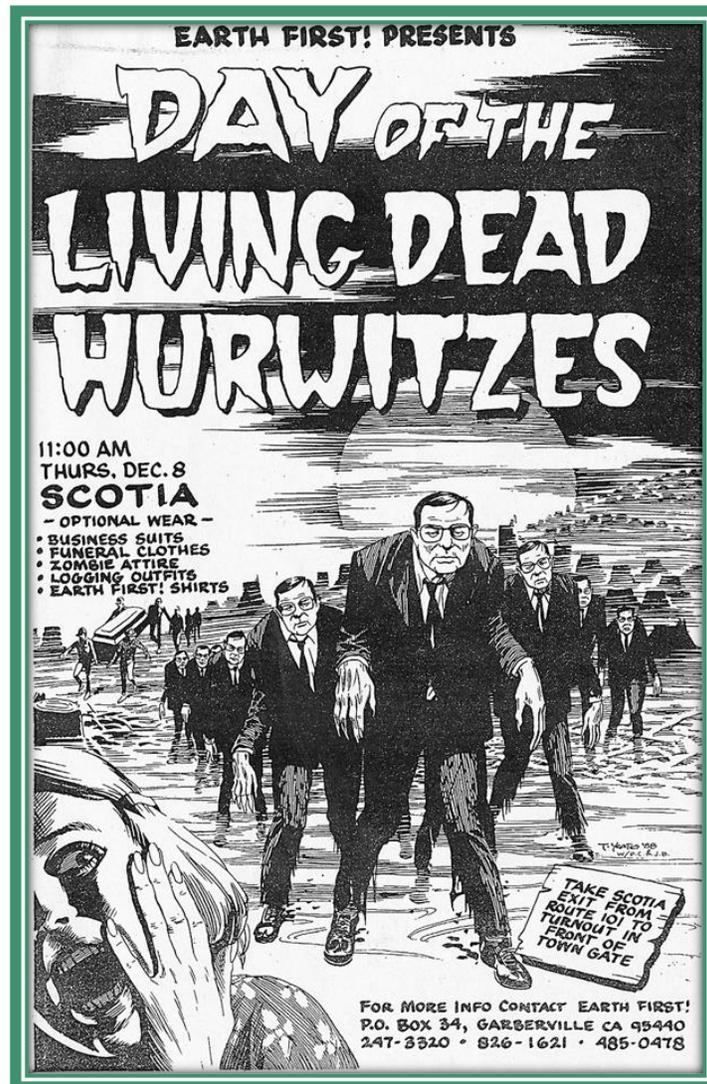


## Chapter 12 : The Day of the Living Dead Hurwitzes



“I’m sure as owners and managers, the employees of (Pacific Lumber) will protect their resources through the concept of sustained yields... Pacific Lumber Co. and the redwoods are a national environmental issue. National public support for employee ownership will be forthcoming from around our great country.”

—Rick Ellis, *Eureka Times-Standard*, October 2, 1988

“Shouldn’t we stop exporting our logs and stop selling to other mills so our young employees will have a job in the future? What about the generation that follows?”

—Lester Reynolds, Pacific Lumber monorail mechanic.

No sooner had the IWW joined forces with Earth First! on the North Coast when they found their hands full. One of the provisions of the recently passed Proposition 70 was (at least in theory) the purchase of several parcels of forest land, including the highly contested Goshawk Grove owned by Eel River Sawmills (ERS), which comprised a 900 acre tract of virgin redwoods and Douglas fir at the headwaters of the Mattole River. ERS had committed to negotiating the sale of that grove to the public, but their vice president, Dennis Scott, had made unreasonable demands including a prohibition on media coverage, no public comment, approval of several preexisting THPs within the parcel in question, an offer of much less land than had been proposed by the environmentalists, and finally that they be paid in old growth logs purchased from P-L instead of cash. P-L management no doubt approved of this Faustian bargain (indeed, it is not out of the question that they had *suggested* it), because it benefitted Maxxam's bottom line. The CDF kept threatening to approve one of ERS's demanded THPs (1-88-520), and EPIC responded by declaring that they would seek a TRO. Meanwhile, Earth First! and others organized their supporters for a direct action to prevent any logging there.<sup>1</sup>

On the surface, it seemed that defending the Sanctuary Forest would not be difficult. Like the fight for the nearby Sally Bell Grove, the fight to preserve this grove had gone on for at least a decade, and at least 250 local citizens, including veterans of various environmental campaigns in the "Mateel" region, Earth First!, and EPIC had pledged their support. As luck would have it, fate would deal them a number of twists. First, in what amounted to a clear case of bureaucratic stonewalling, the CDF kept obscuring and changing the perspective date for which they would review THP 520. Finally, on October 25, 1988, CDF resource manager Len Theiss approved it at 4:45 PM on October 25, 1988. By that time the 250 activists, including Greg King, were in position, along with an additional 21 Earth First!ers who had been temporarily recruited from Oregon following a local rendezvous recently held there, but Earth First! found its numbers divided by *another* action not too far away.<sup>2</sup>

Following the California Rendezvous, Judi Bari had immediately involved herself in organizing

forest defense campaigns and building bridges with local activists hitherto ignored by Earth First!. Bari's first move following the September gathering had been to call a meeting of Earth First! in Ukiah, at which Micheal Huddleston and Steven Day, who were not Earth First!ers, but sympathetic local watershed activists, attended and requested Earth First!'s assistance in defending the 16,000 acre Cahto Peak wilderness in northwestern Mendocino County that was in danger of being clearcut, again by ERS, in a Bureau of Land Management (BLM) timber sale. Ukiah Earth First! reached consensus in favor of assisting them, and planned a "wilderness walk" (essentially a trespass) to scope out the threatened area.<sup>3</sup> Huddleston and Day feared that cutting would begin in the spring of 1989, but rumors circulated that the date might be moved up to as late October. Sure enough, on October 24, the day before ERS was to begin logging in Goshawk Grove, A call came in from the newly opened Mendocino Environmental Center (MEC) in Ukiah—which was staffed by Earth First!ers Betty and Gary Ball—that announced that ERS was *already* cutting logging roads into the Cahto Wilderness!<sup>4</sup>

Quickly, Judi Bari scrambled approximately 30 additional Earth First!ers (including Darryl Cherney) and other local environmentalists to defend the Cahto Wilderness from ERS. While the Sanctuary Forest defenders successfully held off ERS there, the hastily mobilized Cahto "wilderness walk" managed to shut down the road building actions. The latter mobilization involved the use of two dozen cleverly placed road blockades to slow down the loggers' advance—as there was only one remote forest road into the threatened stand—but the loggers got paid anyway (as it was a BLM sale). Additionally, since this action was organized on the fly in a huge hurry, the Earth First!ers and locals improvised cleverly, as Huddleston and Day contacted the Cahto Indian Tribe, who in turn contacted California Senator Alan Cranston, and discovered that the sale violated conditions of a treaty with the Cahto.<sup>5</sup> North Coast Earth First!ers and IWW members had helped manage to win what they thought was a two-front battle, but they soon learned that they had won on *three* fronts!<sup>6</sup>

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<sup>1</sup> "Triple Victory in 'Three Day Revolution'", by Darryl Cherney, *Earth First! Journal*, Dec. 21 (Yule), 1988 (also published in the *Anderson Valley Advertiser*; and in the *Country Activist* under the alternate title "The Cahto Story" in the Feb. 1989 and March 1989 issues.

<sup>2</sup> Cherney, December 21, 1988, op. cit.

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<sup>3</sup> "In the Middle of Run Away History: Judi Bari, Earth First! Organizer, Mississippi Summer in the California Redwoods", interview by Beth Bosk, *New Settler Interview*, issue #49, May 1990.

<sup>4</sup> Cherney, December 21, 1988, op. cit.

<sup>5</sup> Bosk, May 1990, op. cit.

<sup>6</sup> Cherney, December 21, 1988, op. cit.

While all of the actions in the forest had been taking place, on October 26, the Sierra Club and EPIC teamed up yet again to file still *another* lawsuit to try and prevent logging of THP 1-88-462HUM, which had been approved by the CDF, that would allow Pacific Lumber to log 2,000 year-old redwoods in a 236 acre cut known as Owl Creek.<sup>7</sup> This was the tenth legal challenge filed against a Pacific Lumber THP since the Maxxam takeover, according to company attorney Jared Carter. In the court proceedings, presided by Superior Court Judge William Ferroggiaro, Sierra Club spokeswoman Lynn Ryan described the contested area as the heart of a potential wilderness area that they hoped could be purchased for part of a park area with bond money. Carter countered arguing “We’ve got men and equipment working in the field. It would cause harm to Pacific Lumber Company if you grant a TRO.”<sup>8</sup> The judge granted the TRO anyway, but only upon the condition that environmentalists post a \$50,000 bond to indemnify P-L for the potential losses Carter described. Neither EPIC nor the Sierra Club had the money, so they appealed the decision to the State Court of Appeals in San Francisco who upheld the TRO without the bond the following day.<sup>9</sup>

The dragged out legal process left Owl Creek relatively undefended in the meantime, however. Already Maxxam had demonstrated that they could not be taken at their word as far as living by the letter of the law as far as THPs were concerned. Gregori had called King to inform him of the impending threat only to find that Earth First! couldn’t spare any additional bodies. The simultaneous Cahto Wilderness and Sanctuary Forest actions had spread Earth First!’s resources to their limit. There was every certainty that P-L would take advantage of that, and it is entirely possible that the CDF, ERS, and Maxxam had colluded to time all three cuts at once for that very reason. Suspecting this and lacking any other recourse, on October 27, while waiting for the courts in San Francisco to rule on the appeal, Gregori and Ryan decided to head out towards Owl Creek *themselves*, even though this created the potential risk of a conflict of interest.<sup>10</sup>

The pair drove into Fortuna, used a payphone in town to confirm that the appeal had been awarded, and then drove out Newburg Road to monitor THP 462. They found the logging gate open, a convoy of loaded logging trucks heading the other direction, and something still worse. The logging road that Maxxam had illegally flagged the previous year in the case that became EPIC vs. Maxxam was still being *further* cut into the heart of Headwaters Forest. The two were detained by P-L supervisors and then arrested for trespassing, but news of the illegal road and its violation of court order got out and it emboldened further legal actions by both the EPIC and the Sierra Club.<sup>11</sup>

Judi Bari quickly engaged the local Earth First! chapter into yet another alliance building attempt, this time with pro-choice defenders of the Ukiah Planned Parenthood Clinic. Recently Reverend Dave Broyles, a pastor of Calvary Way Church, and Bill Staley, a former professional football player (with the Cincinnati Bengals and Chicago Bears) and L-P millworker from Potter Valley had organized weekly anti-abortion demonstrations there.<sup>12</sup> The pair’s rhetoric had been incendiary, and Staley had spread numerous inaccuracies and untruths about the clinic’s funding and policies that made it sound like abortions were plentiful, cheap, and easy (when they weren’t).<sup>13</sup> At one point, a woman and her two children—whose purpose at the clinic may have not even been related to abortion—were allegedly accosted by an anti-abortion ideologue who threatened them by saying to the mother, “I’ll rape you and make you have the baby.” This was too much for Judi Bari, who organized a counterdemonstration in which the two sides, each numbering about fifty, engaged in confrontational back-and-forth dialogue, in which Bari (and Cherney) urged the anti-abortion ideologue who had threatened rape (assuming that he was present) to show himself. Some of Bari’s fellow counterdemonstrators found her in-your-face-stance to be divisive, while others, including *Anderson Valley Advertiser* editor Bruce Anderson retorted that the so-called “pro-lifers” were beyond reason and rational thought.<sup>14</sup> Whatever the

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<sup>7</sup> “Anti-Hurwitz Protest Hits the Streets”, *Santa Rosa Press Democrat*, December 8, 1988.

<sup>8</sup> “PL Returns to Court for 10<sup>th</sup> Legal Challenge”, by Marie Gravelle, *Eureka Times-Standard*, December 9, 1988.

<sup>9</sup> “Court Upholds P-L Restraints”, *UPI Wire, Eureka Times-Standard*, December 10, 1988.

<sup>10</sup> “Harris, David, The Last Stand, New York, NY, Times Books, Random House, 1995, pages 252-53.

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<sup>11</sup> “Ghoulish Protest: More Maxxam Nightmares”, by Andy Alm, *EcoNews*, December 1988.

<sup>12</sup> “Pro-Choice Rally Draws 18 Supporters; Sides Gear Up for Clash at Planned Parenthood”, by Randy Foster, *Ukiah Daily Journal*, November 22, 1988.

<sup>13</sup> “Evil Lurks in Ukiah”, letter to the editor by Bill Staley, *Ukiah Daily Journal*, November 24, 1988.

<sup>14</sup> “Save the Unborn or We’ll Kill You”, by Bruce Anderson, *Anderson Valley Advertiser*, November 30, 1988.

case, Bill Staley never forgot the incident and declared Bari an enemy from that moment forward.<sup>15</sup>

North Coast Earth First! wasted no time in responding to P-L's attempts to log Owl Creek and Headwaters and scheduled a rally to take place on December 8, 1988. Adopting a horror movie theme that perhaps might have been more appropriate for Halloween, but was generally relevant to the destruction of the redwoods and the Pacific Lumber company wrought by Charles Hurwitz, the rally was billed as "Day of the Living Dead Hurwitzes", in which the demonstrators would all show up wearing paper masks with the likeness of the aforementioned corporate raider and mourn the death of the redwoods, Scotia, and the loggers' jobs. Darryl Cherney explained the relevance of the theme stating, "Perhaps 100 Hurwitzes zombying through their town will make it clear that they cannot escape him until they exorcise this Wall Street demon out of their spirit."<sup>16</sup> Earth First! graphic artist Tom Yeates, at Darryl Cherney's request, even designed an elaborate graphic drawn to resemble a B-Movie promotional poster.<sup>17</sup>

On the day of the demonstration, as the two giant lumber mills and the newly built power cogeneration station carried on their operations as normal, about 100 activists, including Bari, Cherney, and King, assembled at 11 AM. As called for in the rally posters, the demonstrators wore funeral attire and masks bearing the likeness of Hurwitz and marched through the town of Scotia, singing mock Christmas carols like:

*God rest ye merry lumbermen, May nothing you dismay,  
Remember Charlie Hurwitz, Has debts he has to pay,  
So watch him haul your redwood trees and pension fund  
away,  
Oh tidings of hunger and fear, hunger and fear...  
Oh tidings of hunger and fear.<sup>18</sup>*

Many of them carried cardboard coffins bearing the words "security", "community", "economy", and "ecology."

They were greeted by 200 angry counterdemonstrators bearing signs which read, "No More Parks!", "Save Our Jobs!", and "Jobs First!" (with

Earth First! covered by a negation slash-circle). They had set up a loudspeaker that broadcast country & western Christmas carols with the intention of drowning out any of the music and chants uttered by the Earth First!ers. Just to be certain, they shouted and screamed obscenities at the demonstrators, in front of the Pacific Lumber headquarters, such as "Earth First! go home!"; "Why don't you go back where you came from, and leave us alone?"; "You use paper!"; "What a bunch of hypocrites! Paper is a wood product!...what about your houses and furniture!"; as Humboldt County sheriffs looked on.<sup>19</sup>

The activists didn't blench. "You're out of a job!" responded about 100 or so Charles Hurwitz lookalikes. Darryl Cherney countered, "Our job is to put reins on the timber industry. Without environmentalists, you have a rape and run system." Both groups included children. At one point, a young boy emerged from one of the faux coffins that bore the words "our future" symbolizing the death of the same. The counterdemonstrators shouted, "You're sick!"<sup>20</sup> The befuddled child, no doubt overwhelmed by the borderline abusive onslaught by the hostile reception committee, began to cry.<sup>21</sup> One woman counter demonstrator exclaimed, "My nine year old knows what's going on but you don't have him coming out of coffins!" If Earth First and the IWW were trying to reach out to the workers, by appearances they were not succeeding.<sup>22</sup> The reality was, as one would guess, stranger than the fiction.

Ironically more closely resembling the stereotype they so quickly identified with the environmentalists, many of the counter demonstrators were not actually P-L employees, and many of them didn't live in Scotia. TEAM and WECARE representatives dominated the opposition, a fact so obvious that even the *Eureka Times-Standard* had to admit it. A large contingent of Eel River Sawmills and Don Nolan Trucking and others were present.

"You're shutting down the whole county," shouted Ross Fisher, who worked for the ironically named gyppo firm Lyall Logging. Sierra Club representative Lynn Ryan answered this accusation declaring, "We're talking about the boom and bust cycle."

"You're asking us to slow down the cutting? We don't have any control to do that. Why are you

<sup>15</sup> "Who Bombed Judi Bari?", Judi Bari interviewed by Beth Bosk, *New Settler Interview*, Issue #89, 1995.

<sup>16</sup> "Anti-Hurwitz Protest Hits the Streets", *Santa Rosa Press Democrat*, December 8, 1988.

<sup>17</sup> Interview with Darryl Cherney, August 21, 2008.

<sup>18</sup> "Protesters Clash in Front of P-L Property", by Marie Gravelle, *Eureka Times-Standard*, December 9, 1988.

<sup>19</sup> "Day of the Living Dead Hurwitzes", by Crawdad Nelson, *Anderson Valley Advertiser*, January 11, 1989.

<sup>20</sup> Gravelle, December 9, 1988, op. cit.

<sup>21</sup> Harris, 1995, op. cit., page 258.

<sup>22</sup> Crawdad Nelson, January 11, 1989, op. cit

attacking all these people?” screamed Eel River employee Sue Akins, evidently equating the protesters’ identification of a perceived problem as “an attack”.

Protester Carrie Pierce responded, “All I’m concerned about is jobs for my children.”<sup>23</sup> All the while, John Campbell watched from the window of his office while pandemonium ensued on the main thoroughfare leading in and out of the heart of Scotia.<sup>24</sup>

It was not as though Campbell was relishing what was unfolding. If anything, it was those speaking on his behalf who were making a mockery of the entire affair. When one of the counterdemonstrators repeated the by now already tired old saw about Earth Firsters being “unwashed-out-of-town-jobless-hippies-on-drugs,” Judi Bari quickly retorted, “Bullshit! I’m a full time carpenter, I live in Mendocino County, and my wages will soon be paying for *your* welfare checks once Charles Hurwitz had mowed down all the remaining redwoods!” When several loggers dared Cherney to fight, he stood his ground and admonished them to go to Houston and punch Hurwitz instead.<sup>25</sup> All of this was captured by the TV cameras and broadcast later on the network news stations. The lack of decorum on behalf of the counterdemonstrators was blatant enough to bother even Gary Gundlach who attempted to restrain some of the howling mob he had helped create. “I didn’t want to see anybody blow up,” he said sheepishly, perhaps not understanding the danger in recruiting loose cannons to serve as fronts for corporate greed. Miraculously, nobody was arrested at the event.<sup>26</sup>

Gundlach had his hands full, trying to maintain order among his own ranks, in part because there was a new and *especially* unruly player on his “team”, a large and overbearing woman named Candace “Can-

dy” Boak of Eureka. If Gundlach was Roy Cohn, Boak was “Tail-gunner” Joe McCarthy. She, along with her husband John, owned a gyppo logging firm based out of McKinleyville and both had an intense, almost irrational hatred for Earth First!. Candy had monitored Earth First! closely, attending some of their educational meetings—often signing her name pseudonymously as “Georgia Pacific” and “Louise Pacific”—and, like a want-to-be J. Edgar Hoover, kept close tabs on their activities, which—in her paranoid and ultra reactionary worldview, were part of thinly veiled, massive eco-terrorist conspiracy. The counterdemonstration had been largely her idea, the beginning of a long campaign of her own to “monkeywrench the monkeywrenchers,” and while she was not busy screaming corporate timber talking points at her adversaries at the top of her lungs during the Day of the Living Dead Hurwitzes, she was busy trying to determine what jobs or lack thereof (in her mind anyway) they had. Boak claimed to have been a back-to-the-lander herself until she one day “saw the light”, and whether true or not, she made it her mission to excoriate all those “unwashed-out-of-town-jobless-hippies-on-drugs” until they learned to straighten up and fly right. She had certainly made Earth First! take notice in any case.<sup>27</sup>

The Corporate Media, including the *Eureka Times-Standard* (despite admitting that many of the “workers” didn’t work for PL)<sup>28</sup> *still* dutifully framed the demonstration as a clash between environmentalists and workers. P-L public affairs manager Dave Galitz likewise framed the screaming counter protesters as workers who were “just fed up” with mill closures and THP denials, but this was clearly a superficial description.<sup>29</sup> Many of the P-L workers were not only not present, they were generally not supportive of the message being relayed by TEAM and WEC-ARE, even if they weren’t entirely supportive of the demonstrators either.<sup>30</sup>

Crawdad Nelson, who had attended the rally and had written an account of the goings on there for the *Anderson Valley Advertiser* had interviewed one of counterdemonstrators who claimed to be an actual Pacific-Lumber employee. The worker refused to give their name, but from the responses to Nelson’s ques-

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<sup>23</sup> Gravelle, December 9, 1988, op. cit.

<sup>24</sup> Harris, op. cit..

<sup>25</sup> Harris, op. cit..

<sup>26</sup> Gravelle, December 9, 1988, op. cit. Gundlach’s supposedly conciliatory tone here is betrayed by his ideological pro-corporate dogmatism, best expressed in a letter to the editor in which he declared, “‘How many people realize that civil disobedience, sabotage, and ‘anti-baby’ ideology is strongly promoted by these (environmental) groups?... There is just as much evidence that the earth goes on ‘despite us’. For every scientist that says deforestation is causing the greenhouse effect, there is one who says it is caused by volcanoes... Environmentalists scream about corporations taking over, yet they have no problem taking support from corporations (sic!) such as Sierra Club, Audubon Society, Wilderness Society, National Wildlife Federation, and more. Hypocrisy... I believe we can have freedom of enterprise and environmental quality coexistent. I like owls too...”, “Tired of Environmentalists”, letter to the editor by Gary Gundlach, *Eureka Times-Standard*, December 11, 1988.

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<sup>27</sup> Harris, op. cit., pp. 258-59.

<sup>28</sup> Gravelle, December 9, 1988, op. cit.

<sup>29</sup> Gravelle, December 9, 1988, op. cit.

<sup>30</sup> “Northwest Wobs Call for Support to Keep LP Mill Open”, by Judi Bari and Darryl Cherney, *Anderson Valley Advertiser*, December 28, 1989 and *Industrial Worker*, March 1989.

tions, it was revealed that the anonymous individual had only recently joined the company, by virtue of being one of the millworkers from the Carlotta facility which had been previously owned by L-P, but acquired by P-L *after* Maxxam's takeover. Although his responses to Nelson were not entirely full of standard talking points, he nevertheless regurgitated much of the nonsense being spouted by TEAM and John Campbell. Many of the P-L employees with greater company seniority had stayed away from the counter rally, however, and there was a good reason for it.<sup>31</sup>

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It turns out that the workers in question had by now chosen to organize resistance to Maxxam, though not under the banner of the IWW, or even any union for that matter. Instead, they had chosen to pursue a substantially different course with the help of an entrepreneur named Patrick Shannon. Shannon, hailed from Willow Creek in Eastern Humboldt County. He wasn't a logger, nor did he ever formally work in the timber industry himself, though he *claimed* to be from a logging family.<sup>32</sup> At most, he was a wood cutter, making a living off of chopping wood on small plots of Yurok Indian land in the northeastern corner of Humboldt County.<sup>33</sup> Instead of organizing a union, he proposed an Employee Stock Ownership Plan (ESOP). As early as February, Pacific Lumber worker Grant Bishop contacted Patrick Shannon (who was friends with his mother) about the possibility of organizing a group of his coworkers about buying the company from Maxxam and operating it as a "worker owned" company. Bishop told Shannon that, "he was distraught over the stepped up harvesting and felt his job was becoming extinct."<sup>34</sup>

Shannon was nothing, if not charismatic. Between February and August of 1988, Shannon claimed to have met with as many as 150 P-L loggers, lumberjacks, millwrights, foresters, and cat skinners, individually or in small groups.<sup>35</sup> Many of these meetings took place in the fire station of the Pete Kayes' community of Hydesville, located just east of Fortu-

na, and southeast of Headwaters Forest.<sup>36</sup> At one of them, attended by at least forty participants, Shannon received a standing ovation after his presentation.<sup>37</sup> Kayes and Lester Reynolds were two of the main organizers of the campaign.<sup>38</sup> Indeed, while Kayes may have been practical in his enthusiasm towards the campaign, to Reynolds it was his new religion. Upon hearing of the plan, the Sierra Club and others not only expressed enthusiasm, but asked how they could help the employees succeed in their efforts.<sup>39</sup>

Patrick Shannon knew all about ESOPs, or at least, that's the message he publicly conveyed. He was co-owner of a company called Sunray Cooperative Trucking, which advertised itself as specializing in ESOPs. Shannon counted as one of his biggest successes the employee takeover of the bankrupt San Francisco franchise of the Yellow Cab Company.<sup>40</sup> According to Shannon, an ESOP not only provided the additional income, but gave workers the "pride of ownership that translates into greater dedication, efficiency, and profitability." ESOPs also offered certain tax advantages not normally available in conventional corporate buyouts that no doubt appealed to the workers. First, when money is borrowed to finance the purchase of the employee's company, the loan to the ESOP is repaid with pre-tax dollars. For example, in purchasing a home, interest on a home loan is deducted from personal earnings before taxes. With an ESOP, both principal and interest are deducted before taxes. Secondly, half of the interest income earned on the loan financing the ESOP is tax free thus rendering the financing of such loans at prime rate or better. On average, the interest rate on ESOP loans was about 85 percent of the market rate at the time. These advantages made repayment of any potential incurred debt in the purchase of the target company a lighter burden. In the case of P-L, this would allow for a return to the sustainable logging practices that preceded Maxxam's takeover.<sup>41</sup> An ESOP also had the advantage of pooling the risk among many, much like an insurance plan.<sup>42</sup>

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<sup>36</sup> "Battle Lines Drawn in P-L Takeover Bid", by Marialyce Pederesen, *Humboldt Beacon and Fortuna Advance*, September 16, 1988.

<sup>37</sup> "P-L: Worker Control", by Andy Alm, *EcoNews*, September 1988.

<sup>38</sup> "Lumber Mills Go ESOP", *Takeback*, Volume 1, #1. February 1989.

<sup>39</sup> Gravelle, September 3, 1988, op. cit.

<sup>40</sup> Gravelle, September 3, 1988, op. cit.

<sup>41</sup> Shannon, September 1988, op. cit.

<sup>42</sup> "Congratulations on ESOP Formation!", by Bob Martel, *Country Activist*, October 1988.

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<sup>31</sup> Crawdad Nelson, January 11, 1989, op. cit.

<sup>32</sup> Interview with Darryl Cherney, October 9, 2009.

<sup>33</sup> "Employee Takeover of P-L Sought; Corporate Ownership Expert Offers Assistance", by Marie Gravelle, *Eureka Times-Standard*, September 3, 1988.

<sup>34</sup> Harris, op. cit., page 232.

<sup>35</sup> "Letter from Patrick Shannon", by Patrick Shannon, *Country Activist*, September 1988.

Beyond the initial meetings and discussion among the workers, there were several steps that had to be taken before the plan could move ahead. The next move involved the preparation of a feasibility study and an assessment of the company's holdings. Shannon proposed that the employees facilitate these studies themselves by raising the needed funds themselves.<sup>43</sup> All in all, there seemed to be much to recommend the idea financially, but would the wary P-L workers go for it, and how receptive would Maxxam be to such an offer?

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When they finally got word of the ESOP campaign, Maxxam officials reacted very negatively. They declared that Pacific Lumber "was not for sale", dismissed Shannon as a con-artist who lacked any real support among the workers, and questioned his business acumen.<sup>44</sup> John Campbell declared, "I just hope (the workers) don't lose (their money)."<sup>45</sup> He added, "(The whole idea is) kind of strange... We're making long-range plans and investing money. There is no intention of selling the company."<sup>46</sup> "(It's) not feasible," he further stated, "Why have a study when you already know it can't work?"<sup>47</sup> Public affairs manager David Galitz echoed Campbell's sentiments, opining, "We firmly believe (the idea) is creating false hopes. I feel bad for the employees. There isn't one who wouldn't want to be the boss, but we have to look at this realistically. Not only is the company not for sale, the employees could never afford it."<sup>48</sup>

Shannon had anticipated "divide and conquer" tactics from Pacific Lumber's management. He pointed out that the company had "not been for sale" either when Maxxam had acquired it, but Campbell rebutted this statement by describing the earlier instance as "a completely different situation", noting that in 1985, P-L was publically traded and the management did not then have controlling interest in the stock, but that currently Hurwitz did under the auspi-

ces of MCO.<sup>49</sup> Shannon countered this by pointing out that sufficient public pressure, perhaps from voters, politicians, labor unions or environmentalists could also induce Hurwitz to agree to a sale.<sup>50</sup> If it turned out to be the case that Hurwitz *had* been guilty of insider trading in his takeover of PL, this revelation could serve as the catalyst to bring that pressure to bear.<sup>51</sup> Failing that, even if Maxxam refused to sell the company, the workers had other means at their disposal, including a walkout.<sup>52</sup> Shannon added that he would never *personally* advocate such a tactic, and that he hoped it never came to that.<sup>53</sup> Dave Galitz dismissed such talk as empty posturing, claiming that the workers might shut down P-L for a day, but that the company received enough job applications every day to adequately replace striking workers.<sup>54</sup> Campbell echoed these sentiments, declaring, "We have a tremendous number of very loyal, very responsible employees, and I don't think they'd advocate (striking)."<sup>55</sup>

As for the accusations of Shannon being a con artist, he was apparently used to such things. He explained, "Owners always suggest you're trying to steal somebody's money." According to Shannon, however, none of that money would go into his pocket. "Let (those who doubt me) look deeply and get all the facts. My motives and honesty are proven."<sup>56</sup> Under the plan, each employee interested in participating in the ESOP would be required to "buy in" by contributing \$500 by depositing that amount in a savings account, *in the worker's own name*, at the Security Pacific Bank in downtown Eureka. Once enough workers had reached critical mass, an elected committee would begin transferring money from these accounts into a joint fund, which they would oversee at the direction of the assembly of participating workers. Shannon cautioned that this, by itself, would not guarantee success, but the pressure from lawsuits (and Earth First! led direct actions), might put enough pressure on Maxxam to agree to a deal.<sup>57</sup> If a sale did occur, money for the purchase of the company would

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<sup>43</sup> Gravelle, September 3, 1988, op. cit.

<sup>44</sup> "PALCO Workers Attend Meeting; Campbell Says, 'No Sale'", *Humboldt Beacon and Fortuna Advance*, October 4, 1988.

<sup>45</sup> "Battle Lines Drawn in P-L Takeover Bid", by Marialyce Pedersen, *Humboldt Beacon and Fortuna Advance*, September 16, 1988.

<sup>46</sup> Gravelle, September 3, 1988, op. cit.

<sup>47</sup> "P-L Employees Leery about Shannon's Takeover Idea", by Marie Gravelle, *Eureka Times-Standard*, September 10, 1988.

<sup>48</sup> "P-L Workers Dream of Ownership, But Some Worry about Risking Jobs", by Marie Gravelle, *Eureka Times-Standard*, September 15, 1988.

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<sup>49</sup> Pedersen, September 16, 1988, op. cit.

<sup>50</sup> Gravelle, September 15, 1988, op. cit.

<sup>51</sup> Pedersen, September 16, 1988, op. cit.

<sup>52</sup> Gravelle, September 15, 1988, op. cit.

<sup>53</sup> Pedersen, September 16, 1988, op. cit.

<sup>54</sup> Gravelle, September 15, 1988, op. cit.

<sup>55</sup> Pedersen, September 16, 1988, op. cit.

<sup>56</sup> Gravelle, September 10, 1988, op. cit.

<sup>57</sup> Shannon, September 1988, op. cit.

have to come from bank loans and donations from the community, including environmentalists.<sup>58</sup>

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There were other criticisms of Shannon from sources other than Maxxam, and not all of them were devoid of merit. He had claimed that at San Francisco Yellow Cab he had helped the workers establish an ESOP and turn the company around so that, by 1988, it paid out \$20,000 in annual per capita dividends.<sup>59</sup> Although Yellow Cab had successfully transformed itself thusly in 1977, in truth, Shannon had merely *suggested* the ESOP idea on San Francisco's primary AM talk radio station, KGO and the Yellow Cab *workers* had made it happen. Shannon personally had an ideological aversion to labor unions, having opposed a union organizing drive there.<sup>60</sup> The employees organized and borrowed money from the Teamsters anyway to eventually purchase the San Francisco franchise. James Steel, the operations manager who had provided much of the *actual* leadership in the campaign ruefully reflected that Shannon's role in the entire affair was mostly talk. "Let me tell you right off: the man is a bullshit artist. He did a lot of talking, but that's about it."<sup>61</sup>

The Corporate Press also impugned Shannon's reputation. For example, on September 9, the *San Francisco Chronicle* published an exposé of Sunray, pointing out that Shannon's own particular ESOP company had filed for bankruptcy two years previously, and showed debts of \$281,089. As a result, the company had been forced to lay off two-thirds of its employees.<sup>62</sup> The *Chronicle* also detailed Shannon's attempts to enact a similar employee buyout plan for the San Francisco Giants in 1985 that went nowhere, because the owners refused to sell the team.<sup>63</sup> John Campbell seized upon Sunray's bankruptcy as well as a report of \$3,000 in as yet unpaid parking citations as proof of Shannon's lack of fitness to replace him—

forgetting, of course, that Shannon would have no role in an ESOP at Pacific Lumber—declaring, "does that sound like a person who can run a billion dollar company?"<sup>64</sup> The irony in the critics' statements was that the *Chronicle* had also run an *L. A. Times* wire story on the *same day*, on the *same page* of its business section about the impending indictments of Drexel Burnham Lambert junk bond dealer Michael Milken who had assisted Hurwitz in taking over Pacific Lumber.<sup>65</sup>

Stockbrokers also questioned the ESOP idea, generally displaying a bias towards conventional business models. Clark Bowen of Shearson Lemman Brothers in Eureka, who had three years earlier accused Hurwitz of greenmail, expressed skepticism over the new proposal as well. Bowen doubted that the profit minded Hurwitz would agree to resell the company for \$834 million, and this was a valid concern. Given Hurwitz's past practices, he could ask for much more money, perhaps as much as double that amount. However, Bowen also issued some fairly dubious arguments about the ESOP concept in general saying,

"The idea has a lot of romantic appeal. Everyone thinks it's wonderful...I think we all would love to see P-L as it was. I don't think too many people would object to going back to a sustained cutter and an apparently locally owned company. (The ESOP promoters) think (they'll) all have more incentive, be more profitable, more efficient. But unless you have good management in place to rally the workers and keep them in focus, you'll have problems."<sup>66</sup>

Patrick Shannon responded to these dismissals by invoking Avis and North American Rayon as other successful ESOP attempts.<sup>67</sup> The idea of a timber industry ESOP was not even especially unusual. In 1985, the workers at Omak Wood Products in Omak, Washington, successfully used an ESOP to purchase the company's plywood mill and timberlands after Sir James Goldsmith, a corporate raider not unlike Charles Hurwitz, had acquired that company in a takeover of Crown- Zellerbach Corporation earlier that year. Closer to home, employees at Eel River

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<sup>58</sup> Gravelle, September 3, 1988, op. cit.

<sup>59</sup> Gravelle, September 3, 1988, op. cit.

<sup>60</sup> "Earth First! in Northern California: An Interview with Judi Bari" by Douglas Bevington, reprinted in The Struggle for Ecological Democracy; Environmental Justice Movements in the United States, edited by Daniel Faber, 1998, Guilford Press, New York, NY and London. , 257-58. (Bari had a particularly negative opinion of Patrick Shannon and referred to him as "a charlatan" Darryl Cherney echoed these sentiments in an interview dated September 2, 2009).

<sup>61</sup> Harris, 1995, op. cit., pages 264-65.

<sup>62</sup> "An Ex-Cabbie's Scheme to Take Over Pac Lumber", by Jeff Peline, *San Francisco Chronicle*, September 9, 1988.

<sup>63</sup> Gravelle, September 10, 1988, op. cit.

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<sup>64</sup> Pedersen, September 16, 1988, op. cit.

<sup>65</sup> "Drexel Indictments Likely Soon", *Los Angeles Times Wire, San Francisco Chronicle*, September 9, 1988.

<sup>66</sup> "Brokers Skeptical of Takeover Plan", by Marie Gravelle, *Eureka Times-Standard*, September 29, 1988.

<sup>67</sup> Gravelle, September 15, 1988, op. cit.

Sawmills were discussing the possibility of an ESOP with the company's management who were at least open to the suggestion.<sup>68</sup>

Another anonymous local broker questioned the economies of scale, opining:

"Something like a mom and pop operation with 60 or 100 employees might work, but when you get into a giant corporation like PL, I don't think employee ownership is viable. When you take ownership and put it in the hands of the employees, you're removing all the top talent. If you take over in a hostile manner, top management is out. People have to run the operation and have to do the work. They don't have the talent to do both."<sup>69</sup>

The ESOP supporters anticipated the possibility that the idea would be dismissed, perhaps even as a form of "communism", which was a typical response to unorthodox ideas whether or not they had even the remotest connection to those of Marx and Engels (or Rocker and Kropotkin, for that matter).<sup>70</sup> For the most part, Patrick Shannon's selling points were primarily focused on business sense and were solidly *capitalistic*, rather than stemming from a lofty sense of idealism. In Shannon's mind, rank and file workers had no stake in the company unless they had a sense of ownership. Additionally, due to the increasing cost of living, workers needed a second source of income, generated by capital ownership or stock dividends to supplement their wages.<sup>71</sup> Shannon wasn't proposing the establishment of a workers cooperative. Ownership was not necessarily the same thing as management. ESOPs tended to hire management staff even though the ownership and profits were shared more horizontally than in a conventional business. In fact, there were several attempts to convince John Campbell to support the idea, perhaps in hopes that he might continue in his current management role under new ownership, but Campbell being a true believer in Maxxam, refused.<sup>72</sup> Failing that, there were hints that

the Murphys might also be able and willing to take control of the helm.<sup>73</sup>

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Meanwhile, Michael Milken's empire was collapsing dramatically and some of the shockwaves of that very widespread collapse were being directly felt by those left in the wake of Maxxam's own tide of takeovers and market manipulations. The largest manifestation of Milken's implosion was the failure of the Federal Savings and Loan Insurance Corporation (FSLIC), which was well underway, although its course had been woven in the woof. As he had with the timber industry and so many others, President Reagan had deregulated the savings and loans industry. The resulting availability of easily accessible unregulated but *federally insured* capital drew speculators such as Milken like flies to lemonade. The junk bond dealer was able to convince a number of speculators to invest in an entire network of S&Ls, including the one owned by Hurwitz, USAT. When the speculators had done their damage and the vultures had picked the corpses clean in what amounted to a government sponsored shell game, the investors were left holding the bag and American taxpayers responsible for bailing out billions of dollars. Maxxam's takeover of Pacific Lumber had been deeply intertwined in this much greater scandal.<sup>74</sup>

Between 1985-88, Under the auspices of USAT, Maxxam purchased \$1.8 billion in junk bonds from DBL, \$400 million of which were used to purchase Pacific Lumber in October 1985. The Federal Deposit Insurance Corporation (FDIC) and Office of Thrift Supervision (OTS), both federal banking regulatory agencies, informed the UFG, yet *another* Maxxam holding company, that it and its officers were liable for breach of fiduciary duty for wrongfully failing to maintain the net worth of the failed savings and loan. The FDIC additionally alleged, in that exchange for financial assistance from DBL, Hurwitz used USAT to aid Milken's schemes to manipulate the junk

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<sup>68</sup> "Lumber Mills Go ESOP", *Takeback*, Volume 1, #1. February 1989.

<sup>69</sup> Gravelle, September 29, 1988, op. cit.

<sup>70</sup> "The Prognosis", by Bob Martel, *Country Activist*, September 1988.

<sup>71</sup> Shannon, September 1988, op. cit.

<sup>72</sup> "PALCO Workers Attend Meeting; Campbell Says, 'No Sale'", *Humboldt Beacon and Fortuna Advance*, October 4, 1988.

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<sup>73</sup> "Great Grandson of P-L Founder Likes Employee Ownership Plan", by Marie Gravelle, *Eureka Times-Standard*, September 25, 1988. The headline of the article is inaccurate. Warren was, in fact, Simon J. Murphy's great-GREAT-grandson and his ancestor was not PL's founder.

<sup>74</sup> Harris, op. cit., pages 241-42.

bond market. The FDIC also accused UFG of wrongfully causing USAT to pay dividends to UFG.<sup>75</sup>

According to Maxxam, “USAT’s decline (could) be attributed to a decline in the Texas real estate market,” but in all likelihood the actual cause of the savings and loan’s failure had everything to do with Maxxam’s involvement in Michael Milken’s junk bond schemes. The failure of the savings and loan company cost the taxpayers \$1.6 billion, making it the third most expensive such bailout in history, but Hurwitz paid not one dime of that sum.<sup>76</sup> At the time of USAT’s failure, Maxxam owned approximately 22 percent of USAT and 28 percent of United Financial Group (UFG), the thrift’s holding company. Meanwhile, DBL controlled approximately 10 percent. Unfortunately, since the FSLIC laws stipulated that the minimum threshold required to hold any party financially responsible for the financial cost of a bailout was 25 percent, Hurwitz and DBL had weaseled out of yet another dragnet in the complex world of finance capital. Tracing the actual route of the money was nearly impossible, and it was especially galling that a roughly similar amount of USAT “capital” had been used in Maxxam’s takeover of Kaiser.<sup>77</sup>

Campbell, who was so quick to dismiss Patrick Shannon as a con man, had no comment about *Hurwitz’s* business acumen, however. Indeed, in the wake of the FDIC’s and OTS’s failure to secure a conviction of the Maxxam CEO, Campbell declared:

“Absolutely (cleared) Mr. Hurwitz of any wrongdoing in connection with possible irregularities surrounding stock ownership at the time of the takeover, eliminating the possibility that Hurwitz might be inclined to sell... They’ve done the investigations at the Congressional hearings, they found no wrongdoing (by Hurwitz)—only (Drexel Burnham Lambert, Inc) was implicated.”<sup>78</sup>

Shannon was *not* silent about *his* supposed failings, however. He explained that Sunray’s bankruptcy filing had been under Chapter 11, as opposed to Chapter 7, the latter of which actually meant that the company could not pay its creditors. He further explained that

the filing was necessitated by the company’s lender’s malfeasance, not their own. Delta Pacific Bank and its parent, Central Bank, had loaned the ESOP the money but was later closed down by government regulators after the financial institution had unexpectedly demanded loan repayments from various clients including Sunray. Shannon accused both banks of racketeering and fraud. As for the citations, these had resulted from overweight truckload tickets (which were common among freight truckers), not parking violations.<sup>79</sup>

There *were* legitimate economic questions and doubts raised by those inclined to support the ESOP. Even if the employees successfully managed to purchase Pacific Lumber, they could not expect to maintain the accelerated pace of work, including 60-hour workweeks, and existing expanded workforce of approximately 1300 regular employees. Sooner or later, there would have to be a return to shorter workweeks and layoffs.<sup>80</sup> Shannon acknowledged that this was a problem and—echoing earlier suggestions made by Kent Driesbock and John Maurer—proposed diversification of the company’s economic activities.<sup>81</sup> For instance, the employees of Pacific Lumber could invest some money and resources into enterprises that generated revenue without reliance on the current accelerated timber production schedule. One of these ideas was a logging museum geared to tourists.<sup>82</sup> Another idea—that had also been suggested by Maurer—was the creation of a P-L furniture company, to handle finished wood products. John Campbell, however, belittled this idea as well, arguing that freight costs in Humboldt County would rule out such a possibility—citing no substantive figures or carefully conducted studies to prove it, of course.<sup>83</sup>

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At first glance, it seemed that many Pacific Lumber workers opposed the ESOP concept, or at least Maxxam wanted people to believe this. On September 9, the *Eureka Times-Standard* ran a full-page advertisement complete with a graphic which read,

“To the people and business community of Humboldt County: We thought you would

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<sup>75</sup> “Ravaging the Redwood: Charles Hurwitz, Michael Milken, and the Costs of Greed”, by Ned Daly, *Multinational Monitor*, September 1994.

<sup>76</sup> From [www.jailhurwitz.com](http://www.jailhurwitz.com), by Darryl Cherney, 1999.

<sup>77</sup> Harris, op. cit., pages 241-42.

<sup>78</sup> Pedersen, September 16, 1988, op. cit.

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<sup>79</sup> Pedersen, September 16, 1988, op. cit.

<sup>80</sup> Martel, September 1988, op. cit.

<sup>81</sup> Gravelle, September 3, 1988, op. cit.

<sup>82</sup> Shannon, September 1988, op. cit.

<sup>83</sup> Pedersen, September 16, 1988, op. cit.

want to know, we are tired of the radicals and the flakes.

"We Do Not Need (sic) Earth First - (sic) to help us!

"We Do Not need (sic) the Sierra Club- (sic) to help us!

"We Do Not Need (sic) Patrick Shannon and Bill Bertain - (sic) to help us!

"We need to be left alone to do our jobs and enjoy this wonderful county.

"Paid for by the Local Employees of the Pacific Lumber Company."

To the people and business  
community of Humboldt County.

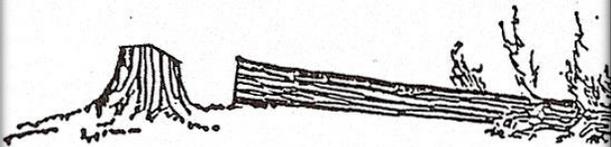
We thought you would want to know,  
we are tired of the radicals and  
the flakes.

We Do Not Need Earth First -  
to help us!

We Do Not need the Sierra Club-  
to help us!

We Do Not Need Patrick Shannon  
and Bill Bertain - to help us!

We need to be left alone  
to do our jobs and ~~enjoy~~ DESTROY  
this wonderful county.



**THE OWNERS**  
Paid for by Local Employees of the  
Pacific Lumber Company

While the ESOP campaign earned the cautious support of the Sierra Club and even a handful of Earth Firsters, such as Darryl Cherney, it was certainly not *organized* by them, let alone Bill Bertain. Evidently there was somebody other than a group of P-L employees behind the advertisement and it showed. Supporters of the ESOP campaign saw the ad as yet another attempt by Maxxam, WECARE, TEAM, and other Corporate Timber interests to quell dissent.<sup>84</sup> One anonymous ESOP supporter, very likely one of the P-L workers, created their own version of the advertisement with the word "enjoy" crossed off and replaced with "destroy" and the words "Local Employees" replaced with "The Owners", which was a logical deduction of the advertisement's *true* source. Nevertheless, John Campbell declared, "I'm hearing that the majority of the employees are against (the ESOP)."<sup>85</sup>

It was difficult to gauge just how much support the idea had. One worker, speaking anonymously to *Eureka Times-Standard* reporter Marie Gravelle declared, "people I have talked to aren't too enthused and would be real hesitant to put money into it...the plan sounds good on paper, but in reality it wouldn't ever take place," though he cited his personal reason for not supporting the plan as not having the money for it. Yet, Patrick Shannon claimed that that anywhere from 40 to 50 P-L employees attended the subsequent weekly meetings in Hydesville.<sup>86</sup> He also claimed that 115 P-L employees had signed up to be organizers for the campaign and would likely convince a greater number to attend an upcoming meeting at the Eureka Inn to be held on September 28, 1988.<sup>87</sup> He also noted that as many as 80 had already established \$500 savings accounts.<sup>88</sup>

Part of the mystery stemmed from the very real fear among the supporters that they might be open to retaliation should they openly reveal themselves, though they were not hesitant to speak anonymously, which was an indication that the idea did have support. "It's the talk of the town," said one unnamed employee. Another, a millworker, declared, "I can't stop thinking about it. We sit around the living room and talk about buying the Pacific Lumber Company," he refused to give his name, however. The motivations to buy the company included ecolog-

<sup>84</sup> Martel, September 1988, op. cit.

<sup>85</sup> Pedersen, September 16, 1988, op. cit.

<sup>86</sup> Gravelle, September 10, 1988, op. cit.

<sup>87</sup> Gravelle, September 3, 1988, op. cit.

<sup>88</sup> "Momentum Builds for Worker Buyout", *EcoNews*, October 1988.

ical concerns, even if those expressing them weren't about to join Earth First!. "We're raping our forests. What kind of heritage do we leave our children?" asked an unidentified woman who worked for the company. Still one more unnamed millworker stated, "I don't agree with the trees spiking or anything (that radical environmentalists condone), but without the trees there are no jobs."<sup>89</sup> John Campbell had said that the employees were free to do what they wanted on their own time, "provided that it (didn't) interfere with what (they were) expected to do."<sup>90</sup> The anonymous workers evidently felt that Campbell was lying, however, and for the time being remained incognito.

Pete Kayes was one exception to this group of anonymous workers. He explained, "Some are afraid to even come to the meetings," but added that *he* was unafraid to speak out because he believed Shannon was sincere and that the urgency of the long term situation on a large scale overruled any potential short term personal consequences. Kayes agreed that PL's current harvesting and production rates were unsustainable, stating, "It's incredible the amount of wood that's being cut. They're selling logs for export; they're selling logs to other mills. It's gluttony."<sup>91</sup> Lester Reynolds explained his support saying:

"I have worked for P-L for over 30 years. Over those years I have been proud to talk to anyone about PL, but this changed three years ago. I find myself more negative than positive when discussing the company. There are so many questions left unanswered..."

"If Maxxam has sold everything except the sawmills, the town (Scotia), and the timberland, how much of that money was spent on the debt? I don't like what I am hearing from the loggers about the vast amount of trees being cut and the many logs that are being sold. In addition to the finished lumber being sold from the three mills, how much of this money is being paid toward the principle of the takeover debt? Or is it just paying the huge interest payments and the rest being set aside to take over Kaiser?..."

"By now I think everyone has heard about the ESOP program. Most of the employees are interested. Some are against it. Some are just rid-

ing the storm out. And there are those that are discouraging it. I attended the first two ESOP meetings with Patrick Shannon. I like the ESOP program. I opened my savings account. But don't take my word for it—or anyone else's. Attend a meeting and decide for yourself."<sup>92</sup>

John Maurer also signaled his support for the campaign, stating:

"...There is an excellent chance that we can reverse the takeover and repair the damage done to the company. Due to lawsuits and ongoing federal investigations, Mr. Hurwitz will feel growing pressure to sell Pacific Lumber. I hope that he will follow the example of Sir James Goldsmith and look favorably on the employees' purchase offer..."<sup>93</sup>

Supporters in the activist community were initially skeptical that the campaign could mobilize enough workers, partially because the sheer workload being experienced by P-L employees at the time, 60-hours per week on average, left little time for extracurricular activity. To expect more than ten percent of the workers to participate other than on paper seemed optimistic.<sup>94</sup> That this many workers from a company that had never had a union contract were willing to speak at all was in itself a significant development.<sup>95</sup> Pete Kayes offered, "It doesn't matter whether it works or not. The attempt is what matters."<sup>96</sup>

The ESOP campaign got a huge boost when Warren Murphy publically declared his support for it. Upon hearing of the efforts, he stated, "I think it's a great idea. I think it would be the only remaining way to get the company back in the hands of people that would really care." He noted that he and his siblings had considered an ESOP when they attempted their own ill-fated leveraged buyout three years previously but lacked sufficient knowledge to make it happen. Murphy also sounded a note of caution, however, declaring:

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<sup>92</sup> "PL Questions Need Answering", letter to the editor by Lester Reynolds, *Humboldt Beacon and Fortuna Advance*, September 23, 1988.

<sup>93</sup> "1989: Time for the Takeback", by John Maurer, *Takeback*, Volume 1, #1. February 1989.

<sup>94</sup> Martel, September 1988, op. cit.

<sup>95</sup> Bevington, 1998, op. cit.

<sup>96</sup> Gravelle, September 15, 1988, op. cit.

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<sup>89</sup> Gravelle, September 15, 1988, op. cit.

<sup>90</sup> "Stockholders Sue Maxxam, Old Trees Still Face Ax", by Andy Alm, *EcoNews*, November 1988.

<sup>91</sup> Gravelle, September 15, 1988, op. cit.

“The question now is with what Hurwitz and Maxxam has done, can the ESOP take it and support the debt and at the same time return it to the original sustained yield harvest level? It makes no sense to finance a takeover [yourself] if you realize you have to keep on cutting three times the former level. We will cut our own throat.”<sup>97</sup>

Warren Murphy also declined to join in the campaign until he was certain that the financial figures demonstrated the viability of the idea, but he *did* pledge to attend the upcoming meeting at the Eureka Inn. In response, Shannon declared, “He was very popular at P-L. I’m very pleased to have the endorsement, but I’m not satisfied until I see him coming home to be an employee of the new P-L.”<sup>98</sup>

Anticipation for the meeting in Eureka grew as the date of the event drew near. Around the Pacific Lumber mills in Scotia, Carlotta, Fortuna, and elsewhere, workers supportive of the campaign began sporting green baseball caps with “ESOP” embossed on them in white letters, while diamond shaped signs began appearing in the windows of the homes and businesses of supporters. Demonstrating that the ESOP organizers more or less supported the unnamed broker’s concept of “top talent”, Patrick Shannon scheduled meetings with former P-L executives in hopes they might endorse the plan.<sup>99</sup> He also met with retired company executives, wealthy financiers, bankers, lawyers, lawmakers, and environmentalists sympathetic to the idea.<sup>100</sup>

On September 14, the wife of a P-L employee even contacted John Campbell by phone, anonymously, requesting that the executive attend a meeting with Patrick Shannon on September 21. Campbell reiterated that the company “was not for sale” and steadfastly refused the invitation, explaining to the *Humboldt Beacon and Fortuna Advance* who reported the attempted contact, “I don’t respond to anonymous phone calls.” He also claimed that one week was too short notice for him in any event. The unidentified woman explained that her attempt was genuine in hopes that she could convince Campbell to change his position on the matter adding, “We will try a petition to let him know that we’re really interested in talking to him. We’re for slowed down (timber pro-

duction). We need the money Hurwitz puts outside the state in Humboldt County...you know they’d spend it here if they got the dividends.” Despite Campbell’s refusal to attend, Patrick Shannon indicated that he felt the tide was turning in favor of the ESOP.<sup>101</sup> Indeed, it seemed to be, enough to prompt Charles Hurwitz to write a letter to the employees (dated September 15) opposing the campaign. In it he stated, “We trust that our employees will not be misled into investing their money and or time in an endeavor which has no merit and cannot succeed.”<sup>102</sup>

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Shannon’s faith was justified. On September 28, 1988, over 400 people many of them wearing ESOP hats, filled the banquet room at the Eureka Inn to support and participate in the campaign.<sup>103</sup> There were many community supporters present as well, including Darryl Cherney, at the blessing of the campaign’s organizers.<sup>104</sup> Although he did not actually attend the meeting, John Campbell dismissively claimed that “a lot of the participants at the meeting were just curiosity seekers, not employees...there are some employees for it, but a great deal are against it...I hope they don’t get misled.”<sup>105</sup> According to the *Eureka Times-Standard*, however, most of the assembled crowd were employees and their families, perhaps as many as one quarter of the entire 1,300 strong P-L workforce in Humboldt County, and many of them, including particularly Steve Bishop and Dave Victorine, were not afraid to declare their support in front of TV cameras and reporters either. Wendy Dokweiler, the wife of another worker declared, “This is something we’ve needed since the takeover. Sure we’re getting a paycheck now, but when does it stop? The people in Texas don’t give a damn about our children. We want to be able to call the shots.” The workers present indicated that they were either concerned about their own long term futures, that of the forest’s or both. Warren Murphy also attended and now sounded much more encouraging tones—after having talked to

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<sup>101</sup> Pedersen, September 16, 1988, op. cit.

<sup>102</sup> Gravelle, September 25, 1988, op. cit.

<sup>103</sup> “ESOP Update”, *Takeback*, Volume 1, #1. February 1989; and “P-L Buyout Support Growing; 350 Workers at Informational Eureka Meeting”, by Marie Gravelle, *Eureka Times-Standard*, September 29, 1988.

<sup>104</sup> Interview with Darryl Cherney, October 9, 2009.

<sup>105</sup> “PALCO Workers Attend Meeting; Campbell Says, ‘No Sale’”, *Humboldt Beacon and Fortuna Advance*, October 4, 1988.

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<sup>97</sup> Gravelle, September 25, 1988, op. cit.

<sup>98</sup> Gravelle, September 25, 1988, op. cit.

<sup>99</sup> Pedersen, September 16, 1988, op. cit.

<sup>100</sup> Shannon, September 1988, op. cit.

many still current employees about the idea—declaring, “A lot of them are interested. They’ve got a tough road to hoe, but I think it’s possible.”<sup>106</sup> Certainly Campbell’s dismissive assessment did not reflect the actual mood in the hall.<sup>107</sup>

Shannon convened the meeting with a prayer and the Pledge of Allegiance, demonstrating that the assembled group was not a just a fantasy concocted by “unwashed-out-of-town-jobless-hippies-on-drugs”. Emphasizing the point Shannon reminded everyone that the campaign was anything but a game. He repeated the selling points as well as the responsibilities of an ESOP, including pride in ownership, return on their investment, as well as various financial and tax incentives. Even though Maxxam continued to insist that the company wasn’t for sale, Shannon told the workers that they had a right to at least make an offer and that the time had come to do so because of the still existing legal scrutiny over Maxxam. Assisting Shannon was an attorney named Bruce Shine, general counsel for the United Textile Workers of America.<sup>108</sup> In the past, Shine had helped that union to become the first ever to participate in an ESOP.<sup>109</sup> At one point, the lawyer declared, “It’s not a sugar-fairy tale—you have to work, and care about Scotia and Humboldt County more than any other company.”<sup>110</sup> Shannon added, “When the timber’s gone and your job is gone, it’ll also destroy the local economy. The only people who really care about P-L are you people.”<sup>111</sup>

Although these were cautious notes, the crowd was still inspired and proceeded to nominate an ESOP coordinating committee. Shannon indicated that P-L employees Mitch Wagner and Bill Hunsaker had already volunteered to serve. The floor was then opened up for additional nominations, wherein fourteen more were chosen, consisting of Pete Kayes, Jack Thomsson, Larry Barrotte, Ken Dokweiler, Ron E. Smith, Dave Victorine, Joe Timmerman, Kevin Morris, Lester Reynolds, Guy Lamb, Bob Younger, Grant Bishop, John Hamilton, and Kelly Bettiga.<sup>112</sup>

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<sup>106</sup> Gravelle, September 29, 1988, op. cit.

<sup>107</sup> “PALCO Workers Attend Meeting; Campbell Says, ‘No Sale’”, *Humboldt Beacon and Fortuna Advance*, October 4, 1988.

<sup>108</sup> Gravelle, September 29, 1988, op. cit.

<sup>109</sup> “Labor Board Says Employees Not Protected in Buyout”, *AP Wire, Ukiah Daily Journal*, September 3, 1989.

<sup>110</sup> “PALCO Workers Attend Meeting; Campbell Says, ‘No Sale’”, *Humboldt Beacon and Fortuna Advance*, October 4, 1988.

<sup>111</sup> Gravelle, September 29, 1988, op. cit.

<sup>112</sup> “PALCO Workers Attend Meeting; Campbell Says, ‘No Sale’”, *Humboldt Beacon and Fortuna Advance*, October 4, 1988.

Many of them—though not all—had been among the 500 who had signed the original advertisement opposing the Maxxam takeover in the first place.<sup>113</sup> Workers’ dissent was very much still evident at Pacific Lumber.

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In many ways the ESOP campaign resembled a traditional union organizing drive, with a similar effort to secure pledges of support for the campaign from a majority of the workers at PL, as well as the usual hesitations that come with the territory. The largest of these was the fear by the workers of management repression, thus explaining why originally many of them had refused to give their name in spite of their support for the idea. As ESOP committee co-chair Pete Kayes put it, “The vast majority of the employees support the concept of the ESOP. Of course there hasn’t been an employee organization at P-L for forty years, so we’re breaking new ground.”<sup>114</sup> Warren Murphy had hinted at this, declaring,

“It’s a hard one. I know there are management techniques to discourage them. Those people could not only lose their jobs, but their home and everything. At this point you can’t ask them to risk it. They’ve been through a lot. Everybody’s had dreams that there could be some way to conquer Hurwitz, but it hasn’t happened.”<sup>115</sup>

The ESOP campaign apparently received the expected boost when, on October 23, 1988, Bill Bertain filled yet another class action lawsuit on behalf of eight P-L employees and shareholders against Charles Hurwitz, Maxxam, MCO, Pacific Lumber, DBL, Ivan Boesky, Michael Milken, Boyd Jefferies, Saloman Brothers, and many others involved in the merger. The plaintiffs included a few who served on the ESOP’s executive committee, such as Kelly Bettiga.<sup>116</sup> The suit was filed in both state and federal court, seeking over \$2.25 billion in damages, plus rescission and invalidation of the 1985 merger agreement. Bertain had forged an impressive litigation legal team of

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<sup>113</sup> Paid advertisement, *Eureka Times-Standard*, November 17, 1985. Emphasis added.

<sup>114</sup> “ESOP Update”, *Takeback*, Volume 1, #1. February 1989.

<sup>115</sup> Gravelle, September 25, 1988, op. cit.

<sup>116</sup> “Eureka Lawyer Files Suit to Rescind P-L Takeover”, by Marialyce Pedersen, *Humboldt Beacon and Fortuna Advance*, October 28, 1988.

experts in securities law including Sachnoff Weaver & Rubenstein, Ltd., based in Chicago; Corinbilt & Seltzer, based in Los Angeles; Davis Barnhill & Galland and Lafollette & Sinyikin, both based in Madison, Wisconsin.<sup>117</sup>

The suit, called the largest securities fraud case ever by the SEC, alleged a complex illegal scheme, orchestrated by Hurwitz from the get-go involving stock parking and various other fraudulent activities designed to acquire P-L.<sup>118</sup> It charged that thousands of former P-L public stockholders were misled and defrauded when the directors agreed to sell the company for 50 percent less than they knew it was worth.<sup>119</sup> The suit also brought to light Milken's "hedging" his bets on the takeover by instructing Ivan Boesky to purchase additional stock.<sup>120</sup> Bertain charged that shares of PL's stock held by Boesky and DBL should have actually been attributed to Hurwitz, which would have put him over the 5 percent ownership threshold, and would have required that he disclose his intent to the shareholders of the company thus triggering a vote.<sup>121</sup>

The case picked up the thread of a suit filed by another Pacific Lumber shareholder, Elmo Omicini, in February 1986, the day after Rio Dell had voted against invoking Article 10 of PL's Articles of Incorporation. Omicini had noted a small glaring detail that just about everybody else had missed in the final sale agreement. By agreeing to cede control over the employees' \$60 million pension fund in exchange for raising the purchase price from \$38.5 to \$40 per share, Hurwitz had actually *benefitted* financially earning an additional \$30 million.<sup>122</sup> The suit also noted the fact that, in 1987 reports surfaced that Executive Life had been statutorily insolvent at least once that year.<sup>123</sup> "Hurwitz knew or should have known what was going on," declared Bertain upon the filing of his latest suit.<sup>124</sup>

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<sup>117</sup> "Lawsuits Challenge Maxxam Takeover", *Takeback*, Volume 1, #1. February 1989.

<sup>118</sup> "Lawsuits Challenge Maxxam Takeover", *Takeback*, Volume 1, #1. February 1989.

<sup>119</sup> "Was it a Scam?", *EcoNews*, March 1989.

<sup>120</sup> "Junk Bond Fraud: Maxxam in Hot Water Over P-L Takeover", by Andy Alm, *EcoNews*, October 1988.

<sup>121</sup> Pedersen, October 28, 1988, op. cit.

<sup>122</sup> "Another Suit Filed to Block P-L Takeover", *Eureka Times-Standard*, February 22, 1986.

<sup>123</sup> "P-L Pensions in Jeopardy", *Takeback*, Volume 1, #1. February 1989.

<sup>124</sup> "Stockholders Sue Maxxam, Old Trees Still Face Ax", by Andy Alm, *EcoNews*, November 1988.

State Senator Barry Keene cited the suit as clear evidence that Maxxam's claims contradicted the notion that it had Humboldt County's best interests at heart declared:

"(These revelations) make nonsense of Maxxam's insistence that the takeover deal proceeded on a rational and responsible basis, with the maintenance of our timber resources in mind... The price Maxxam was forced to pay—costing them perhaps an additional \$100 million—ballooned their debt beyond the already recklessly excessive levels contemplated in the original deal. Their only way out of the squeeze was to turn trees into cash and intensify over-cutting of virgin redwoods.

"What it boils down to is jobs now, but now jobs later. Is this the heritage we want to pass on to our children and grandchildren? How can we allow that to happen and maintain our self respect?"<sup>125</sup>

Yet, in spite of the lawsuits, there was enough pressure from Maxxam to keep just enough P-L workers in fear so that Shannon had difficulty convincing a majority of the workers to join the campaign. In an effort to win them over, on October 25, Patrick Shannon mailed a letter to the 1,300 P-L employees that included the following statements:

"Too many P-L employees are sitting on the fence. They think they are playing it safe. They say they will go with ESOP as soon as Maxxam agrees to sell. It doesn't work that way; that's killing our chances... Bosses, your participation in ESOP planning and creation is part of your job. You owe it to P-L and you owe it to yourself. Any boss who is unwilling to work for ESOP and sustained yield is not worth his salt...

"To the extent that you hold back, we will work with environmentalists, other major timber companies, and other timber company employees. ESOP is your baby, but if you don't care for it, the baby is up for adoption."<sup>126</sup>

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<sup>125</sup> "Junk Bond Fraud: Maxxam in Hot Water Over P-L Takeover", by Andy Alm, *EcoNews*, October 1988.

<sup>126</sup> "Pacific Lumber Company Responds to Salty Letter", by Glenn Simmons, *Humboldt Beacon and Fortuna Advance*, November 11, 1988.

In response to this letter, on November 1, an anonymous individual or group of individuals dumped a ton of unpackaged rock salt at the doorstep of the ESOP campaign office in Fortuna. Patrick Shannon feigned being unfazed however, and declared that the committee would respond by packaging the salt and selling it for several hundred dollars to raise funds for their continued efforts. Meanwhile, John Campbell issued a hasty public response distancing Pacific Lumber from the unknown perpetrators:

“It’s regrettable that Mr. Shannon’s recent desperate letter to our employees precipitated the actions of last night’s incident of the dumping of a quantity of salt on the doorstep of Shannon’s headquarters. We have said that his scheme is creating discord and is a disservice to all of Pacific’s people. We do not condone these actions and hope there will be no further incidents of this type...”<sup>127</sup>

Yet, Campbell spared no opportunity to get in a cheap shot of his own, deliberately trying to associate the ESOP campaign leaders with Earth First!, and others Campbell pegged as being of like mind:

“I have had it with Earth First!, the Sierra Club, EPIC, and now Patrick Shannon. I would remind you, we as employees (sic) did not ask for their help. These ‘outside’ people chose to force their will on our company. They want a divided P-L family. They want discontent. They want employee against employee, friend against friend. That will help them achieve their goals...”

“Here is a group (whose members) claim they want to represent the employees, yet threaten to break up the company by selling it to the radical or other companies unless everyone goes along with their dream, (but) this is no dream! This is a scheme and a shameful one at that. I seem to remember that this is America where an individual still has the right to choose his or her destiny, not to be threatened or coerced into something he or she may not wish to do.”<sup>128</sup>

At this point, however, many of the workers involved in the ESOP campaign were frustrated enough with

Maxxam that they were willing to overlook any of the supposed differences they had with Earth First!. In fact, it was the ESOP committee that had suggested that Earth First! organize the rally which Cherney transformed into the *Day of the Living Dead Hurwitzes* in the first place!<sup>129</sup>

Shannon and the ESOP committee continued to mobilize community and financial support for the campaign. Over the course of the next few months, they organized several highly successful fundraisers and met with representatives of the General Electric Capital Corporation to form a potential partnership bid to purchase Pacific Lumber.<sup>130</sup> Shannon also hinted that Louis Kelso, an investment banker who had written the seminal book on ESOPs, Democracy and Economic Power, might also be amenable to a loan, but wished to keep silent on the matter publically.<sup>131</sup> “We hope to have our purchase offer on Maxxam’s desk in sixty days,” declared Shannon.<sup>132</sup> For a group of workers not familiar with such a business model, they were proving that they did indeed have the “talent” it took to at least spark interest and line up support.

The campaign was bolstered further in December by a pair of unrelated, but significant developments. On December 19, Judge William Ferroggiaro declared, in ruling that would prove to have much greater significance a year later, in a 33 page decision, that the CDF had failed to properly consider measures proposed by the Department of Fish & Game to lessen the effect of wildlife of P-L’s logging and that under business as usual, the agency’s THP process had resulted in a “race to the chainsaw, the barricades, and the courthouse.”<sup>133</sup> It is no way to conduct the public’s business, nor is it a way to ensure economic stability, or certainty, to the owner-operator, and the business of timber production.”<sup>134</sup> Then, on the Winter Solstice, Drexel Burnham Lambert pled guilty to six felony counts of securities law violations and agreed to pay \$650 in fines and penal-

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<sup>129</sup> Crawdad Nelson, January 11, 1989, op. cit

<sup>130</sup> “ESOP Update”, *Takeback*, Volume 1, #1. February 1989.

<sup>131</sup> “PALCO Workers Attend Meeting; Campbell Says, ‘No Sale’”, *Humboldt Beacon and Fortuna Advance*, October 4, 1988.

<sup>132</sup> “Stockholders Sue Maxxam, Old Trees Still Face Ax”, by Andy Alm, *EcoNews*, November 1988.

<sup>133</sup> “False Start in Chainsaw Race”, by Carrie Pierce, *EcoNews*, January 1989.

<sup>134</sup> “PL Old Growth Cutting Halted”, UPI Wire, *Eureka Times-Standard*, December 20, 1988.

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<sup>127</sup> Simmons, November 11, 1988, op. cit.

<sup>128</sup> Simmons, November 11, 1988, op. cit.

ties. They also consented to sacrificing their chief architect, Michael Milken.<sup>135</sup>

All of this would seem to have bolstered the ESOP campaign, but there was a fundamental problem. Shannon's and Shine's knowledge of labor law was limited, and his argument that workers of P-L organizing an ESOP was akin to their discussing wages, working conditions, and employee benefits was a largely untested theory.<sup>136</sup> For better or worse, Pete Kayes discovered much to his consternation that he was to set the precedent. Shortly after the anonymous salt deposit, Kayes's section boss instructed his fellow maintenance workers not to discuss the ESOP campaign with the dissident blacksmith any further. A handful of them in defiance of this directive dialogued with Kayes anyway, and informed him that they would not be cowed into silence, but after that moment, the number of fellow P-L workers that had been in regular communication with him began to dwindle over the course of the month. Following that, P-L ceased granting Kayes the periodic automatic cost of living increases typically given to all of the company employees that Hurwitz had pledged not to alter upon his takeover of the company. Firmly believing that this constituted retaliation against his leadership in the campaign, Kayes filed an Unfair Labor Practice (ULP) charge with the NLRB.<sup>137</sup> Bob Younger, who had a similar experience, soon joined him. Had they known what they were up against, they might have had second thoughts.

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<sup>135</sup> "Lawsuits Challenge Maxxam Takeover", *Takeback*, Volume 1, #1. February 1989.

<sup>136</sup> Shannon, September 1988, op. cit.

<sup>137</sup> Harris, 1995, op. cit., pages 264-65.