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INCITEMENT INCITEMENT

Vol. 5, No. 1 A Publication of American Disabled for Accessible Public Transportation (ADAPT) Spring 1989



ADAPT rolls into Reno.
 photo: Tom Olin

DON'T GAMBLE WITH OUR RIGHTS!!! SPARKS FLY AS ADAPT SQUARES OFF WITH APTA

At the same time President Bush, Attorney General Thornburgh and Transportation Secretary Skinner were deciding if they would appeal ADAPT's recent court victory requiring all new buses to have lifts, (see related article this issue) over 125 ADAPT members were traveling to Sparks Nevada, a small town next to Reno. The occasion was the Western Regional Conference of the American Public Transit Association, APTA.

The week's demonstrations started out with a march from ADAPT's hotel to John Ascuaga's Nugget, where APTA's conference was being held. Just a few feet from the start of the march police began arresting ADAPT marchers, but the rest of the group just moved around their blockades and kept on going. After the fifth time, police gave up and allowed the march to finish.

Once at the Nugget, ADAPT members tried to enter the hotel/casino but doors were held shut by John Ascuaga's private security force. (Ascuaga's security outnumbered Sparks' police three to one.) Struggles to open the doors started. ADAPT members were knocked on the ground and five were

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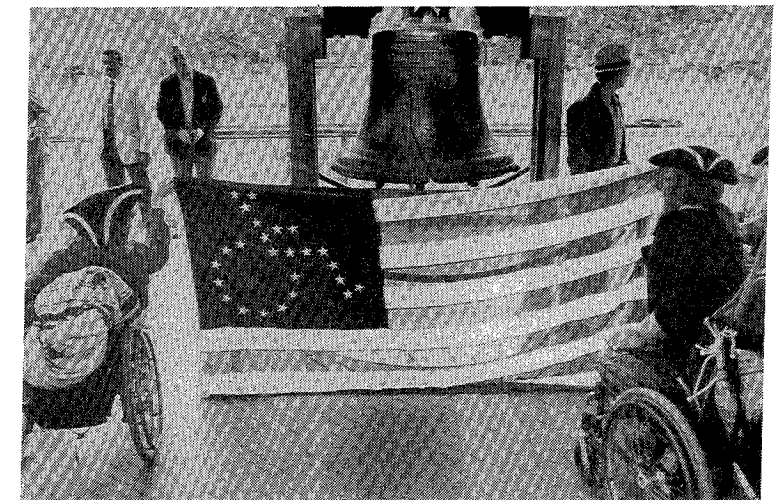
ADAPT RINGS LIBERTY BELL

It is ironic that the site of ADAPT's court case and latest actions was Philadelphia, the city which is often called the cradle of our constitution, our government, and which was home to so many supporters of both the abolitionist and suffragette movements.

On May 15th, ADAPT's court case, ADAPT v. Burnley, was reheard by the US Third Circuit Court of Appeals in Philadelphia. ADAPT went to Philadelphia to clearly demonstrate the civil rights importance of the request for a rehearing, and of the final decision of the court.

Due to short notice and even shorter funds, only a relatively small group of ADAPT folks gathered in Philadelphia. However the Philadelphia chapter of Disabled in Action lent significant support to this series of actions and the Cape Organization for Rights of the Disabled, CORD, brought a large group from Mass. There were people from California, Colorado, Washington D.C., Georgia, Massachusetts, New Jersey, New York, Texas, and Pennsylvania.

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With liberty and justice for all?
 photo: Tom Olin

ADAPT RINGS LIBERTY BELL

Despite the chilling rain, protesters gathered Friday at the Federal Court Building, one block away from Independence Hall. Entering the building together, the group attempted to go upstairs to the office of the local representative of the Department of Justice, the U.S. Attorney. After the first four had entered, security officers blocked the entrance to all the rest of our group. Negotiations began. No one knew where the US Attorney was. Someone from his office was summoned. A staff attorney came down and took over negotiations. We were informed Mr. Thornburgh was in Spain, then that he was in an airplane and could not be reached by phone. Eventually someone found the US Attorney and he agreed to meet with us in the Ceremonial Courtroom where he listened to our concerns and, visibly moved, promised to convey them.

Saturday we opted for a practical demonstration of the problems caused by lack of lifts. Wheelchair users who were able to crawl attempted to board non-lift equipped buses, while others in our group held signs, chanted, and made sure the buses did not leave while the climbers were in the middle of crawling on. The three lanes of 6th St. in front of the Federal Court House were stopped for about an hour while local police helped call the seemingly disinterested local media.



ADAPT, CORD and DIA held a crawl on in front of the Federal Court Building. photo: Tom Olin

Sunday the weather cleared for the finale, a march and vigil. Dressed in revolutionary garb complete with wigs, three cornered hats, fife and drum, the "Disability Rights Patriots" formed up the steps of Independence Hall. Bernard Baker, Phil Calkins, Yoshiko and Justin Dart Jr., and Mark Johnson had come up from the National Council on Independent Living national conference in D.C. to participate.

Above the line of marchers two beautiful new flags billowed in the wind. One was a red flag with black lettering depicting ADAPT's no steps logo; it was the handiwork of Randy Harbert. The other was the creation of Lori Eastwood, Babs Johnson and Diane Coleman: a flag similar to Old Glory, with red and white stripes and a blue field with stars in the shape of the international access symbol.

Leaving Independence Hall as its bells rang four o'clock, on the eve of the historic court decision, the Patriots marched up the cobbled streets of the historic district to the Liberty Bell. Surprised tourists smiled and cheered as we made our way along chanting "Access Is A Civil Right", "We Will Ride" and "What Do You Want? ACCESS!... When Do Want It? NOW!"

As we reached the Liberty Bell our procession headed inside the building. Circling the bell, we listened as the park guide told its history and how it came to be a symbol of freedom and rights. He explained that the abolitionist movement had first adopted the bell as the symbol for freedom for the slaves, and that the symbolism had grown to universal recognition now.

We began chanting and then fell silent as Mark Johnson read the Disabled People's Declaration of Independence (available on request for a \$1 mailing fee). Behind him on the glass wall hung our Access America flag and with the sunlight shining through it. The stars and stripes glowed. We had hoped to hold our vigil around the bell, but at six o'clock the park guards and police physically removed us from the little building. continues p.11

"Well done is better than well said."

-- Benjamin Franklin

ADAPT v. BURNLEY ADAPT WINS COURT CASE

BUT FEDS RUSH TO STRIKE IT DOWN

"I am going to do whatever it takes to make sure the disabled are included in the mainstream. For too long they've been left out -- but they're not going to be left out any more."

-- George Bush, Republican National Convention, August, 1988

"The rights of this nation must extend to all our citizens -- and to allow each the opportunity to reach his or her full potential.... I pledge to you that, as Attorney General, I will do all within my power to ensure those blessings are enjoyed by persons with mental retardation and developmental disabilities and all our fellow-citizens with special needs. Concern, compassion, and commitment to full enforcement of the law are what we need in this effort,"

-- Attorney General Dick Thornburgh, San Diego, April 20, 1989

"It [access to mainline transit] is not an issue of cost. It is an issue of mainstreaming."

-- Transportation Secretary Sam Skinner, Washington DC, April 1989

Like a fire racing across a drought dried prairie, the news of ADAPT's victory in our case against the Department of Transportation, DOT, spread across the country February 13th. Telephones rang late into the night, and in the gray light of morning sleepy eyes popped open with joy as they read the headlines *Court Orders Lifts for Wheelchairs on All US Buses*.

This decision was not to stand for long however. After asking for and receiving two extensions to file for an appeal or rehearing, the federal government finally asked for a rehearing in bank on April 10th. This request was made despite disability advocates' numerous personal and official meetings with the three key players in the decision, namely President Bush, Transportation Secretary Skinner, and Attorney General Thornburgh. Not only did

the Federal Government ask for the rehearing, they also asked that the original decision be "vacated", in other words erased as if it never happened. This too was granted; according to several informed sources this is a bad sign for the outcome of the rehearing since decisions are rarely vacated.

In their request for a rehearing the Federal Government focused their argument on two points which all disability advocates should carefully note. First, they assert that Section 504 of the Rehabilitation Act does not require mainstreaming, but allows for "separate but equal" solutions. Should the original decision stand, according to them, a dangerous precedent for all disability law would be created which would allow for unduly burdensome costs and real equality.



Tim Cook, of National Disability Action Center, talks with media after oral arguments in the rehearing

Their second point is that a dual system of mainline access and paratransit would be unduly costly because of the costs of an "extraordinarily expensive" paratransit system which provides equal service, and maintenance of mainline lifts. "A dual system of lift-equipped buses and paratransit may well serve to compound the problem by requiring communities to adopt expensive and redundant services that are ill-suited to the needs of their citizens and an irrational drain on the resources that would otherwise be available to serve the public as a whole."

The last, but perhaps most motivating reason, for the request for the rehearing is simply that the Department of Transportation does not want to be told what to do by the courts, and transit systems do not want to be told what to do by the Federal government, despite years of documented heel-dragging in regard to serving their disabled riders.

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ADAPT v. BURNLEY continued

The Third U.S. Circuit Court of Appeals' original decision, issued on February 13th, of this year, had four major parts:

(1) "Local option" was struck down, as being contrary to federal disability rights law. The court said that this could not be considered the equivalent of regular public transportation.

(2) Just as the headlines stated, the court required that every newly purchased bus must be lift equipped, if federal funding was used for the purchase. This phase in process would have alleviated any undue financial burden.

(3) Transit systems were required to provide BOTH accessible mainline transportation for those who could use it, and paratransit for those who could not.

(4) The court decision also struck down the three percent cost cap as the ultimate ruler by which DOT measures whether transit systems are adequately serving riders with disabilities. The court called this cap arbitrary and capricious.

In addition to these major victories, the language of the decision couched the issues in terms of civil rights. Judge Mansman gave a lengthy legislative history of Congress' attempts to mandate access and integration of persons with disabilities. At one point she quoted Representative Biaggi, sponsor of Section 16 of the Architectural Barriers Act of 1968. "Representative Biaggi... was clear that the goal of the section was an integrative one:

"...We are simply talking about granting equal rights to a large segment of our population to use public facilities with the same ease as everyone else...."

The oral arguments for the rehearing took place on May 15th in Philadelphia. Tim Cook, lead attorney for ADAPT et al, argued that both the court and Congressional intent were clear in their mandate for mainstreaming. PVA which filed a cross-appeal, contested the three percent cost cap. The entire hearing lasted less than an hour and a half, and the 12 Judges had many questions for all the attorneys.

Tim Cook is to be commended for the excellent job he has done in pursuing this case. Anyone watching him in court could see his grasp of the laws involved was best of all attorneys arguing that day. He also held on to the belief that mainstreaming was mandated in the legal history, something few others supported him in. PILCOP also deserves a note of thanks for their support of Tim in this case.

Now we must wait for the judges to make and write their decision. There is no specific time frame, and no time limit, but four months seems to be about average. The Court will decide what it will, but ADAPT has vowed that no matter the outcome ... no matter how long it takes, we are not giving in and WE WILL RIDE!!!



Nugget staff rush to chain doors shut, as Joe Carle, Ken Herd, George Roberts and Paulette Patterson try to gain access. photo: Tom Olin

ADAPT SQUARES OFF WITH APTA continued seriously injured in the tussle. Beverly Furnice's leg was broken as a guard grabbed her leg and tried to shove her out of the way with it.

ADAPT members circled the building looking for other entrances and at several points during the day five of the six entrances were tied shut by the guards to keep ADAPT out. Since the police had only two vehicles with two tie down spaces each, arrests dragged on until evening.

The 47 people who were arrested that Sunday went before Judge Gladstone in two groups that night. The first group got into such a fight with the judge he compared the scene to the trial of the Chicago Seven. Most of this first group were released on O.R. (own recognizance) bonds, but several were sent to the Washoe county jail. The jail was just built and the staff prided themselves on its accessibility.

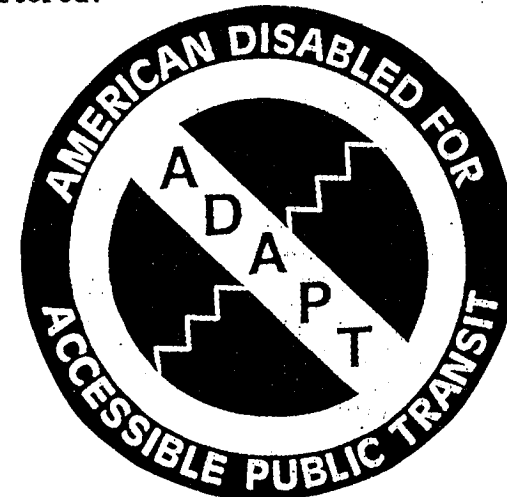
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ADAPT SQUARES OFF WITH APTA continued

Monday the federal government announced it was appealing the ADAPT v. Burnley case. Monday became another day of intense actions. Around 2:00 pm ADAPT lined up, chanting, across the street from the Nugget. On signal, those who could crawl climbed down from their chairs, crawled across the street and through the cement barricades the police had erected in front of the Nugget's doors. Again the doors were locked from the inside. This time 25 people were arrested by 8:30 that night. Ironically, the charge was blocking a fire exit, ie. the doors the security had locked.

When ADAPT's protesters came before the judge again he thought he would teach us all a lesson. His sentence for each was three days in jail and over \$600 in fines. ADAPT responded with a hunger strike and refusal to pay fines in cash, but rather in time. Over 30 of ADAPT's troops were jailed in the Washoe County facility. Most were mixed in with the general population, while a few were housed in the infirmary where they were almost completely isolated.

Though the jail was the most architecturally accessible we have seen, disabled prisoners were far from being treated equally to other prisoners. Guards treated most people well but the medical staff was another story. One man with C.P. was left without any clothing below his waist. Another man whose speech is difficult to understand had his communication board taken away and was threatened with being institutionalized in a state school. A quad's requests to have his leg bag emptied was ignored for so long he almost went into dysreflexia. A woman who was having seizures was locked down in her cell for over a day without being monitored.



Those still outside held a press conference at the jail to call attention to the problems jail staff were having providing for several people's needs. On Wednesday a final protest was held outside the Nugget to tell APTA delegates ADAPT would see them later. In addition, disability groups on the east and west coasts were raising funds to help support ADAPT's efforts.

Thursday marked the fourth day of the hunger strike and Judge Gladstone, under pressure, began to mellow his position. By the end of the afternoon he gave an offer of "two for the price of one." For each \$100 in fines paid, two protesters would be released. By midnight everyone was out of jail and the by the next morning ADAPT members were on the road. Some were headed home, while others were on their way to Denver for another demonstration at a conference put on by the Urban Mass Transit Administration.



E.T. gives his all in the fight for equality. photo: Tom Olin

MILE HIGH SHOWDOWN

For some strange reason, the Urban Mass Transit Administration, UMTA, chose Denver, homebase of national ADAPT, as the location for its fifth annual conference, April 1989. Needless to say ADAPT was there in force. ADAPT's demonstrations focused on the Federal Administration's request for a rehearing of the ADAPT v. Burnley Third Circuit Court decision (see related article this issue).

The last day was the climax in this three day series of actions. The focus shifted from UMTA to the Department of Justice, DOJ, the other party guilty of the call for reversal of the ADAPT v. Burnley case. Forty ADAPT members went up to the office of the local representative of the DOJ, Michael Norton US Attorney for the Tenth District, and asked to see him. When we were told he was in conference, we said "No problem. We'll wait." Thirty wheelchairs in the lobby made the normal traffic flow slow to a trickle.

When Mr. Norton emerged, we explained we wanted him to place a conference call to Attorney General Thornburgh so we could discuss the rehearing. Norton, obviously well versed in the maneuvers of public relations, claimed he was unable to make such a call, and suggested we sign a petition which he would be happy to send to Washington. Despite the nausea which almost overcame many of us, we told Mr. Norton and the meeching assistant who hung at his elbow, that we would wait in hopes that they might reconsider and figure out a way to call Washington. The two disappeared into the bowels of their fortress.



Ironically, US Attorney calls "time out" on Bernard Baker's call for justice. photo: Tom Olin

Singing and chanting to pass the time, we waited until 4:00pm when a message was sent out that Norton would be re-emerging to make a statement when the media returned in an hour. (The media had been in and out all afternoon -adding to the chaos.) As soon as the TV cameras arrived Norton came out and read a 20 page statement from Thornburgh; although he and his staff were unable to make a phone call, someone had managed to get this faxed from D.C.. Thornburgh's statement was full of the "need for concern, compassion and commitment to the full enforcement of the law" for the developmentally disabled (what about the rest of us?), but also claimed Section 504 never mandated integration and that that was the basis of the request for the rehearing.

Once the media left, Norton had the federal police physically remove ADAPT protesters. No arrests were made and, despite the ineptitude of the US Attorney, ADAPT's voice was heard in the corridors of the Capitol that day.

The three day series of actions had started in an uncharacteristically mellow style. The first day thirty ADAPT folks went down to the UMTA welcoming cocktail party to discuss the issue of access to public transit. Upon arriving we found the party was being held in a sub-basement ballroom, and as soon as UMTA and the Radisson Hotel (where the conference was being held) learned of our presence they responded in typical "A.B." style: turning off all elevators and half of the escalators. Several UMTA conventioners who used wheelchairs were trapped downstairs.

Though ADAPT had come to talk peacefully, this blatant discrimination changed everything. Some ADAPT folks had made it all the way downstairs before access was cut off. Others got out of their chairs and crawled down. The rest blocked escalators, forcing UMTA party-goers to use the stairs until the city police got the elevators turned back on. The evening ended peacefully with ADAPT being admitted and discussing the issues with UMTA and their guests.

The second day was also planned to be relatively mellow, a meeting with Denver's Mayor Pena before he welcomed UMTA, and later picketing outside the hotel. Once continues...

PRESIDENT'S COMMITTEE PUTS THEIR MONEY WHERE THEIR MOUTH IS

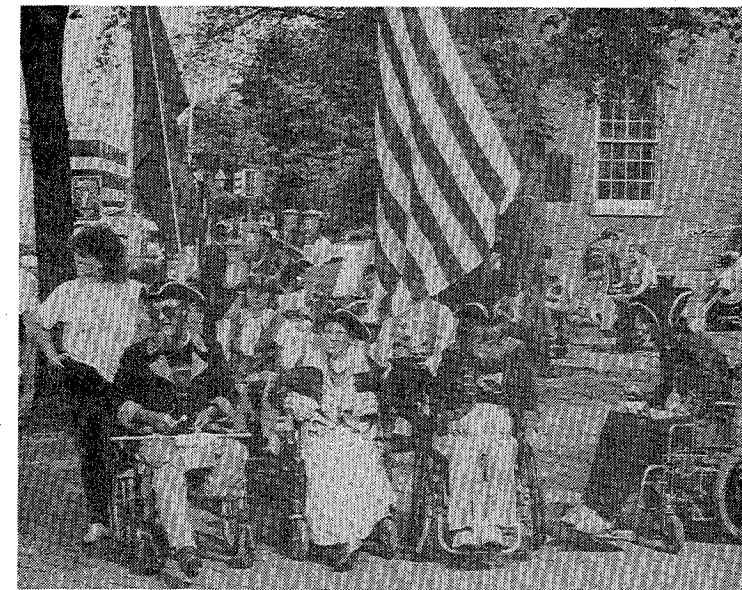
Using a new and potentially powerful tactic in the fight for access to transportation, the President's Committee on Employment of Persons with Disabilities (PCEPD) led the call for an economic boycott of San Antonio TX and other cities which will not commit to accessibility. After receiving a letter from ADAPT requesting that PCEPD consider not holding their convention in a city which discriminates so blatantly against people with disabilities, the President's Committee sprang into action. Their annual convention, which attracts between two to five thousand participants and brings in over \$1 million in revenue to its host city, is meant to be a standard setter for the integration of people with disabilities. The President's Committee agreed transportation is key to this integration, and key to being able to work.

PCEPD Executive Director Jay Rochlin went down to San Antonio to meet with city officials and VIA Metropolitan Transit board and staff, but had little success. Soon after, PCEPD Chairperson Harold Russell wrote to the Hyatt Hotel in San Antonio saying "In San Antonio we have encountered an unbending posture by the top leadership of the transit authority regarding accessible public transportation.... We cannot therefore in good conscience support any conference site where negative and archaic notions permeate the decisions of that city's policy makers and administrators."

On February 14th the President's Committee announced they were moving their convention from San Antonio to Dallas due to the discriminatory attitudes and actions of VIA. That same day the Coalition of Texans with Disabilities announced they were also moving their 1989 convention from San Antonio to Dallas. As of the date of this publication several other groups have made similar commitments not to hold their meetings in cities which do not have progressive access policies. These groups include: National Council on Independent Living, The Association for the Severely Handicapped, the MS Society, and the Texas Rehabilitation Association. (If readers know of other groups which have a similar policy please let Incitement know.)

Such commitment is a dramatic way to express our concern for and support of our issues. If we are not willing to take a stand for access why should anyone else be willing? We need to use the power we have, and economic power, although often overlooked, is one of the most powerful tools we have.

Question: Will such commitments include Washington DC? DC has a policy of 50% access, an affront to the goal of integration and equality.



Disability Patriots form up for Philadelphia march. photo: Tom Olin

MILE HIGH SHOWDOWN continued

again over reaction to ADAPT escalated the confrontation. The meeting with Mayor Pena went smoothly; he agreed to express his support for access in his address to UMTA. However when we marched to the Radisson later that morning police immediately arrested Wade Blank, and soon after Lori Eastwood and Devorah Kappers. ADAPT's reaction was swift and strong. 35 people in wheelchairs jammed the entry way to the hotel. Four people chained themselves to the stairway. Several others blocked the ambi-cabs which were brought in to carry off those arrested. By the end of the lunch hour, thirty people had been arrested, but by the end of the day everyone was out on the streets again.

The message of our civil rights struggle had been sent out once again. UMTA and the DOJ had been served notice of our discontent, and had been reminded: we won't go away.

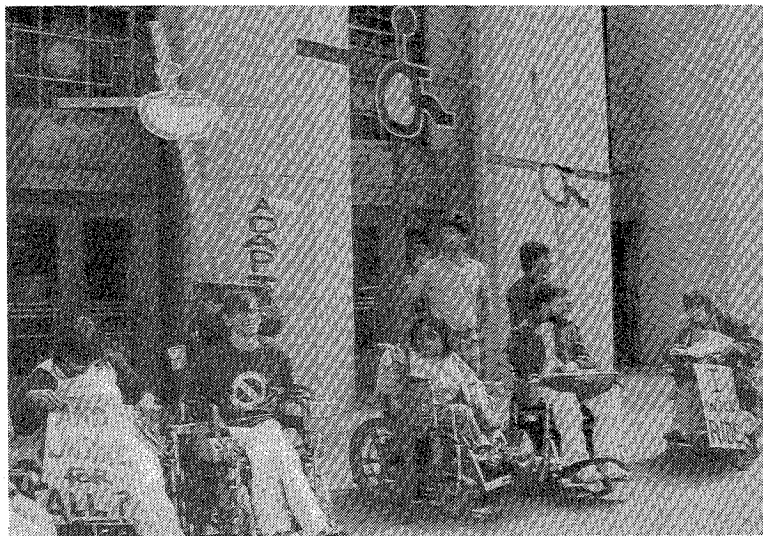
ADAPT WINS
PRESIDENT'S COMMITTEE AWARD

ADAPT was presented an award at the President's Committee Annual Meeting in Tampa FL this spring. The Award was for promotion of the civil rights of persons with disabilities. Appropriately ADAPT was in Philadelphia at that time, at the Liberty Bell, calling attention to the need for access and civil rights for persons with disabilities.



CORD had over 100 people with disabilities at their Good Friday rally. photo: Bill Henning

LA ADAPT members visited their US Attorney demanding an end to sacrifice of disabled people's lives. photo: Tom Olin



ACROSS THE NATION
UMTA AND DOT RECEIVE GOOD FRIDAY VISITS

On Good Friday disabled people across the United States demonstrated against an appeal of ADAPT v. Burnley. ADAPT, National Council on Independent Living, National Disability Rights Action Center, Public Interest Law Center of Philadelphia, Cape Organization for the Disabled, Disabled in Action, the Coalition of Texans with Disabilities, the Washington Coalition of Citizens with Disabilities, and the Whole Person were among the groups participating.

Demonstrations were held in Department of Transportation or Urban Mass Transit Association Regional Offices in each of DOT's ten regions: Cambridge MA, Philadelphia PA, New York NY, Atlanta GA, Chicago IL, Fort Worth TX, Kansas MO, Denver CO, San Francisco CA, and Seattle WA. In addition, protests were held at U.S. Attorney's offices in Los Angeles CA, Louisville KY, and Tulsa OK.

In Atlanta the DOT staff person who met with the ADAPT group gladly made the phone call, prompting a newspaper headline "DOT Supports Wheelchair Access." In Seattle there is a statue called "Waiting for the Inter-urban" which is a group of stone people and a dog waiting at a bus stop; it's kind of traditional to dress them for the weather. Folks there put white canes, orthopedic canes and walkers in the hands of the statue figures and a dog-guide harness on the dog, and a real person in a wheelchair sat with them and handed out leaflets. In addition a coalition of disability groups had a meeting with their regional representative. Massachusetts activists, led by CORD, held a rally with a hundred people outside and sent a smaller delegation inside. In addition they were able to get a letter calling for no appeal and signed by all but two of their federal Representatives and both Senators. In Los Angeles protesters carried three large crosses with a wheelchair emblem on each, to symbolize the sacrifice of disabled people's lives and rights.

Phone calls, telegrams or letters were sent from each of the other cities except Fort Worth. The Regional Director there, Will Hare, was the most resistant of anywhere, and four ADAPT members spent Friday night in his office before GSA staff physically carried them out Saturday afternoon when no press was around.

GREYHOUND: THE FIGHT CONTINUES

by Diane Coleman

ADAPT's campaign to force Greyhound to stop discriminating against disabled people continues in 1989.

Last year, after ADAPT members Ken Heard and Patti Leffingwell sued Greyhound before the Colorado Civil Rights Commission, ADAPT began a national direct action effort. Following our opening salvo in St. Louis, ADAPT hit Greyhound every Friday last summer in city after city, building to a twelve city Labor Day strike and Greyhound's submission to opening negotiations with ADAPT in Denver.

But negotiations turned out to be mean more delay. In December, 1988 ADAPT sent Greyhound a written proposal that Greyhound (1) stop requiring a "doctor's note" for the disabled traveller, (2) start assisting disabled passengers in boarding, and (3) stop leaving motorized wheelchairs at the gate. Three months later, Greyhound's attorney sent a letter promising to respond to the ADAPT proposal in writing by a deadline that expired several weeks ago. We're still waiting.

In the meantime, ADAPT resumed its city by city "sniping" actions, and Greyhound heard our voices again, in New York City, Rochester, Louisville, Atlanta, Dallas, Austin, Denver, Chicago, Colorado Springs, and San Antonio. Many have crawled their way onto buses to show how demeaning Greyhound's so-called Helping Hands policy really is.

In addition, there have been some interesting "legal" developments. As a result of last year's Greyhound hits, a Hartford and an L.A. ADAPT member are soon to go to trial in their local jurisdictions. Among other things, the defense will assert that ADAPT's actions against Greyhound are legally justified because they are necessary to bring about societal change. (This "necessity" defense was successfully used by Amy Carter after she blocked buses protesting CIA recruiting campus.)

Also following last year's Los Angeles protest against a "privatized" service contract between Greyhound and the Orange

County Transit District (OCTD), the California Attorney General has sued the OCTD, charging that the contract violates state access laws. Greyhound has responded by lobbying for legislation that would exempt any private transit contractor from state access requirements if they simply publish a plan for access. The proposed exemption would require that the access plan "will be" implemented, but it does not provide any timetable or deadline to establish when! Disability advocates should look for Greyhound to try this ploy in other states as well.



Ryan Duncanwood and Kim Horton give Greyhound a "helping hand" with understanding access problems.

Photo: Tom Olin

But all of that would be superseded by the federally proposed Americans with Disabilities Act (ADA). ADAPT organizer Mark Johnson and Attorney Tim Cook testified in the ADA's transit provisions on May 16 before the Senate Subcommittee on the Handicapped. Greyhound was there too in the form of the American Bus Association, claiming that lifts on intercity buses take away 12 passenger seats, a third of the cargo space, and a cost of \$35,000! Approximately 10 ADAPT members were itching to disrupt the testimony with the truth when the Subcommittee Chair, Senator Harkin himself, pulled out letters from lift manufacturers charging between \$3,000 and \$8,000 for a lift that would require only one seat to be removed. It sounded like courtroom cross-examination as the Bus Association was forced to admit that such lifts would be reasonable.

It is interesting to note that Greyhound has admitted in the Colorado case that it is a "public accommodation." Let's keep up the fight until they start acting accordingly!

ADAPT RINGS LIBERTY BELL continued
We relocated the vigil at the front doors to the Federal Court Building. Flags and banners were put up over the doors, and we made camp below them. Several tourists and folks who had seen us on the TV news stopped by to talk. We ate dinner and listened to tapes of Elaine Kolb's disability rights songs. Some people took a walk, others talked about the case and different issues they were working on at home. Occasionally a reporter would come by and interview a few of us. Some people tried to sleep on pads on the cement plaza. Many of us remembered the vigil at the Dept. of Transportation Building in Washington and rejoiced we did not have to go through another frigid eleven degree night.

At 2:00 am we roasted hot dogs. At 4:00 am Tim Cook, our lead attorney in the ADAPT v. Burnley case came by to say hello; he couldn't sleep either. Finally dawn came. A dense fog descended on the city and the temperature dropped. At 10:30 am we were allowed into the courtroom. Several more people from New York, New Jersey, Baltimore and Philadelphia had joined our numbers.

ADAPT and PVA had fifteen minutes each to present their cases. DOT had a half hour. From the start, the Judges interrupted with questions - to clarify in their own minds the specifics of both sides' arguments and the facts which supported them. Tim Cook, ADAPT's lead attorney, along with Steve Gold and Frank Laski of PILCOP, did a brilliant job of outlining all the major parts in their argument and answering the Judges' questions. PVA's argument focused on the 3% cap. The lawyer for the Department of Justice argued there was no mandate from Congress to integrate and that the Department of Transportation and local transit authorities should be allowed to do what they want without interference from courts or federal mandates. He used the same old tired cost, environment and efficiency misinformation to argue in support of paratransit-only systems, and claimed the 1986 DOT 504 regulations clearly did not excuse transit systems from access requirements after spending 3% of their operating budget. Though time had dragged by earlier in the morning, the hearing was over seemingly in only a few minutes.


Apologies are due for the lateness of this issue of *Incitement*. As this issue should illustrate, the last few months have been solid actions and preparations for actions, and have left little time for anything else.

While the schedule has been hectic, it seems the fight for accessible public transit has taken an important turn. The actions of the Bush administration, events in the courts, and activities of APTA and the transit industry in general show that the issue is coming into focus. Like peeling an onion, layer upon layer of excuses and lies which have clouded the issue have been stripped away. Now we are getting down to the heart of the matter, the real problem with access and mainstreaming--namely bigotry. People with disabilities are not considered fully human and therefore it is not necessary to extend full rights and privileges to us. It may seem almost trite to say this, but until we admit bigotry is the issue, and others see this is true, we cannot effectively fight the enemy.

On a happier note, much thanks to those who contributed to help cover costs in *Rein*. Not only did it help with expenses there, but it was a tangible sign of the support for our fight across the country.

Thanks also to all who have contributed to help cover the costs of *Incitement*! Donations are a vital part of keeping this publication going, and I promise a new issue will be out soon. Please keep the contributions coming!

Finally, I hope everyone is saving up time and money for Atlanta (September 24-28). This will definitely be an action to remember. You should be there! For more information call 303/936-1110 (national ADAPT) or 404/352-2020 (Mark Johnson, Atlanta Organizer).

 <p>ADAPT National Headquarters 303/993-1110 3005 West Gill Place Denver Co. 80219</p>	<p>Incitement, Bob and Stephanie, and the Austin office of ADAPT of Texas have moved!</p>
	<p>Our new address is: 1208 Marshall Lane Austin, Texas 78703 512/482-8543 (same as before)</p> <p>Please send us your comments, articles, photos, cartoons, etc. We want your input! Also your contributions are always WELCOME!</p>



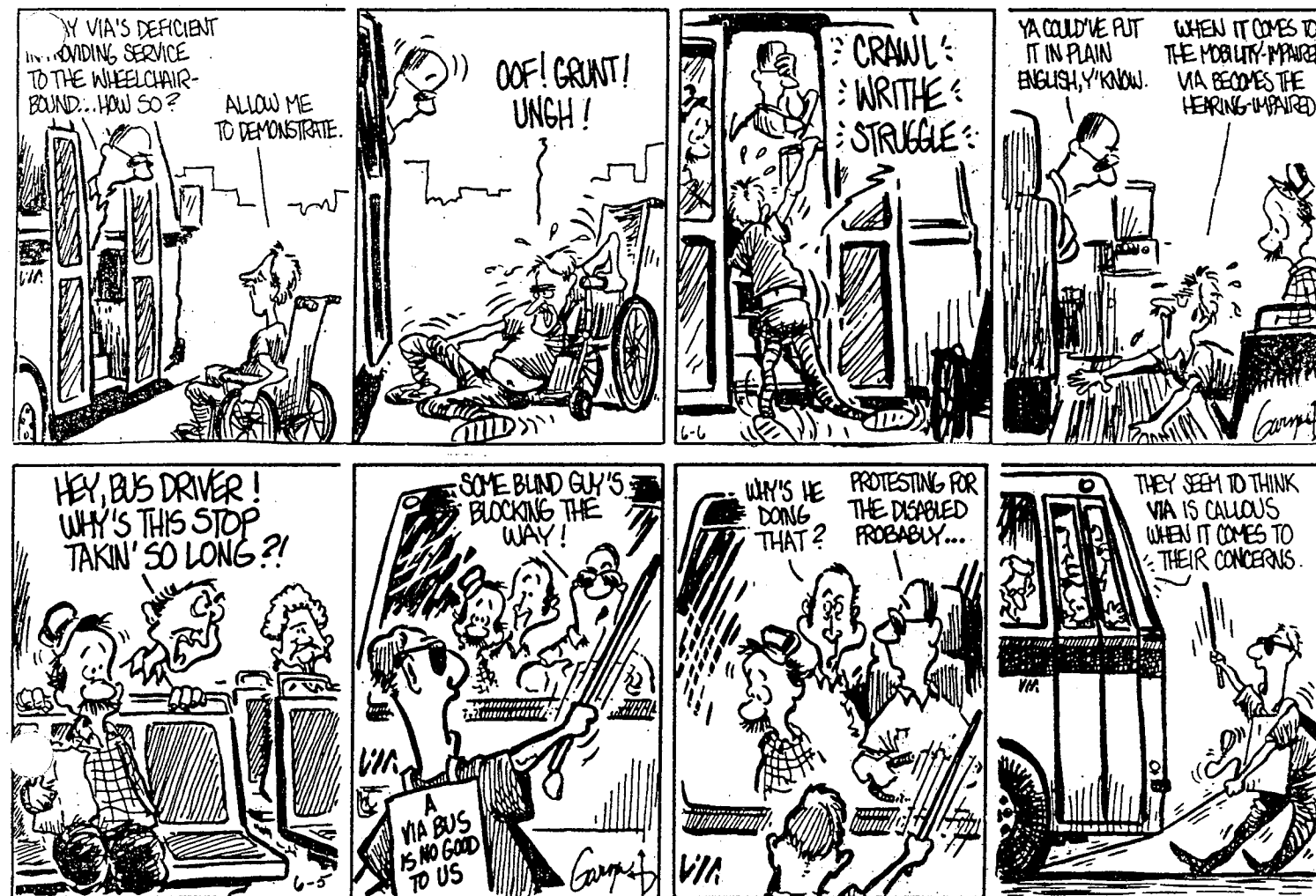
Around The Nation

San Antonio, TX - The 17th Annual Texas Public Transportation conference was held in San Antonio May 31 - June 2nd. ADAPT of Tx was there to address the conference with a call for access, equality, and integration. The local community came out in support as well. The second day of the conference ADAPT targeted the local transit system VIA, which is controlled by one of the most infamous opponents of accessible mainline transit, Wayne Cook. A crawl-on of the buses and trolleys called public attention to the realities of inaccessible transit, while special name tags quoting Cook's 1985 APTA Conference line (there will be lifts in San Antonio "over my dead body") more directly pointed the finger at the source of the problem. The VIA board will be holding a supposedly impartial hearing on lift-equipping their mainline service in June.

Houston, TX -- Several disabled residents of Houston have filed suit against Houston METRO claiming METRO is in violation of state human rights legislation which prohibits discrimination against persons with disabilities in all public accommodations, including buses. Houston METRO, although once one of the most accessible systems in the USA, has since become one of the strongest opponents of mainline accessibility. However, probably in response to the lawsuit and activities of the newly formed Houston ADAPT group, Metro has tried to buy off the local disability community with three "trial" accessible routes. At the same time METRO has told Houstonian Laurie Gerken they plan to buy 10,000 new bus shelters, 10,000 inaccessible bus shelters. According to inside transit sources this is quite a trick, since almost all shelter manufacturers make a point of having accessible shelters. continues...

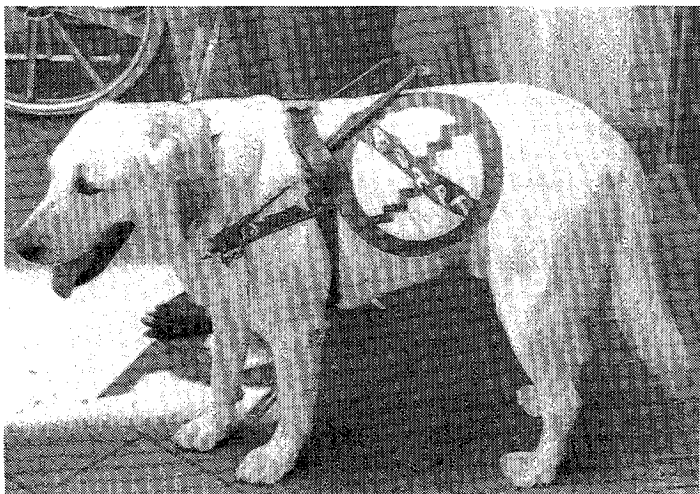
from: Leo Garza, *San Antonio Express News*
June 1989

Nacho Guarache BY LEO GARZA



AROUND THE NATION

Las Cruces, NM - The Southwest Transit Association held their annual meeting in Las Cruces last January and local disability rights activists joined with ADAPT of Texas in a very successful series of protests which included one against the inaccessible student shuttle bus service. Blocking and climbing on the Aggie Shuttle, disabled students of New Mexico State University, ADAPT folks and Las Cruces community members demonstrated the need for lifts and access to the shuttle. A series of meetings with NMSU officials followed, and on March 8th the Associated Students of New Mexico State University Senate approved funding for an accessible shuttle bus. The funding comes from the ASNMSU Bus Fee Account which is generated from a \$5 fee which all students pay. Las Cruces public paratransit services do not serve the campus, which is outside their service area. According to the NMSU Round Up Senator Fred Apodaca, who cast the single vote against the purchase, explained later he thought the shuttle was for handicapped students only, and others would not be allowed to ride.



Greyhound gives dogs a bad name. Fraiser proves there's widespread support for access. photo: Tom Olin

Baltimore, MD - The Baltimore MTA is planning to build a central light rail line which is totally accessible to the elderly and physically disabled. The light rail is scheduled for completion in 1991, and will carry over 34,000 passengers per day, but ridership is expected to grow rapidly. The system will have about 50 passenger cars costing approximately \$1 million each.

Las Vegas, NV - The Las Vegas Transit System's has twenty nine buses to serve the 750,000 people living in the Las Vegas valley. Seventeen of these are lift equipped. Yet City Councilman Steve Miller recently wrote *Incitement*, "Yes, we have a serious problem here in fabulous Las Vegas, 'The Entertainment Capital of the World.'" Disability activist David Beamis agrees. There is no service to the McCarran Airport by public transit, although there are four accessible private taxis. Other major employers such as the power company, the gas company, and phone company are far from bus lines, rough on disabled consumers as well as would-be-employees. Beamis also reports that although buses may be accessible, if able-bodied people are standing on the buses no disabled riders will be picked up. Miller and Beamis are working with local taxi companies to develop a private alternative to the inadequate services of Las Vegas Transit System.

Tampa, FL - Dennis Celorie, Chief Executive Officer of Easter Seal Society of Southwest Florida filed suit against ComAir Airlines, its parent company Delta Airlines, and the Tampa International Airport. ComAir prohibited him from flying to an important meeting because they refused to take his motorized wheelchair. The reason ComAir personnel gave was "company policy" and when Celorie told them he had taken his chair on the identical aircraft of other airlines, they still refused to serve him.

Celorie is seeking a court order prohibiting ComAir from further similar actions, and \$1 million in compensatory and punitive damages. According to Timothy Cook, Director of the Washington DC based National Disability Action Center, (2021 L St. N.W., Ste. 800/ Washington DC 20036/ phone 202-467-5730) Celorie's attorney, "The airlines by now should know better than to treat a passenger with a disability in such a disgraceful fashion. Federal law plainly prohibits the airlines from indulging in such outmoded and prejudicial policies. This is exactly the type of situation that federal disability civil rights laws were enacted to protect against."

New York, NY - Seven New Yorkers with mobility disabilities took the Long Island Railroad, the Metropolitan Transit Authority and various officers and directors of each to federal court February 6th. According to Robert Schoenfeld, of Long Island ADAPT, the Railroad discriminated against people with disabilities, when they completely reconstructed four of its stations without providing access.

Tim Cook, of the National Disability Action Center (2021 L St. N.W., Ste. 800/ Washington DC 20036/phone 202-467-5730) pointed out federal and state laws are clear: "At minimum, access must be provided when a station is rebuilt. What is especially galling here is that public moneys, contributed by taxpayers with disabilities, paid for the lion's share of these renovations. Yet persons with disabilities continue to be excluded." Manhattan resident Larry Bienstock said he hopes the suit "sends a clear message, not only to MTA, but also to transit systems around the country that persons with disabilities will no longer sit still when facilities are constructed with access barriers."

Boston, MA - This year the Massachusetts state legislature is again considering a bill which would mandate full accessibility in transportation in Mass. The Transportation Access Act, would cover all public and certain private transportation facilities, equipment, and vehicles. It would also create the Transportation Access Board which would establish operational and safety standards for transit facilities, equipment and vehicles. Finally the bill creates a formal consumer complaint process and promotes compliance with existing laws and regulations. Lorraine Greiff of the Governor's Office of Handicapped Affairs (1 Ashburton Place, Room 1305/Boston MA 02108) is monitoring the bill's progress.

Detroit, MI - January 31st was the deadline for people with disabilities to join the class-action lawsuit that accuses the Detroit Dept. of Transportation of unfairly denying them access to bus services. \$2 million has already been awarded in damages plus legal fees. The city has asked Judge Hathaway to reduce the damages awarded, and the disability community has asked that he speed up the several year time-table Judge Hathaway has, in a separate decision, given the city to provide access on all bus routes.

Denver, CO - Wielding tin cups and loud voices, Denver ADAPT took on their state legislature this winter. Angered by the state's refusal to release medicaid reimbursement funds, ADAPT went to the State Capitol for the Governor's address. The din of their tin cups on the new brass rail in the State Capitol drowned out the Governor's speech and finally got his attention, after he had refused to meet with ADAPT earlier. The righteous hellions also took their message to a Senate committee hearing. The member Senators tried to out wait them, but as anyone who has been involved with ADAPT could have told them, it was a futile effort. The committee wound up having to face the real life, real people effects of their fiscal feet-dragging. The money has since been released.

Los Angeles, CA - Governor Deukmejian's proposal that attendant care state funding be cut, did not sit well with ADAPT of Southern California. ADAPT participated in the Health Access "Have a Heart" demonstration on Feb. 14th, and a Feb. 22nd protest, put on by the Regional centers, in Lafayette Park. Finally on March 8th ADAPT upped the ante with a two and a half day, overnight sit-in at Deukmejian's office. Chaining themselves together inside the office during the days, the group clogged up the small space completely so that furniture had to be moved out of the way. The second evening eight people held a vigil outside. There were 13 arrests, but as of today the charges have not been filed and the Governor's budget is scheduled for finalization in June, when more demonstrations are planned.

"You gain strength, courage and confidence by every experience in which you really stop and look fear in the face....You must do the thing you think you cannot do."

-- Eleanor Roosevelt