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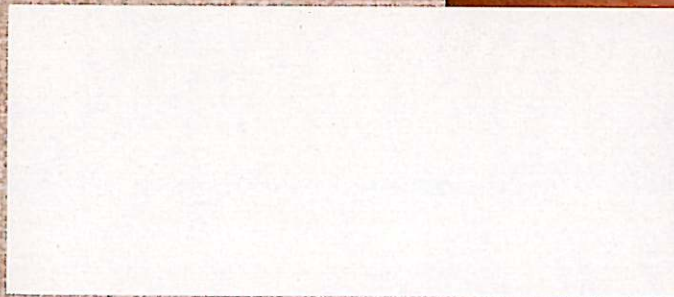
GOVERNING

Recipe for Respect

For years, states and localities have pleaded with Washington for help and gotten stiffed. There's a better approach.



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States' Rights Man

Ted Cruz takes federalism seriously, and he is willing to fight for it—even against a president he once served.



Before long, the U.S. Supreme Court will render its verdict about whether executions by lethal injection constitute cruel and unusual punishment. That decision will be a page one national story. Meanwhile, however, the court is working on another capital punishment case, one with profound implications for state authority and presidential power. That second case, *Medellin v. Texas*, reached the high court in large part through the efforts of one man: Texas Solicitor General Ted Cruz.

Jose Medellin, the man facing death, is a convicted murderer who was tried in Texas. But he was born in Mexico and is still a foreign national. The Mexican consulate should have been informed of his arrest but wasn't, in apparent violation of a treaty. The Bush administration believes that that mistake means Texas courts must reconsider the verdict. Ted Cruz takes the opposite view—that the laws of his state are sovereign on this issue, and that President Bush's interpretation of the treaty does not trump them.

Cruz says it is a matter of states' rights in a federal system. "Federalism is one of the basic structural protections of our government," he says. "If the president has the authority to write a two-paragraph memorandum to a member of his or her

cabinet and with a stroke of a pen set aside state law, that undermines the basic separation of powers that protect the liberties of all citizens."

It's no mystery how Cruz came by his views on federalism. He was a law clerk to the late U.S. Supreme Court Chief Justice William Rehnquist, who was the most consistent advocate of states' rights in recent court history, and grew so close to his mentor that he served as a pallbearer at Rehnquist's funeral in 2005. Still, arguing with the current president is a prickly position for Cruz to take. He has been a fundraiser for Bush and an adviser and lawyer in his 2000 campaign. He also served in a series of mid-level jobs in the Bush administration before returning home in 2003 to become solicitor general, the primary advocate for his state's position before the Texas and U.S. supreme courts.

He's had a pretty impressive track record. Cruz successfully defended the state's controversial mid-decade congressional redistricting, as well as the placement of a Ten Commandments monument at the state capitol in Austin. Overall, he's won the majority of his cases. His one major defeat came when he led a legal team defending HMO regulations in 10 states.

The 37-year-old Cruz, a former debate champion, is well-connected in conservative legal circles and is widely expected to have a prominent role either in Texas politics or in a future Republican administration in Washington. Even people who have opposed him on particular cases note his reputation for both courtesy and enormous amounts of prep work. "Ted is one of the straightest-talking, no-nonsense sort of look-you-in-the-eye fellows," says Robert Aguirre, of the Hispanic Council for Reform and Educational Options, "who knows how to connect with people and how to get things done."

—Alan Greenblatt

brokers and toymakers who allowed lead into their products.

Meanwhile, Brown has entered into settlements with major polluters in the state—in effect, offering the first real implementation of California's widely noted 2006 greenhouse gas law. Some Republican legislators and editorial writers have complained that Brown is trying to enforce environmental regulations that are still years away from being finalized.

Brown's legal activism is entirely in character with the events of his long political career, in which he has done and said provocative things in every job he has held, no matter what the formal duties happen to be. "Jerry Brown's very good at taking an office and getting the most out of it in terms of media splash and pursuing policy," says Bruce Cain, director of UC-Berkeley's Institute of Governmental Studies.

As secretary of state in the early 1970s, he turned a post that had been largely clerical into a force for revised lobbying laws and helped create the Fair Political Practices Commission, the state's main politics and ethics watchdog. As governor, he flirted with a "small as beautiful" philosophy that questioned whether effective liberal government needed to be based on extensive spending and bureaucracy. More recently, as mayor of Oakland, he presided over the change from a city-manager-led government to one dominated by the mayor's office. In between those adventures, he managed to run for president three times, throwing scares into Jimmy Carter in 1976 and Bill Clinton in 1992.

Those who have watched Brown's career have often faulted him for having a short attention span, and some wonder whether he will sustain his current level of activism or turn to the next big electoral opportunity. Arnold Schwarzenegger will be term-limited out as governor in 2010, and Los Angeles Mayor Antonio Villaraigosa, the early Democratic favorite, has stumbled lately. There is rampant specula-