspension to 150 **days**,⁸⁰ but in late **July**, the National Transportation Safety Board reinstated the harsher penalty." That sanction stood, even as Representatives Burton and **Diaz-Balart** threatened to subpoena officials of the Clinton Administration to explain why the Air Force had failed to protect Basulto and his compatriots from the February **24, 1996**, Cuban attack. "What does it take to bring a proper reaction from the U.S. Air Force to Cuban MiGs heading for the Florida Coast?" Burton fumed. "**We** have a potentially serious breach of U.S. security which must be **explained**."⁸²

No subpoenas have been issued, but the Defense Department's Inspector General is investigating the **shootdown** and the military's reaction, according to a congressional aide.

Nevertheless, in late August, Brothers to the Rescue announced that it would be returning to the air. Calls from relatives of Cuban refugees had alerted the organization to rafters who once again were braving the Straits of Florida. "**We** know that things are happening and we should be there," Basulto **said**.⁸³ His pilot's license may have been revoked, but the Brothers co-founder was undaunted. When it came to Cuba, he, like President Clinton, was no longer at the controls.



APPENDIX A

RADIO AND TV MARTI—THE MONEY PITS

Had Tom Harkin gotten his way back in 1982, the law that established Radio Marti—the government-sponsored station that broadcasts to Cuba—would have been called "The \$17.7 Million Boondoggle Duplicative Radio Broadcasting to Cuba Act."¹

Harkin's tongue-in-cheek amendment didn't pass. Nor did the 80 other amendments he offered in his attempt to slow the passage of Radio Broadcasting to Cuba Act in the House. (Harkin, a Democrat from Iowa, was elected to the Senate in 1984.) After a compromise put Radio Marti under the aegis of the United States Information Agency, in an effort to ensure its unbiased approach in broadcasting news to Cuba, President Reagan signed the bill into law on October 6, 1983. On May 20, 1985, radios in Havana began receiving the crackly, half-jammed signals of Radio Marti.

Over the next decade, Radio Marti would receive \$154 million in appropriations; its sister station, TV Marti, would receive \$89 million from 1989 to 1995. Both would prove to be controversial and both would survive repeated funding scares.²

Radio Marti didn't represent the first effort of the U.S. government to broadcast to Cuba. In addition to Voice of America, which had broadcast to the island for a decade prior to Castro's revolution, in the early 1960s the CIA ran Radio Swan, which broadcast messages from nearby Swan Island calling for the Cuban people to overthrow Castro. On the morning of April 17, 1961, Radio Swan began a 24-hour broadcast with the following message: "Alert, **alert—look** well at the rainbow. The fish will rise very soon . . . the sky is blue, the fish is red. Look well at the rainbow." The message announced the beginning of the Bay of Pigs invasion. Throughout the day, broadcasters would call for anti-Castro Cubans to take up arms as part of the failed **campaign**.³

Radio Liberty, which broadcast to the Soviet Union and was also under CIA direction at the time, began broadcasting to Cuba in 1963. That summer, Cuba began jamming Radio Liberty's transmissions. The following year, the Castro government was jamming all U.S. government-sponsored broadcasts.

From the mid-1960s through the early 1980s, broadcasting to Cuba wasn't a high priority of U.S. foreign policy. Radio Swan, Radio Liberty, and other U.S.-based broadcasts were effectively jammed, and Voice of America, which carried some Spanish-language programming directed toward Cuba, phased out its broadcasts by the mid-1970s.

The Reagan Administration, as part of its drive to defeat the forces of **commu-**

nism around the **world**, launched a political offensive against Castro's Cuba. Where the Ford and Carter Administrations had sought to thaw relations, the Reagan Administration tried to discredit and isolate Castro. It reimposed the ban on U.S.-**Cuban** travel ban and encouraged Miami businessman Jorge Mas Canosa and a dozen other Cuban-American activists to set up the private Cuban American National **Foundation**, which quickly became the leading anti-Castro organization in the United States. With Mas Canosa's help, it also sought to renew U.S. government-sponsored broadcasts to Cuba.

From the start, Radio Marti was controversial. Cuba complained that **Martí's** signal interfered with its domestic broadcasts. The day Radio Marti began its regular broadcast, Cuba announced that it was suspending some of its agreements with United States, including those dealing with the repatriation of Cuban criminals who'd entered the United States during the 1980 Mariel boatlift. Talks between the United States and Cuba broke off in the summer of 1986, and Cuba threatened to retaliate by using transmitters to disrupt U.S. broadcasts, as it had done several years earlier with some success.

Marti has had its share of problems at **home**, too. Like its Cold War counterpart, Radio Free Europe/Radio Liberty, which broadcasts to Central and Eastern Europe and the former Soviet **Union**, Radio Marti was established to provide unbiased news of events in Cuba and around the world.

While Capitol Hill lawmakers, officials of the Clinton Administration, and media critics generally agree that the overall quality of Marti's reporting has been **good**, there also has been consistent criticism that its commentary and analysis are consistently biased toward views held by conservative Cuban-Americans. In addition, there several complaints have been lodged against Marti's managing agency, the Office of Cuban Broadcasting, for alleged retaliatory measures against employees who disagreed with management on policy and programming decisions.

The charges of conservatism aren't surprising, considering that Marti's patriarch is Jorge Mas Canosa, the chairman of the Cuban American National Foundation.

In 1982, Reagan appointed Mas Canosa to the Presidential Commission on Broadcasting to Cuba along with beer magnate Joseph Coors, Mobil Oil Corporation executive Herbert **Schmertz**, and other industry executives and politicians. When Radio Marti became a **reality**, Mas Canosa became the chairman of the Advisory Committee for Cuban **Broadcasting**, which provides recommendations on broadcasting to Cuba but isn't supposed to be involved in the day-to-day activities of the **Martí's**.

All positions on the Advisory Committee, including that of the chairman, are three-year appointments. At the end of the three years, members can be **reappointed** at the President's discretion. Mas Canosa has held the chairmanship since 1985 without ever being formally reappointed.

"It is not for me to agree or not," Mas Canosa has said of the decisions by Presidents Reagan, Bush, and Clinton to retain him as chairman. "The one who has to agree or disagree is the President of the United States who appoints these **individuals**."⁴

From this **position**, critics charge, Mas Canosa has been able to influence coverage and news analysis and to meddle in personnel decisions.

Several statements made to the Advisory Panel on Radio and TV Marti, which Congress established in 1994 to assess the program's effectiveness, charged bias in broadcasts or interference by management. Richard Planas, a senior research analyst for Radio Marti, cited an internal investigation in which management "disclosed a policy stating that information '**reasonably** construed as negative, subjective commentary on any Cuban exile leader would not be aired because it would go against Radio **Martí's** mission to promote democracy and freedom in **Cuba.**'"⁵ Planas has since charged that on-air commentaries he made resulted in the elimination of his department.

Ernesto Betancourt, the first director of Radio Marti, was blunter in his statement to the congressional advisory board. "**USIA** has practically abdicated control of the stations to an exile group," he wrote. "A key foreign policy instrument is being subordinated to political **considerations.**"⁶

Betancourt, who's consistently supported the goals of Radio and TV **Martí**, had a falling out with Mas Canosa in 1989. Betancourt disagreed with Mas Canosa over the establishment of TV Marti. In two letters to Mas Canosa, Betancourt wrote that while television broadcasts could have a significant effect, he didn't believe there was a legal justification to broadcast. In 1990, Betancourt resigned from Radio Marti rather than be shifted to a new position at **USIA**. Since then, Betancourt has been an outspoken critic of Mas Canosa and the distortion he sees in Radio and TV Marti's broadcasts.

In 1993, the USIA's Inspector General investigated claims that several Radio Marti employees weren't qualified for their positions. After its investigation ended in 1994, Augustin **Alles**, the station's news director (who was reportedly hand-picked by Mas Canosa), was sent to a newly created position at Marti in Miami because he couldn't speak English **fluently**—a requirement for the position.

Bruce Sherman, Radio Marti's deputy news director, claims that he was stripped of his responsibilities by the Office of Cuban **Broadcasting**, which oversees Radio and TV Marti, after he provided information to USIA's Inspector General in 1993. His charges led to a continuing investigation that began in early 1995.

In an April 1995 affidavit to investigators, Sherman outlined the gradual removal of his duties, from being denied admittance to Advisory Committee meetings, chaired by Mas Canosa, to the elimination of his role in making personnel decisions. Sherman alleged that his problems stemmed from cooperating with the Inspector General's 1994 investigation and "running afoul of Jorge Mas Canosa." Sherman went on to say: "I believe Mr. Mas has applied pressure on **OCB** management to remove me from any meaningful role at Radio Marti. Yet, again I wish to emphasize that OCB management have taken the acts of reprisal and, I believe, are therefore responsible for those **acts.**"⁷

The Inspector General's investigation, however, has stalled for a number of reasons. After the **IG's** office provided a summary update to two House Members and to USIA Director Joseph Duffey, the it received a call from the staff of

Representative Lincoln **Diaz-Balart**, a Republican from Florida. **Diaz-Balart** apparently was angry that the report had been leaked to the press before other interested members of Congress had had a chance to review it.

The previous month, **Diaz-Balart** and two other lawmakers had asked the GAO to investigate harassment of Radio Marti employees by the **IG's** office, and now they renewed their request for an **inquiry**.⁸ The GAO issued its report in May 1996, but it didn't address the charges of bias in the **IG's** office on the ground that other investigations were **underway**.⁹

USIA investigators say that Jorge Mas **Canosa** and Rolando **Bonachea**, the director of the OCB, refused to speak with them. Mas Canosa didn't respond to two letters from the **USIA** investigators and reportedly refused to testify unless he received the questions in advance until the GAO had completed its **investigation**, and only then if he received the questions in **advance**.¹⁰

Bonachea, who initially testified for several hours, has refused to answer any more questions pending the completion of the GAO investigation.

Neither Mas Canosa nor Bonachea can be forced to testify. The Inspector General has subpoena power over documents but does not have the authority to compel testimony. **USIA** can order **Bonachea—who**, unlike Mas Canosa, is a government **employee—to** meet with investigators, but it cannot force him to testify. (Compelled testimony is not admissible if the Justice Department decides to file criminal charges.) Duffey asked Bonachea to testify, saying there were no criminal charges **pending**, but Bonachea refused.

Duffey has said that Mas Canosa and other conservative exiles have shaped the operations of Radio and TV Marti. "It's been heavily influenced," Duffey said on National Public Radio. "I think Mr. Mas Canosa has exerted, from time to time, rather inordinate **influence**."¹¹

Another roadblock to the Inspector General's investigation was thrown up in **1995—this** time in the name of presidential politics. In his bid to win support from Cuban-Americans, Republican Senator Phil **Gramm** of Texas introduced a measure, long championed by **CANF**, to consolidate Radio and TV Marti headquarters in Miami. Gramm argued that the consolidation would save taxpayers several million **dollars** a year and put the stations closer to where the news most affecting Cubans was being **generated**. Opponents of the move said that it would concentrate power in the hands of Mas Canosa and **CANF** and destroy the credibility of the station as an unbiased news source. The proposed move received no congressional hearings, and broadcasts from the new Miami headquarters began in September 1996.

Under Gramm's amendment, the **USIA's** Inspector General's office recently came under the control of the State Department. As a **result**, the State Department must review all **IG** investigations underway at the agency before any further action can be taken. Because the investigation continues to be classified as "ongoing," the information gathered cannot yet be made public.

The cost-saving assertions have also been questioned. A government-contracted study conducted in 1995 that operating costs would indeed be reduced by \$1 million a year and that an additional \$4 million a year would be saved annually through staff **reductions**.¹²

But a personnel officer with the International Broadcasting Bureau told the Center that staffing and appropriations decisions won't be made until the move is completed in mid-1997. If the cuts aren't made, not only would money not be saved on salaries, but additional space and equipment would be necessary, possibly wiping out any operational savings envisioned.¹³

"It [the move] didn't make a whole hell of a lot of sense to me," William Geoghegan, a member of the President's Advisory Board on Broadcasting to Cuba, told the Center. Geoghegan said that despite his opposition, Mas Canosa told Clinton and Duffey that the Board was unanimous in its approval of the move. "Mr. Mas is strong-willed," Geoghegan said.¹⁴

In January 1995, after the Justice Department forged an agreement with CANF and several religious groups under which they would help sponsor Cuban refugees in the United States if they met standards set out by the government, Mas Canosa may have mischaracterized the agreement in a press conference that was broadcast by Radio Marti. He implied that any Cuban in the camps could come to the United States. "The Ad Hoc Committee, created by the Cuban American National Foundation, has just reached an agreement with the U.S. government to start bringing to the state of Florida and other states in the United States Cubans who are presently in Guantanamo and Panama," he said.¹⁵

The detainees at the Guantanamo camp were ecstatic. "I feel very happy and joyful knowing that I will not die in this camp in Guantanamo, that my grandchildren will be able to leave as well as other children and all rafters," one woman told Radio Marti."

Such emotion was short-lived. The U.S. Interests Section in Havana advised the State Department that Radio Marti was misreporting the details of the agreement. Radio Marti scrambled to correct stories that had aired as many as 12 times in the previous day and emphasized clarifications made by the Justice Department that the deal did not represent a change in policy. Confusion over the policy lingered for several days until a State Department official said bluntly, "The impression was given that everyone would receive a parole to enter the United States in the immediate future, and that was not true."¹⁷

In May 1995, the Clinton Administration signed an accord with the Cuban government to allow a greater number of Cubans to emigrate to the United States through regular channels in exchange for the repatriation of rafters who sought to brave the treacherous 90-mile Florida Strait.

Joseph Sullivan, then the director of the U.S. Interests Section in Havana, sent a classified cable to the State Department decrying coverage of the May accord. Radio Marti had aired hundreds of stories on the agreement, and Sullivan wrote that the coverage "emphasized the point of view of Cuban-American opponents of the accord while carrying very little explanation or defense of the Administration's position."¹⁸

Richard Planas agreed that the coverage was slanted. "The recorded comments that ran in the stories were three to one against the accords," Planas told the Center. "That's because the majority of the people who commented were conservatives whose views were aired more. That skewed the impression of the American view."¹⁹

Mas Canosa has rejected such charges of bias at Radio and TV Marti and denies playing a role in personnel decisions. While he refused to answer questions during the Inspector General's investigation, he did discuss his role during several depositions in a libel case he brought against Anne Louise Bardach and *The New Republic*.

The Advisory Board hasn't discussed **Martí's** possible politicization, Mas Canosa said, because "there is no politicization on the board of Radio Marti." He added: "[A]fter 15 years in Radio Marti and being involved in a full-day review of Radio Marti on that advisory board as chairman, I know that there is no reprisal of Radio Marti. No one is after no one at Radio **Martí**."²⁰

Indeed, none of the investigations has linked reprisals against Marti employees to Mas Canosa or OCB **management**.²¹

Mas Canosa also said the **IG's** investigation was politically motivated. "She [IG Marian Bennett] is on a witch hunt and political persecution of those who do not agree with her political agenda," he said. "She is a very liberal, leftist person" whose investigation was an indirect attempt, he said, to "destroy Radio **Martí**."²²

But Mas Canosa reserved his most stinging language for David Burke, the chairman of the Broadcasting Board of Governors, which oversees international broadcasts. Burke appeared on CBS News's *60 Minutes* in a story about TV Marti. Burke, among other things, said that he thought TV Marti was a waste of money because no one on the island is able to watch it.

In its broadcast, CBS said that Mas didn't respond to its requests for an interview, but he responded forcefully in the newspapers after the program, "a hatch-et job" in Mas Canosa's words, aired. "He is opposed," Mas Canosa said of Burke. "He is a power hungry maniac . . ."²³

Even before it began regular broadcasts in 1990, TV Marti came under fire for its alleged bias and inability to be seen by anyone in Cuba without a satellite dish. House committees have voted on at least three occasions to kill TV Marti, but the Senate has never gone along. Consequently, TV Marti stays on the air.

Unless the blimp goes down.

To transmit the signal from the Florida coast to Cuba, TV Marti uses both a satellite signal and a standard transmitter using a Navy-supplied blimp nicknamed "Fat Albert." In January 1991, the blimp broke loose and **landed**, damaged, in the Florida Everglades. The Coast Guard conducted a helicopter search and provided a vessel to transmit broadcasts in the three-month interim before "Fat Albert" took to the air again. Two years later, the blimp escaped again only to find itself in need of more repairs. Without the airborne transmitter, the only way Cubans could see TV Marti was to use a satellite **dish**—a luxury few Cubans can **afford**.²⁴

But "Fat Albert's" tendency to behave more like "Free Willy" is the least of TV Marti's worries. International broadcast laws require TV Marti to broadcast only between 3:30 a.m. and 6:00 a.m. That, combined with Cuban jamming and other signal difficulties, lead to an audience estimated at **1-4** percent of the Cuban population.

Viewership may increase once TV Marti switches to **UHF**, an action that is supposed to sidestep Cuban jamming and provide a clearer signal. Mas Canosa has

complained that Burke and some Capitol Hill lawmakers are holding up the funding necessary to speed up the process.

Despite these limitations, proponents believe TV Marti is a continuing source of aggravation for Castro, both in terms of the signal that does get through and the resources he must expend to counter it. "There is one reason and one reason only why Cuba invests a great deal of effort and scarce capital into trying to jam Radio and TV Marti," Alexander Watson, former assistant secretary of state for Inter-American Affairs, said. "[B]ecause it knows that they are a powerful tool to bring change, to bring democracy and freedom, to the Cuban people."²⁵

Radio and TV Marti, like Voice of America and Radio Free Europe/Radio Liberty, were established to provide unbiased, accurate reporting of the news from within Cuba and around the world and to circumvent the propaganda machines of totalitarian regimes. Such programs were widely praised by Western officials and Central European leaders for helping to bring about the downfall of communism in the late 1980s. But some Capitol Hill lawmakers and many in the academic community, including those who once worked for Radio Marti, contend that Radio and TV Marti are not providing that credible source of news and that they have become tools of an exile group to promote a political agenda. While the Martis are unlikely to be eliminated, the debate in Congress and in the Cuban-American community over its trustworthiness, especially in light of the move of the headquarters from Washington to Miami, will continue. Ironically, however, Cubans may not get to hear the debate.



APPENDIX B

THE POLITICAL MONEY, 1979-1996

Since 1979, individuals and organizations with an identifiable interest or stake in the future of Cuba have poured more than \$4.4 million into the U.S. political system. Of this amount, approximately \$3.2 million came from officers, directors, and trustees of the Cuban American National Foundation and the Free Cuba PAC, **CANF's** political action committee.

Total contributions to candidates	\$1,661,858
Total contributions from officers, directors, and trustees of Cuban American National Foundation	\$1,338,177
Total contributions from Free Cuba PAC to candidates	\$921,146
Total contributions from Free Cuba PAC to party committees	\$113,750
Total contributions to party committees	\$1,637,610
Total contributions from CANF officers, directors, and trustees and Free Cuba PAC to party committees	\$782,686
Total contributions to presidential candidates	\$204,925
Total contributions from CANF officers, directors , and trustees and Free Cuba PAC to presidential candidates	\$172,175
TOTAL CONTRIBUTIONS	\$4,425,539
TOTAL CANF AND CANF-RELATED CONTRIBUTIONS	\$3,214,184

SOURCE: Data from Federal Election Commission, Center for Responsive Politics



APPENDIX C

THE TOP 25 U.S. CORPORATE CLAIMANTS

1. Cuban Electric Company	\$267,568,414
2. International Telephone & Telegraph.	130,679,758
3. North American Sugar Industries, Inc. Cuban-American Mercantile Corporation West India Company	108,975,063
4. Moa Bay Mining Company	88,349,000
5. United Fruit Sugar Company	85,100,147
6. West Indies Sugar Company	84,880,958
7. American Sugar Company	81,011,240
8. Standard Oil Company	71,611,003
9. Baragua Industrial Corporation Florida Industrial Corporation of New York Bangor Punta Company	53,379,123
10. Francisco Sugar Company	52,643,438
11. Texaco Inc.	50,081,110
12. Manati Sugar Company	48,578,848
13. Nicaro Nickel Company	33,014,083
14. Coca-Cola Company	27,526,239
15. Lone Star Cement Corporation	24,881,287
16. New Tuinucu Sugar Company, Inc.	23,336,080
17. Colgate-Palmolive Company	14,391,529
18. Braga Brothers, Inc.	12,612,873
19. Boise Cascade Corporation	11,745,960
20. American Brands, Inc.	10,600,000
21. Atlantic Richfield Company	10,216,645
22. Burrus Mills, Inc.	9,847,100
23. United States Rubber Company, Ltd.	9,523,892
24. Pan American Life Insurance Company	9,742,800
25. Havana Docks Corporation	8,995,695

SOURCE: Associated **Press**

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79. Mas Canosa deposition, 10 April 1996, pp. 1142-44: Q: "How many Fidel Castro agents do you think there are in South Florida?" A: "Many. I don't have an account, but I know there are many." . . . Q: "Do you have any evidence that any one person in South Florida is an agent in that sense [receiving money] of the Cuban government?" A: "No, I don't know specifically to anyone, but **I'm** certain that there are many agents working for the Cuban government here. And the reason is simple: The most important opposition to Castro is here in Miami. So the enemy, with the resources that he has, in this case Fidel Castro, would be foolish if he doesn't try to penetrate the community and try to keep an eye on the community by infiltrating their **agents**. . . . I have had contacts with the **FBI** and they told me the community is heavily, heavily infiltrated."
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