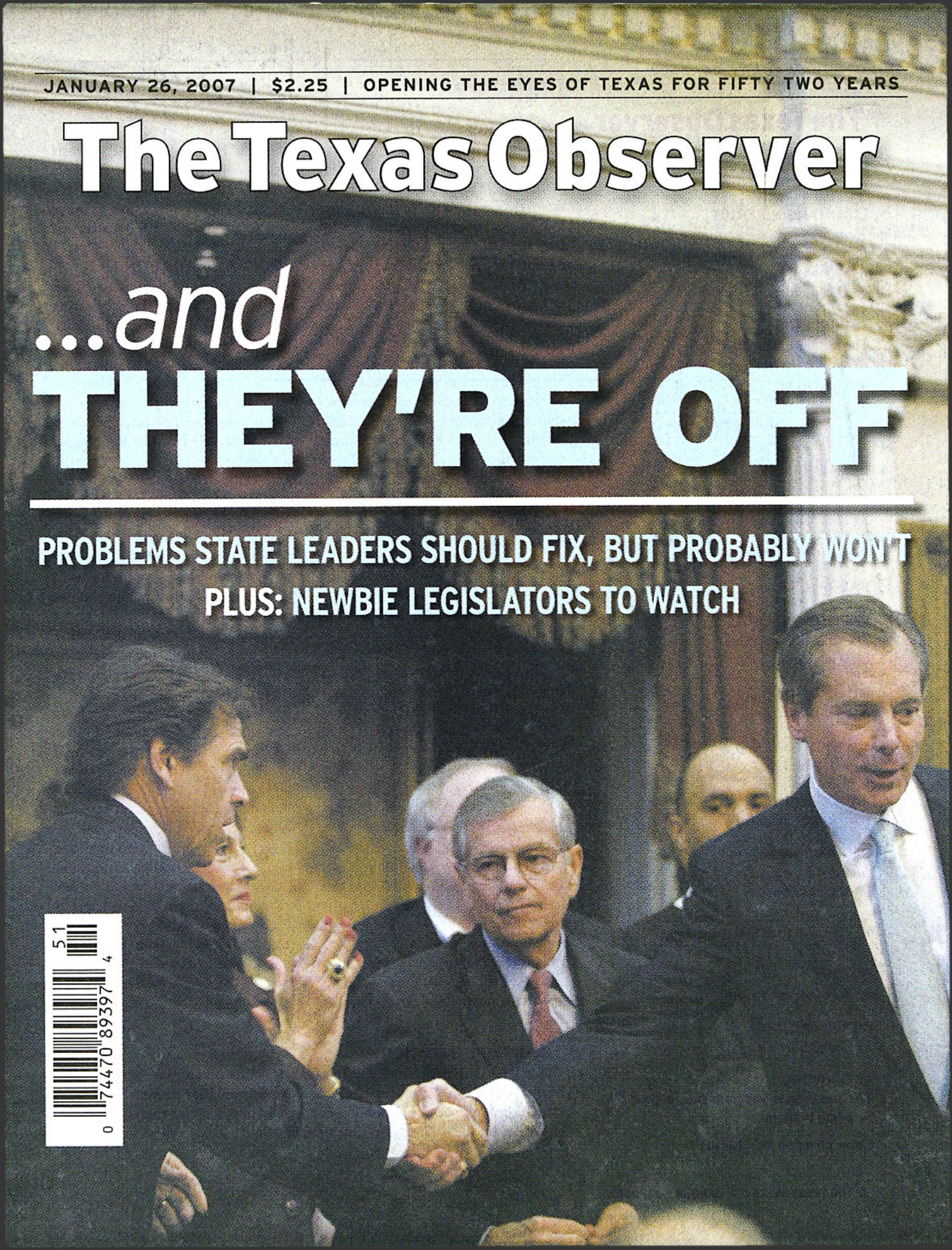
JANUARY 26, 2007 | $2.25 | OPENING THE EYES OF TEXAS FOR FIFTY TWO YEARS

The Texas Observer

...and THEY'RE OFF

PROBLEMS STATE LEADERS SHOULD FIX, BUT PROBABLY WON'T

PLUS: NEWBIE LEGISLATORS TO WATCH



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JANUARY 26, 2007

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Dialogue

ROAD HOGS

I have long suspected that this mad rush to toll roads ("The Highwaymen," December 15) was born not so much from necessity, but from the same logic that thwarts universal health care and seeks to gut Medicare, public education, and Social Security: Any trust fund managed by government is just so much "dead capital" in the eyes of an investment banker.

Your well-researched article made that very clear. I have forwarded it to my elected representatives and some of my activist friends, and I will not stop speaking out about this issue. Every Texas voter who opposes these highway boondoggles needs to keep this issue front and center with their elected reps and on the editorial pages of our newspapers.

Articles like yours are invaluable in making that job easier for us.

Julie Keller
El Paso

The Trans-Texas Corridor proposal is an abomination! This plan has been conceived by a group of miscreants and scoundrels! These folks include our illustrious Gov. Rick Perry; Ric Williamson and his entourage in the TTC; and do not forget our "elected" hero, Secretary of State Roger Williams; AND our elected minions in the Texas Legislature who had not the presence of mind or matter or intelligence to oppose this idiocy!

Also, I would like to admonish our president, George W. Bush, who has ostensibly given his blessing to this project! Hopefully and with deep-seated prayers, this information is untrue. I have supported President Bush throughout his campaign and shall continue to do so. However, this project is NOT in the best interests of this country! And I hope and pray that he understands this!

Joel E. Young
Weatherford

AIDING AND ABETTING

Your December 15 issue carried an article ("Craddickism") illustrating how greatly Speaker Tom Craddick and his allies benefited from the *quid pro quo* with nursing-home companies and other medical providers as a result of passing tort reform.

You might have added that the courts of Texas, largely ruled by Republican judges who have also benefited greatly from campaign contributions from those sources, have extended the reach of the bill to benefit the health-care industry even further.

The courts have held that not only medical malpractice, but all forms of claims pressed against nursing homes and medical providers, come under the rubric of tort reform legislation and are subject to its onerous evidentiary requirements and to its limitations on damages.

Victims of rape by fellow patients or by employees of the nursing home have been subjected to the terms of the act, even when the evidence shows that the rapes probably resulted from the negligent hiring practices or negligent supervision of the patients.

Everyone recognized upon passage of the act that any negligent provision of health-care services would be subject to its terms, but few anticipated that the courts would consider that even intentional assaults like rape would be covered as well.

Terry Weldon
Austin

A BIT OFF BALANCE

You'll undoubtedly notice that this issue is lighter on arts and culture than usual. The lawmakers are back in Austin, and they threaten to make more laws, so our political coverage is amped up for this issue. We'll right the balance next time around.

So Much for Accountability

Even during the darkest periods of the past few years, when cronyism, arrogance, and mendacity had an almost suffocating hold on Washington and Austin, we always felt the pendulum would swing back in our direction. We marveled at our leaders' overreach, shook our heads, and clucked that the day of reckoning must surely be just over the horizon. Indeed, the "accountability moment," as Dubya likes to call elections, came in 2006 with the midterms. The American people spoke. No to the Iraq war! No to corruption! It was a good year. Congress changed hands, and suddenly some semblance of balance returned to American government. A potent symbol of corruption, Jack Abramoff, went to prison. We even witnessed the humiliation of our beloved Tom DeLay, who was hounded off the ballot and forced to all but deliver his seat to a Democrat whom he had previously vanquished. Our topsy-turvy system was finally righting itself a bit. Or so it seemed.

Now, with the first month of 2007 under our belt, it should be clear to everybody that it will not be so easy.

In Texas, the cause of reform clearly made great strides in '06. Voters repudiated the Republican leadership, particularly in the House, booting key allies of Speaker Tom Craddick like Kent Grusendorf and Gene Seaman out of office. Gov. Rick Perry won reelection, but a majority of voters indicated they'd prefer someone else in the job. And two issues—a push to build 18 coal plants throughout the state and the ambitious proposal to privatize state highways—have sparked exceptional civic uprisings. Yet a challenge to Craddick's speakership from the forces of reform fizzled. Perry is still governor. The coal plants and the ill-conceived Trans-Texas Corridor continue to move at full throttle. The work for positive change in Texas has only just begun.

In Washington, the level of corruption, of double-dealing and outright plunder cries out for stiff prison sentences to be handed out like candy canes. While Abramoff was a start, the feds hustled him off to jail before the full scale of the scandal could truly be exposed. Nonetheless, the former lobbyist did point the way toward a solution for the Bush administration's corruption problem. In 2002, Abramoff allegedly helped convince the president to remove the U.S. Attorney in Guam. It appears that a public corruption investigation by the federal prosecutor was making some Abramoff clients uncomfortable. Last year, prior to the elections, the Justice Department insisted it was telling U.S. attorneys across the nation to focus on public corruption. Now that the election is past, the Justice Department is undertaking an unprecedented housecleaning, pushing out at least four U.S. attorneys, and maybe as many as seven.

In Iraq, rather than listen to the American public, a bipartisan group of political elders, or even the generals in the field, the Bush administration has decided to escalate the conflict. When Fox News' Chris Wallace pointed out to Vice President Dick Cheney that national exit polls showed 67 percent of voters said the war was either very or extremely important to their vote, and only 17 percent supported sending in more troops, the dark lord replied blithely, "The polls change."

He continued, "... you cannot simply stick your finger into the wind and say, gee, public opinion is against [the war], we better quit."

Cheney will not quit. Nor will Perry or Craddick. Whatever power these people have, they will use. The pendulum will go only so far on its own without a big collective push. ■

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Unholy Rollers

PRAISE PERRY Gov. Rick Perry and Lt. Gov. David Dewhurst spent the evening before their inauguration with the people who brung them to the dance: the religious right. Perry and Dewhurst were among those invited to speak at a "Pastor's Policy Briefing" at the Renaissance Austin Hotel. Sponsored by a secretive organization called the Texas Restoration Project, the event drew more than 700 pastors. (Some 1,500 had signed up, but roughly half canceled because of bad weather, said Kelly Shackelford, president of the Free Market Foundation, a conservative interest group headquartered in Plano.)

Sharing the stage with Perry and Dewhurst were two Ohio politicians, Kenneth Blackwell, the state's controversial outgoing secretary of state who lost a bid to become governor in 2006, and former congressman Bob McEwen. Arkansas Gov. Mike Huckabee canceled due to the icy weather.

The Rev. Laurence White, a Houston minister who has a prophet's stern demeanor, was on hand to give the opening remarks. A pastor at Our Savior Lutheran Church, White often compares the moral free fall in the United States to the behavior in Nazi Germany in the 1920s and 1930s. White was hurrying through the hotel lobby when an *Observer* reporter waylaid him to ask if the event was open to the press. He shot a long-suffering glance at a colleague, then boomed out indignantly, "This is not a political or a public happening."

The Texas Restoration Project is modeled on the Ohio Restoration Project, which mobilized in 2004 to get conservative pastors and their congregations involved in the political process. Similar groups have sprung up in Colorado, Florida, Iowa, Minnesota, and Pennsylvania. "New groups like the restoration projects are focused on activating conservative evangelical pastors as political campaign operatives," according to a statement released prior to the event by Austin-based watchdog group Texas Freedom Network.

White confirmed that the Texas Restoration Project was picking up the tab for the pastors' meals and hotel rooms, a bill likely to run into the thousands of dollars. Rooms at the Arboretum's Renaissance Austin Hotel, for example, were going for $349 plus tax on the night of the shindig. Numerous pastors were spending the night at that hotel, and others were being bussed in from six hotels in the upscale Arboretum area. The pastors wore suits and ties. Their wives were more flamboyantly dressed, carrying small handbags and wearing long chiffon skirts. The Rev. White declined to say who was funding the Restoration Project. "They're donors who believe the Christian point of view is an important part of the political dialogue and important for our country," he said.

Past supporters of the project have included Lonnie "Bo" Pilgrim, the wealthy East Texas chicken rancher, and San Antonio's James Leininger, the hospital-bed magnate and school-voucher zealot.

Shackelford, contacted the day after the event, said the speeches weren't overly political. Dewhurst spoke about some of the measures he would like the Legislature to take up this session, including a bill that would require every public school employee to submit to a criminal background check. Perry, the sole gubernatorial candidate to speak at the six other project events in 2005, thanked the pastors for their support, emphasized the importance of standing up for what's right, and asked the group to pray for him. Perry often asks people to pray for him when he talks to religious organizations.

The governor has been a great friend to conservative Christians, said the Rev. White. "Perry has been a steadfast supporter of pro-life and pro-family values," he said.

In his inaugural speech the next day, Perry referred to the prophet Isaiah, mentioned Saint Paul, reflected on the Good Samaritan, and talked of forgiveness, redemption, grace, and God. "There is nothing so powerful as the testimony of a changed life and a redeemed soul," he said. "Without forgiveness and compassion, there can be no redemption. And where would sinners like me be if there weren't?"

Where indeed?

SOTTO VOCE SPEAKER PACS The recent Texas House speaker election turned on procedural matters of if, how, and when its members' votes would be disclosed. This prompted speechifying over what kind of disclosure would best honor the Alamo martyrs or hew closest to scriptures in Genesis. Left unsaid was that Texas' antiquated system for reporting speaker committee finances may blaspheme both Davy Crockett *and* Yahweh.

As a result of recent reforms, candidates for state office are required to provide detailed disclosures of their campaign finances. Yet the special disclosures made by candidates to be speaker—one of the state's most powerful offices—are vastly inferior. Like most state politicians, speaker candidates file disclosures with the Texas Ethics Commission in an electronic format that is easy to publish on the Internet. Indeed, the Ethics Commission posts these reports on its Web site—except for speaker filings. The commission relegates those reports to paper files in Austin that are difficult for out-of-towners to access. An Ethics Commission attorney said state law requires the agency to post regular campaign data on the Internet, but not those of speaker committees. The agency lacks resources to go beyond its legal mandates, the attorney said.

Yet the agency also appears to be

deferential to the speaker. Speaker Tom Craddick's daughter wrote commission General Counsel Natalia Ashley on July 5, 2005, saying, "I sent the Speaker's ethics report on Friday but did not get a reply from you. I don't know if you are out of the office or did not receive it," Christi Craddick wrote, "so I am sending it again." The commission's top lawyer then wrote to the agency's disclosure filing director, saying, "Here is Speaker Craddick's report that was due July 1. Christi says that she e-mailed it by the deadline so please make that the date filed." Such accommodation suggests that if the speaker wanted his filings on the Internet, the agency would take the modest steps required to put them there.

Even if speaker filings were put on the Internet, they still would be inferior to ordinary state campaign disclosures. Whenever a speaker committee spends more than $10, it must disclose the recipient and purpose of the expenditure—but not the amount spent. Early this year, for example, Craddick's speaker committee reported paying a "travel" reimbursement to a company in Austin called D Consulting, LLC. Craddick did not report the value, date, or destination of the trip. Moreover, what he did report obfuscated the fact that D Consulting actually is a California-based concern of big developer John Sardino. Sardino maintains airplanes to watch over his far-flung projects—including those he has built in Central Texas with local partner Haythem Dawlett. Mega-developer Dawlett did not return a call from the *Observer* to explain why his company paid for travel for Speaker Craddick.

While speaker committees are required to report the amounts of the contributions that they receive, they do not report the employers or occupations of large donors—as other campaigns must. Speaker committees also are exempt from the usual obligation to report the amount of unspent cash they have left on hand. This requirement would make the reports more transparent. Craddick's speaker committee—which has not reported any contributions in the last couple years—apparently has been spending funds it received around the time of Craddick's 2003 speaker election. It is not clear how much remains in this war chest.

The real power behind the speaker's throne, however, is another Christi Craddick-tied PAC called Stars Over Texas. It spent more than $1 million during the 2006 cycle supporting Craddick's allies in the House. After Craddick himself, the largest *legislative* donor to this PAC was Rep. Jim Pitts, a Waxahachie Republican and the former Craddick lieutenant who recently made a last-minute bid to oust his old patron as speaker. Pitts gave $15,110 to Craddick's Stars Over Texas in mid-2006.

Pitts' contribution to his future rival was three times larger than all the contributions collectively received over the past two years by the official speaker committees formed by Reps. Craddick; Pitts; James McCall, a Plano Republican; and Senfronia Thompson, a Houston Democrat. His mutiny failed, Pitts now appears to lack even the clout needed to secure a refund of this misguided contribution.

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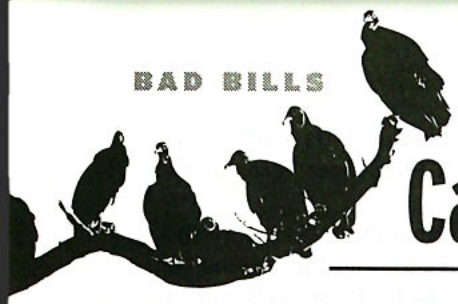


Carrion Wayward Legislators

SEX AND THE PHARMACIST

House Bill 23

Rep. Frank Corte Jr. (R-San Antonio)

Like cranes flying back to Port Aransas or bluebonnets blooming in spring, you can count on fresh pro-life bills from Rep. Frank Corte with each new session of the Legislature. He's right on time with this year's offering, House Bill 23, which, as it targets emergency contraception, would put words like "sperm," "womb," and "huevo" on the walls of every pharmacy in Texas.

The bill, a proposed addition to the state Health and Safety Code, marks a return to the pharmacy for Corte. Two years ago he pushed to let pharmacists refuse to fill abortion-related prescriptions on moral grounds. Corte was forced to withdraw his 2005 bill because of language that confused emergency contraception with abortion procedures.

HB 23 would provide a warning to women seeking over-the-counter, emergency contraception like Plan B, the "morning-after pill," informing them that the medication will, in all likelihood, keep them from becoming pregnant. One way the drug could do this is by preventing an already fertilized egg from implanting in the womb—a possible concern if you believe life begins at the moment of fertilization.

To help get out the message—if you're looking to get pregnant, this isn't the pill for you!—HB 23 requires pharmacists to read aloud a 68-word warning before selling the drug. To be sure it sinks in, they must also include a written copy of the warning with the medication, and—because really, who reads those little labels on the pill bottles anyway?—post a 2-foot-wide sign beside the cash register with the same message printed in English and Spanish.

The warning, which is included in the text of Corte's bill, makes clear what's at stake by beginning, "If you believe that life begins at fertilization ..." and then describes the fertilization process—"the point at which the sperm and egg unite." The warning details how the contraceptive pill may either "prevent the egg and sperm from uniting or prevent the implantation of your already fertilized egg in your womb."

"I'm surprised it doesn't come with a requirement for graphics, too," says Sarah Wheat, public affairs director for Planned Parenthood of the Texas Capital Region. "I'm just not sure if the pharmacy counter is an appropriate place for Texans to get sex-ed lessons." She adds that all pharmacy customers would be treated to the description of fertilization—and a particular opinion about when life begins—even if they're just picking up antibiotics or chewable kids' vitamins.

Plan B, a concentrated form of the same hormones in regular birth control pills, was approved for over-the-counter sale in August 2006 after a long internal battle at the Food and Drug Administration. The approval makes it easier for women to get the drug within the recommended window of 72 hours after having unprotected sex. According to Wheat, HB 23 specifically targets Plan B in response to the FDA move. This time there's no specific mention of abortion in Corte's bill, and the contentious abortion pill RU-486 is not included as "emergency contraception."

Corte policy adviser Kathi Seay characterizes HB 23 as simply the latest in the longtime House member's ongoing charge to "keep women informed"—in the tradition of Corte's 2005 "informed consent" bill requiring doctors to list breast cancer among potential health risks connected to abortion. Opponents say the breast cancer-abortion link was bad information based on outdated research, selectively included for dramatic effect—in much the same way HB 23 highlights one particular belief about the beginning of life.

"I can't see why anyone would be opposed to information," Seay says of the new bill, adding that there are plenty of other instances where warning signs are posted. "It's not unprecedented," she says. "There are warning signs for drinking alcohol, smoking tobacco, or sniffing paint."

HB 23, however, would force pharmacists to warn women of a potential risk to their consciences or their souls, not their health. By prescribing the exact words pharmacists should use with customers, HB 23 goes even further than Corte's 2005 "informed consent" bill in putting contentious words in the mouths of health care professionals. And while buying emergency contraception is now a relatively quick, discreet process, HB 23 would treat anyone waiting in a pharmacy line to a performance of the Plan B speech, including—just so you know—the possibility that "life begins at fertilization." But as Seay says, "It's just information."

KEEP 'EM DOWN ON THE FARM

House Bill 141

Rep. Jim Jackson (R-Dallas)

Rep. Jim Jackson has identified a true scourge among undocumented immigrants: kids who want to go to college. He has filed a bill to ensure impossibly high tuition rates for those pesky, highly motivated immigrants who dare to set their sights on something beyond bussing your table or mowing your lawn.

House Bill 141 is one of four house bills this session that would rescind a law passed in 2001 allowing immigrant children in Texas to pay the lower, in-state tuition rates at public universities.

"I don't think people who are here illegally should receive benefits," Jackson said. "If they're not here legally, they just ain't legal."

Gov. Rick Perry, who signed HB 1403, the original legislation granting in-state tuition, has said he will oppose any effort to repeal it. The bill was passed unanimously in the Senate and with one dissenting vote in the House in 2001.

Now, to be eligible for in-state tuition undocumented students must have graduated from high school in Texas and lived in the state for three years, and they are required to sign an affidavit promising to file an application for permanent residence. According to the Texas Higher Education Coordinating Board, in fall 2005 approximately 5,000 foreign students were paying in-state tuition rates, less than half of 1 percent of total enrollment.

Rep. Rick Noriega, the Houston Democrat who authored HB 1403, said the law began as a dropout prevention effort. "Can you imagine ... us telling kids in high school that college is not attainable for financial purposes, or because of immigration status? What would that do to the dropout rate when you take away a generation's hope?" he asked.

Previously these students had to pay higher out-of-state tuition rates, largely barring them from attending college. Mirla, who asked that her last name not be published because she is an undocumented immigrant, recently graduated from the University of Texas in Austin. Before she knew about HB 1403, she wasn't planning to attend college, despite being valedictorian of her high school class.

Ana Yañez-Correa, executive director of the Texas Criminal Justice Coalition, said the law makes economic sense because these students become an asset rather than a burden on the state. After Texas adopted the law, 10 states passed similar legislation.

Jackson doesn't buy the argument: "How do you justify that with the claim that the reason we have to have undocumented immigrants is to do jobs that people here won't take, and then you give them an education?"

Jackson said that performing jobs Americans won't do also doesn't justify the presence of undocumented immigrants.

A report released by the Texas Comptroller last December concluded that the approximately 1.5 million undocumented immigrants in Texas contribute more to the economy in taxes and other revenue than the state spends on them. "I believe in that report about like I believe in anything [former Comptroller] Carole Keeton Strayhorn says," Jackson said.

Jackson shouldn't worry. The inspired undocumented immigrant who somehow manages to make it to college still faces often-insurmountable challenges. Mirla, for example, could not get a driver's license or a bank account, and had to take a semester off for lack of funds. Now that she has graduated, Mirla can't work here.

While advocates for undocumented college students try to preserve and expand Texas law, a federal version has languished in Congress since 2003. The Development, Relief, and Education for Alien Minors Act, or DREAM Act, would allow many undocumented students who attend high school in the U.S. to qualify for permanent residence, provided they attend college, join the military, or work in a federally funded community-service program. So far, the act hasn't been reintroduced in the new Congress that began work this month. ■

Like swallows to Capistrano, like hummingbirds to nectar, Observer *staffers are drawn every two years to the Capitol. But we're more like vultures, ready to feast on the rotting flesh of truly bad or absurd legislation. If you can direct us to a bad bill, stupid bill, funny bill or bill that's just plain unconstitutional, e-mail us at editors@texasobserver.org.*

FEATURE

Low-hanging Fruit

Texas faces obvious problems that the 80th Lege could easily fix. It probably won't.

BY DAVID PASZTOR

On the frigid day in Texas that Rick Perry was sworn in for the term that will make him our longest-serving governor, one in five Texas children did not have health insurance. By the best estimate available, Texas public school districts needed nearly $10 billion to repair or replace decaying buildings. Texas power plants, factories, and cars continued to pump out more greenhouse gases than any other state, or most countries, for that matter.

David Dewhurst took his second oath as lieutenant governor, vowing to enact a death penalty for repeat sex offenders. At that moment, state prisons were already overflowing, including tens of thousands of mentally ill inmates who have received little in the way of treatment before or after landing in jail. In fact, the state of Texas is now trying to convince the U.S. Supreme Court that one of them—a diagnosed schizophrenic who represented himself at trial wearing a cowboy costume—is just sane enough to be executed.

Tom Craddick won his third term as House speaker after fighting back an insurgent challenge to his leadership fueled in part by growing disgust over the undue influence of rich campaign contributors, whose largesse has been rewarded with limits on lawsuits and protections for homebuilders. The flow of money continues to course unchecked through Texas politics.

While the strong have fared well under the leadership of these three men—and the Republican majorities in the House and Senate—the weak have not. State highways are being handed over to multinational corporations to run as profit-making toll roads, but there is not enough money to patch schoolhouse roofs or help battered women hire lawyers when they need protective orders. Many poor Texans who qualify for food stamps and other aid funded by the federal government still don't get help, because Texas can't or won't deliver the federal dollars.

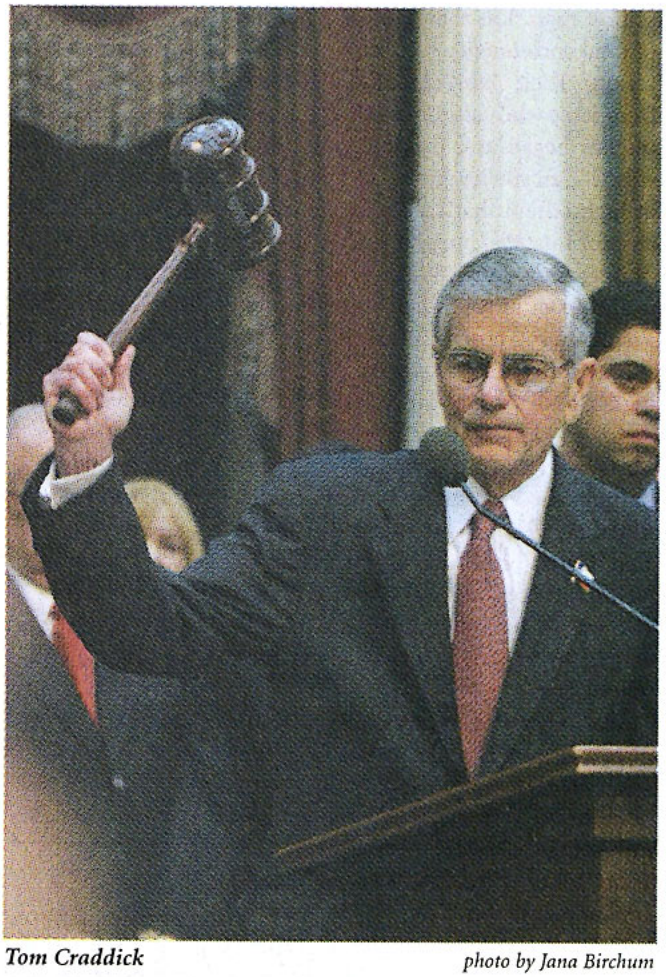
There is, in short, no lack of obvious, substantive problems in Texas that could be fixed.

And for now there is little chance they will be.

The following examples are by no means exhaustive. They'd make good starting points if the state's leadership is truly intent on accomplishing something worthwhile this legislative session. While Texas froze over, hell probably won't.

LIVE AND LET DIE

The health-care model Texas has created is harsh, yet simple: If you have money, you can access some of the best medical treatment in the world. If you're poor, well, good luck. It's widely accepted that people with health insurance lead healthier lives. Yet one in four Texans has no health coverage—by far the highest rate in the nation (the national average is 16 percent). More than 1.4 million Texas children (20 percent) are uninsured, according to the U.S. Census Bureau, also worst in the nation.



Tom Craddick *photo by Jana Birchum*

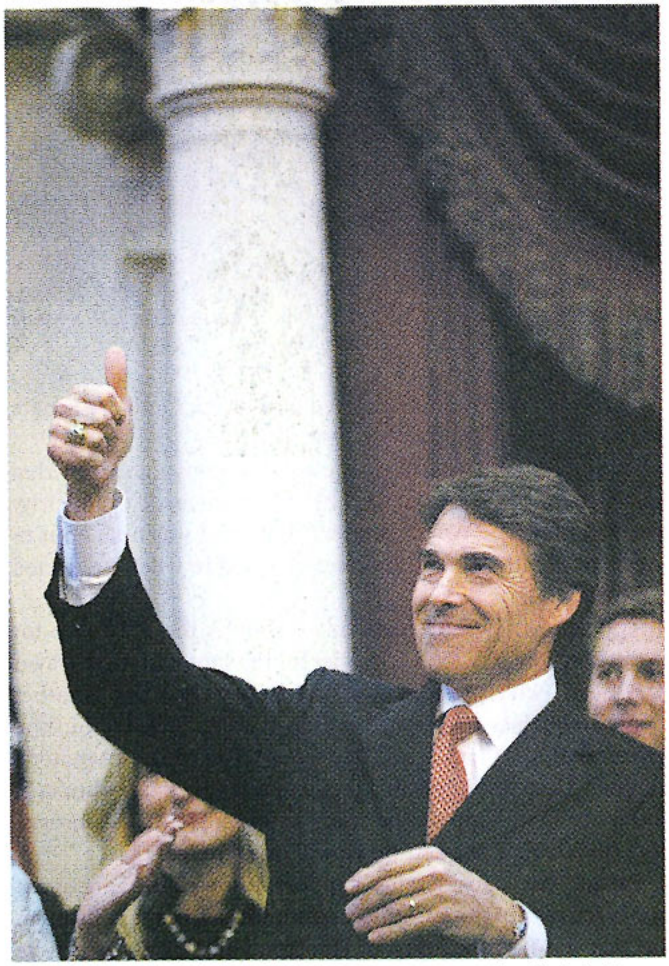
Despite these dreadful numbers, Texas lawmakers have shrunk the state's public-assistance programs in recent years. Nearly 80,000 of Texas' poorest children have been kicked off Medicaid since 2003. Another 180,000 kids have lost coverage under the Children's Health Insurance Program since September 2003. The drops in enrollment were due mostly to bureaucratic roadblocks cynically designed by the Legislature to winnow poor Texans off Medicaid and CHIP. For example,

new rules forced families to re-enroll every six months instead of annually, imposed a 90-day waiting period before benefits kick in, and tightened eligibility requirements.

For those with mental illnesses—which can be just as debilitating as physical ones—the situation is no better. Families with money can find good mental-health treatment. Those who rely on the public system have trouble. Texas ranks 47th in per capita spending on mental health care. State officials estimate that public mental-health clinics treat only one-third of Texans with severe mental illness. That leaves hundreds of thousands to fend for themselves; many end up in prison, some even on death row.

(The U.S. Supreme Court has just agreed to hear an appeal from condemned inmate Scott Panetti, who believes the devil is trying to kill him and that evil forces poisoned his mother's breast milk. Panetti was allowed to defend himself at trial, and the question now is whether a man who has been hospitalized 14 times during his life for schizophrenia and other mental problems is sane enough to understand why he is being executed.)

The state's miserly approach to health-care spending may save money in the short term, but cost more in the long run. Children and adults without health insurance lead sickly lives and are less productive economically. When they get sick, they go to public emergency rooms—the single most expensive place to receive care. That goes on the public tab. The government also pays a higher bill to incarcerate the mentally ill for long periods.



Gov. Rick Perry *photo by Jody Horton*

The Legislature could mitigate some of these problems immediately. For instance, roughly 60 percent of Texas' uninsured children (919,000) are eligible for some government assistance, and could be enrolled in either Medicaid or CHIP immediately, according to the Center for Public Policy Priorities, an Austin think tank. To cover these kids, the Legislature would have to increase funding for both programs. Lawmakers also would have to undo the cuts from 2003—restore 12-month eligibility, for example—so more families could easily enroll and remain in the programs. It also wouldn't hurt to expand Medicaid and CHIP coverage; many of Texas' benefits—such as coverage for the elderly and disabled—satisfy only the bare minimums under federal law. Finally, lawmakers could end their obsession with privatizing the social safety net, particularly the ill-fated attempt to allow a private company—instead of state workers—to enroll applicants in social programs. In its problem-plagued pilot program, Accenture, the company awarded the contract, has made a mess of the process, including denying benefits to some eligible applicants. Democrats and some Republicans tried to pass many of these measures last session and surely will try again in 2007.

On the mental-health side, the legislative solution is rather straightforward: more money. A substantial increase in funding for mental health care isn't just the humane thing to do, it makes economic sense. Those who receive treatment for mental illness might well stay out of prison and become productive workers in steady jobs. The Lege also could provide more support for jail diversion programs, which send nonviolent offenders with mental illness to treatment programs instead of the state pen.

Expanding the welfare state apparently doesn't jibe with the current ruling ideology in Texas, even though saving money—if not lives—would seem compatible with a conservative agenda.

SCHOOLHOUSE CROCK

State District Judge John Dietz ruled the state's system of financing public schools unconstitutional in 2004, triggering two years of posturing and mudfights as lawmakers tried to figure out how to simultaneously lower property taxes and properly fund education.

The remedy lawmakers finally adopted during a 2006 special session did little to directly address one of the problems Dietz found: Schools across Texas, especially in poorer districts, are literally falling down.

Precise numbers are hard to come by because, as Dietz noted, the state doesn't do a very good job of tracking how much money school districts need to fix up their facilities. In 1996, the U.S. General Accounting Office estimated that about one-quarter of Texas schools had inadequate heating,

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FEATURE

Fledglings

They're newly elected. They're still chirpy. Which freshman lawmakers will take wing?

The 80th Texas Legislature may well turn out to be the session of the freshman. In the Senate, it didn't take more than a day for newcomer Dan Patrick, a Houston Republican and conservative radio firebrand, to make his presence known by taking the first of what will likely be many losing stands. Yet Patrick's antics obscured the arrival of several other Senate freshmen notable for their considerable experience in politics and the legislative process. Not least among them is Austin's own Kirk Watson.

In the House, the 2006 elections narrowed the Republican advantage by five seats making it 81 to 69, ushering in a crop of new Democrats and Republicans who are by and large non-ideological centrists. Their presence should have a moderating influence on the chamber as a whole. Democrats will be looking to build on their electoral gains by forcing Republicans into tough votes. Meanwhile, Republicans will likely be looking to trip up the new representatives who hold seats in swing districts the GOP lost, trying to blunt the Democratic momentum.— **Editors**

WHO'S LISTENING?

Sen. Dan Patrick (R-Houston)

The Texas Senate is a genteel place, a chamber that favors compromise over confrontation and cordiality over partisanship. Senators usually keep the nastiest fights behind closed doors. So the addition of Dan Patrick, the opinionated conservative talk-radio host from Houston, is like adding a rabid pit bull to the Westminster Kennel Club Dog Show. It might not be pretty, but you can't avert your eyes.

Patrick, 50, fancies himself a modern-day Jeff Smith, the Jimmy Stewart character from the 1939 Frank Capra film, *Mr. Smith Goes to Washington*. He is the man who stands on conviction in an unprincipled town. Patrick won election—to replace the retired Jon Lindsay—promising to secure the border, lower property taxes, and end the Senate's two-third's rule (the tradition that 21 of the 31 senators must support a bill to bring it up for debate). Freshman senators are traditionally "seen and not heard," as they say in the Capitol. Much like Mr. Smith, though, Patrick vowed he wouldn't stay silent.

On his first day, he didn't disappoint. Not three hours after taking the oath of office, the brash new senator tried to change the upper chamber's rules. He gave an impassioned speech on the Senate floor against renewal of the two-thirds rule. Democrats and moderate Republicans have used the rule in recent sessions to block some of the most controversial elements of the right-wing agenda. Grassroots conservatives in the GOP want to replace the rule with a simple majority vote. In his floor speech, he invoked Texas political icons Bob Bullock and Allan Shivers, and Ronald Reagan, John F. Kennedy, Thomas Jefferson, James Madison, and James Monroe. No other senator agreed with Patrick and the Senate approved the rules by a 30-1 vote.

Dan Patrick *all photos by Jana Birchum*

"Irrespective of what the vote was—I campaigned on that issue, and more importantly, I believe in the issue of majority rule," Patrick said two days after the vote. "I was not about to sit there silently and let the rules be voted in when I objected to them."

The subtext in the Senate this session is the 2010 race for governor. One possible contender for the spot is Lt. Gov. David Dewhurst, who presides over the upper chamber. Another name frequently mentioned is Dan Patrick. Asked about the governorship, Patrick says, "My job is to be the best senator I can be." Then he added, in a possible warning to Dewhurst, "I am more than happy to be ready to support a true conservative [in 2010]. The question is, will one emerge?"

Patrick has considerable support from right-wing grassroots activists in the GOP. He communicates to them through his talk show—now heard in Houston and Dallas—which he plans to continue broadcasting Monday through Thursday

from the basement of a building across the street from the Capitol. Dewhurst gave a clue on how he'll deal with Patrick and his minions this session when he assigned committees. The lieutenant governor took the old proverb, "Idle hands are the devil's workshop," to heart.

He gave Patrick two of the most important and work-intensive committees in the Senate: Education (including the Subcommittee on Higher Education), and Health and Human Services. Patrick also is vice chair of International Relations and Trade, and sits on Intergovernmental Relations and the Subcommittee on Flooding and Evacuations. With those assignments, Patrick will likely be forced to choose soon between Senate responsibilities such as attending hearings and his radio program.

The upstart senator is not finished courting controversy. He has filed an abortion-trigger ban that would outlaw abortion in Texas if the U.S. Supreme Court reverses *Roe v. Wade*. Another bill would impose a fee on money transfers to foreign countries—a plan Patrick hopes will limit the funds illegal immigrants send back to Mexico.

And like his hero Jeff Smith, he also seems eager to filibuster. On the session's first day, Patrick's son and daughter gave him a black hat that resembles the one Jimmy Stewart wore in *Mr. Smith Goes to Washington*. Says Patrick, "If my hat shows up on my desk, people will know it might be time for a filibuster."—*DM*

ELEMENTARY, DEAR WATSON

Kirk Watson (D-Austin)

If a wellspring of urgency or impatience bubbles deep within, his manner does not reveal it.

Great expectations follow Kirk Watson simply because he is Kirk Watson, widely perceived as part of the Democratic Party's government-in-waiting, one of those who will vie for statewide office if and when the political winds shift.

For now, he's Austin's first new state senator in more than two decades, settling into a junior member's office down a long, underground hallway beyond the Senate mail room. "I couldn't be happier than to be where I am," he says. "I've been excited every day."

Watson coasted into office with no serious opposition, as if the city's political waters parted to deliver him his due after 22-year Senate veteran Gonzalo Barrientos decided to relinquish his stranglehold on District 14.

Watson, the 48-year-old attorney and popular former mayor, had the good fortune to lead Austin during the height of the tech boom. He was part of the Democratic dream ticket in 2002, running for attorney general in the party's doomed effort to reclaim something, anything, from the Republicans.

He's affable, reasonably attractive, and has a loquacious presence refined by courtroom arguments and countless banquet speeches. But he's not inclined to talk of higher office now. A cancer survivor—he beat testicular cancer more than 10 years ago—Watson insists he's looking no further than the Senate floor.

"One of the gifts of cancer is that I just don't get focused on what happens long term," he says. "I try to live my life with a short-term focus but a long-term vision."

Indeed, his cancer fight informs much of what Watson says he hopes to accomplish in his new post. "The only reason I'm here is early, effective health care," he says. "Otherwise I'd be dead. One of the things I should be doing is making sure others don't lose their opportunities just because they don't have access to health care. That's a key for me."

Though he has no bills in the hopper yet, Watson says they're coming, on health care, education, and transportation. A freshman can't be too presumptuous, but "I think it's appropriate, freshman or not, to ask 'Are we thinking big enough in Texas?'"

Big's good, but politics is local, and Austin has its own tricky issues—development fights, protecting the Edwards Aquifer, and of late, a growing restiveness over new toll roads that seem to be encircling the city. Watson knows the turf and its traps. "I've been representing this area in one way or another for a decade," he says. "I have found this to be a very thoughtful community."

And he's got his eye on the toll roads. "The policy has been a 'Don't ask, just tell' policy, and we've gotta fix that," he says.—*DP*

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Kirk Watson

The Price of Innocence

BY DAVE MANN

Cameron Todd Willingham professed his innocence to the very end. Belted to a gurney moments before the potassium chloride pumped into his veins and stopped his heart, Willingham told those gathered to witness his February 2004 execution, "The only statement I want to make is that I'm an innocent man—convicted of a crime I did not commit." Willingham had been sentenced to death for starting a 1991 house fire that killed his three daughters in the North Texas town of Corsicana. From the beginning, he had maintained that the fire was accidental. He was convicted mainly on the testimony of a single arson investigator, whose forensic evidence has since been debunked. In Willingham, the state of Texas may well have executed an innocent man.

His execution is exactly the kind of case the Texas Forensic Science Commission is supposed to investigate. The Legislature created the nine-member commission—made up of prosecutors, defense attorneys, forensic science experts, and legal analysts—in 2005 to oversee and investigate the state's troubled forensic crime labs. In the past five years, the Houston police crime lab and several Department of Public Safety labs have produced well-documented failures: tainted and lost evidence, poorly conducted tests, intentionally misleading testimony. The New York City-based Innocence Project, a major proponent of the commission, has uncovered seven cases in which Texas sent innocent men to prison because of faulty forensic evidence. Some have been set free; others, like Willingham, are already dead. Given the many crime lab controversies, Texas legislators saw a need in 2005 for a concept that few states have tried—an independent body that could investigate allegations of misconduct against crime labs and correct poor forensic practices. The bill that created the Forensic Science Commission—sponsored by Sen. Juan "Chuy" Hinojosa, a McAllen Democrat, and Rep. Joe Driver, a Republican from Garland—passed the state House and Senate unanimously. Supporters hoped the commission would free innocent men already in jail and prevent similar injustices in the future.

"The public has to have trust in the criminal justice system, that we're convicting the right people," says Hinojosa. "A lot of the labs have been very sloppy and very negligent. The credibility of the system is at stake."

For nearly two years, however, Texas' highest elected officials have stalled the commission's work. It took Gov. Rick Perry and Lt. Gov. David Dewhurst more than 10 months to appoint their seven commissioners. In the year since, the commission has done no work for a simple reason: It has no money. Both Perry and the legislative leadership have refused to provide the commission the small amount of funding it needs for regular meetings and investigations. The nine commissioners hope the current Legislature will provide a budget. Nearly two years after it was created and three years since Willingham's death, the commission—like the possibly innocent people still in jail—sits and waits.

The commission missed out on funding from the Legislature in 2005 because the bill authorizing the commission passed too late in the session to be included in the two-year state budget. The commission did receive a bit of money from the Texas Legislative Council to convene two meetings in fall 2006. With the Legislature out of session, the Legislative Budget Board—headed by Dewhurst and House Speaker Tom Craddick—has authority to make minor appropriations. But the board hasn't funded the commission. In addition, Perry could have directed minor administrative funding to the commissioners, but hasn't done so.

Some commission supporters privately speculate that Perry, who faced three opponents in November's election, wasn't eager to preside over the first government body in the nation to confirm the modern execution of an innocent man—perhaps even someone executed during his time in office. States have freed numerous wrongly convicted people from death row in recent years, and several media and anti-death penalty groups have uncovered strong evidence that Texas and other states have executed the innocent. But no American governmental body has yet reached that conclusion. The forensic commission may well become the first.

Perry spokesman Ted Royer says the governor supports the commission, but believes that the Legislature is the appropriate entity to provide funding. "The governor certainly wants to see the commission get the funding it needs," Royer says. "That will very likely be addressed this legislative session."

Hinojosa says he doesn't think election politics stalled the commission so much as resistance within the criminal justice system. "When you bring change to a system, it makes people uncomfortable," he says.

Perhaps no criminal justice system has produced more crime lab horror stories than that of Texas. Attorney Barry Sheck of the Innocence Project has called it a "legacy of misconduct and neglect."

"The need for this is obvious," Sheck says. "To me, it's obvious that if you want to protect the innocent and apprehend the guilty, few things in the criminal justice system are more important than crime labs that produce reliable work.

And you can't find out if your crime labs are producing reliable work unless you have an oversight body that can investigate and audit whenever serious negligence or misconduct arises, and we have documented cases where that's happened."

Take the case of Brandon Moon, convicted of a 1987 rape in El Paso. The victim had mistakenly identified Moon as her attacker. But the conclusive evidence that sent Moon to prison came from the DPS crime lab in Lubbock. DNA testing was in its infancy at the time, and tests on a semen sample recovered from the crime scene proved inconclusive. However, lab testing did show that the semen had come from a so-called non-secreter—someone whose blood type doesn't show up in bodily fluids such as semen and saliva. Since Moon is a non-secreter, a DPS lab analyst assumed he must be the culprit. The DPS lab overlooked the fact that the victim and her husband were also non-secreters, details that could have exonerated Moon, but never came to light in his trial. A 2002 DNA test showed Moon wasn't the attacker, but not before he spent 17 years in prison for a crime he didn't commit. As Sheck points out, the DPS lab technician who botched the Moon case worked at the Lubbock lab for another four years. No one has examined the many other cases he handled, though Sheck requested last April that the forensic commission do so if it ever gets funding.

Then there's George Rodriguez—a Houston man wrongly convicted of rape because the Houston police crime lab botched an analysis of semen and a hair found at the scene. Rodriguez spent 17 years in jail before DNA testing at the request of the Innocence Project freed him. Meanwhile, the man who actually committed the rape remained free and attacked several more women, including an assault of his mother's housekeeper, who was five-months pregnant.

The Houston lab has also experienced problems with ballistics testing. Then there are the more than 8,000 missing pieces of forensic evidence from the Houston lab found lying untested in cardboard boxes in a warehouse. Supporters believe the forensic commission must examine many of these issues. But perhaps no area of forensic science in Texas needs more urgent attention than arson cases.

Judy Cavnar, holds a picture of her cousin, Cameron Todd Willingham.
photo by Harry Cabluck, AP Photo

The science of detecting arson has undergone a recent revolution. For years, arson investigations weren't particularly scientific. Fire investigators operated under a set of assumptions, inherited knowledge from their predecessors, about how to sift through the detritus of a burned building and determine an accidental fire from one that was started intentionally. In the last 15 years, a new generation of arson experts has methodically debunked most of the old assumptions. For instance, investigators once thought the presence of accelerants such as gasoline caused arson fires to burn much hotter than accidental blazes. Recent experiments have shown that accidental fires can burn just as hot or hotter.

Similarly, it was once thought that a distinctive pattern of cracks in windows—known as crazed glass—was evidence of arson. Investigators believed that the extreme heat of an arson fire caused crazed glass. The presence of crazed glass in Cameron Todd Willingham's house was one of the key pieces of evidence that led to his conviction. Willingham testified that in December 1991, he had taken a nap and woke up to find the house on fire. He escaped, but couldn't save his daughters, the oldest of whom was 2. At Willingham's trial, a deputy state fire marshal testified that he found several forensic indicators of arson, chief among them crazed glass. In fact, recent research has shown that crazed glass also is caused by the temperature change when cold water from fire hoses hits flame-heated windows. Arson experts now say that crazed glass can indeed occur in accidental fires.

Crazed glass and other dubious arson evidence also sent Ernest Ray Willis to death row for killing two women in a 1986 fire in West Texas. In late 2004, after 17 years in prison, Willis was released after arson experts refuted the evidence against him. Given the similarity between the cases, Willis' exoneration raises disturbing, unresolved questions about Willingham's death. To this day, Texas officials maintain that Willingham was guilty.

So last year the Innocence Project commissioned the nation's five leading arson experts to examine the Willis and Willingham cases. Their subsequent report, released in May 2006, concludes that neither fire was the result of arson and that Willingham was wrongfully executed. Sheck sent a copy of the report to the forensic commission with a letter requesting an investigation into arson convictions in Texas. "Willis can-

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Enough is Enough

Stop it. Now.

The purpose of this old-fashioned newspaper crusade to stop the war is not to make George W. Bush look like the dumbest president ever. People have done dumber things. What were they thinking when they bought into the Bay of Pigs fiasco? How dumb was the Suez war? How massively stupid was the entire war in Vietnam? Even at that, the challenge with this misbegotten adventure is that WE simply cannot let it continue.

It is not a matter of whether we are losing or will lose. We have lost. Gen. John P. Abizaid, until recently the senior commander in the Middle East, insists that the answer to our problems there is not military. "You have to internationalize the problem. You have to attack it diplomatically, geostrategically," he says.

His assessment is supported by Gen. George W. Casey Jr., the senior American commander in Iraq, and the Joint Chiefs of Staff, who recommend sending more forces only if there is a clear definition of their goals.

Bush's call for a "surge" also goes against the Iraq Study Group. Talk is that the White House has planned to do anything *but* what the group suggested after months of investigation based on much broader strategic implications.

About the only politician out there besides Bush calling for a surge is Sen. John McCain. In a recent opinion piece, he wrote: "The presence of additional coalition forces would allow the Iraqi government to do what it cannot accomplish today on its own-impose its rule throughout the country ... By surging troops and bringing security to Baghdad and other areas, we will give the Iraqis the best possible chance to succeed." With all due respect to the senator from Arizona, that ship has long since sailed.

A surge is not acceptable to the people in this country—we have voted overwhelmingly against this war at the polls and in the polls. (About 80 percent of the public is against escalation, and a recent *Military Times* poll shows only 38 percent of active military want more troops sent.) We know this is wrong. The people understand, the people have the right to make this decision, and the people have the obligation to make sure our will is implemented.

We are the people who run this country. We are the deciders. And every single day, every single one of us needs to step outside and take some action to help stop this war.

Congress must work for the people in the resolution of this fiasco. Sen. Ted Kennedy's proposal to control the money and tighten oversight is a welcome first step. If Republicans want to continue to rubber-stamp this administration's idiotic "plans" and go against the will of the people, they should be thrown out as soon as possible, to join their recently departed colleagues.

Anyone who wants to talk knowledgeably about our Iraq misadventure should pick up Rajiv Chandrasekaran's *Imperial Life in the Emerald City: Inside Iraq's Green Zone*. It's like reading a horror novel. You just want to put your face down and moan: How could we have let this happen? How could we have been so stupid?

As *The Washington Post's* review notes, Chandrasekaran's book "methodically documents the baffling ineptitude that dominated U.S. attempts to influence Iraq's fiendish politics, rebuild the electrical grid, privatize the economy, run the oil industry, recruit expert staff or instill a modicum of normalcy to the lives of Iraqis."

We are the people who run this country. We are the deciders. And every single day, every single one of us needs to step outside and take some action to help stop this war. Raise hell. Think of something to make the ridiculous look ridiculous. Make our troops know we're for them and trying to get them out of there. Hit the streets to protest Bush's proposed surge. If you can, go to the peace march in Washington on Jan. 27. We need people in the streets, banging pots and pans and demanding, "Stop it, now!" ■

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Surreal World

Apparently George W. thinks that surreal is a small nation in South America.

Surely, if the president and his handlers had any grasp of the concept, they would not have used the White House Indian Treaty Room to talk about the anti-immigrant bill to erect a 700-mile long wall on our Mexican border. Of all places, the Bushites chose a reminder that we Euro-Americans actually were the first illegal immigrants, some 500 years ago.

And this is not even the most surreal incident involving the volatile immigration issue. That honor would have to go to the explosion of xenophobic nuttiness that came from Republican Congress-critter Virgil Goode of Virginia. He went bonkers when Keith Ellison, the first Muslim elected to Congress, said he would use the Quran rather than a Bible for his ceremonial swearing-in.

Goode seems to be blissfully unaware that our Constitution protects the religious preferences of all people and that Ellison, being Muslim, would rather naturally reach for the holy book of his own faith. In his bliss, Goode not only denigrated Ellison for being ... well, Muslim ... He also warned maniacally that, "We will have many more Muslims in the United States if we do not adopt strict immigration policies."

For the record, Ellison is not an immigrant—he traces his American roots back to 1742.

Another surreal moment was presented to us by Dennis Prager, a right-wing radio talk-show blatherer who demanded that Ellison be barred from Congress if he did not conform to the Christian standard and take his oath on the Bible. This burst of religious intolerance came from a guy appointed by Bush to (of all things) the board of the U. S. Holocaust Memorial-a museum dedicated to reminding Americans that ethnic, religious, and racial bigotry is horrifically dangerous.

If ignorance is bliss, Bush, Goode, and Prager must be ecstatic.

SHOES AND OYSTERS In December, during the frantic final hours of a "Do Nothing Congress" the majority finally rose up and did something.

Unfortunately, what it did was despicable. In the dark of that final night, the Republican leadership snuck through 529 special-interest "tariff suspensions" for assorted corporations. Tariffs were cut or eliminated on everything from imported shoes to boiled oysters. That means you and I now have to make up for the loss of this tariff income with our taxes. Of course, it also means that products made abroad get a tax-free advantage over products made here at home.

This giveaway was done in a manner that would make cat burglars blush. First, the products getting special treatment were not named in the bill. They were identified only by numerical codes keyed to arcane tariff tables contained in volumes the size of phone books.

Second, the corporations that will pocket tens-of-millions of dollars in tax savings also were not named, nor were the Congress-critters who snuck the suspensions into law.

Third, congressional guidelines say that no single tariff suspension is supposed to cost the public treasury more than $500,000 in revenue. Lawmakers and lobbyists (bless their larcenous hearts) simply inserted multiple suspensions aimed at a single corporation's product, giving millions of dollars in breaks to that importer.

But there's more! When the full Congress finally voted on the tariff suspensions, which had been larded into a massive bill, it had to vote on all of them as a block, without being able to pick and choose and without knowing specifically what they were voting to do.

We know what they did. The Congress that failed again and again to pass bills needed by the people went out of its way to help its special friends, and did so in secret.

CORPORATE ROYALTY In December, when children all across the country had dreams of sugarplums dancing in their heads, the barons of Wall Street were having much richer dreams—and all of theirs came true.

The top dogs at the big banking houses gorged themselves on record payouts that have taken greed to new heights of obscenity. The honcho of Goldman Sachs, for example, grabbed a bonus of $53 million—the highest ever taken. And he's only been CEO since June, so that's for half a year's work.

Likewise, Morgan Stanley's chief ended the year with a sweet bonus of $41 million, while Lehman Brothers' top executive got only $11 million—but he'll also receive $189 million in stock grants over the next 10 years. Bear in mind that these lavish awards are in addition to their regular salaries, platinum-level health-care packages, rich pension plans, and all sorts of kingly perks.

Ah, yes, say the corporate royalists, such extravagant wealth is richly deserved, for it's the reward for "taking risks" in our system of corporate capitalism. If it's "risk" that our economy is to celebrate, then why not hail drug kingpins as pillars of our society? Besides, these brokers are not risking their own money in their firms' speculative ventures, but the assets of shareholders and clients. When their ventures turn sour, as often happens, they don't have to pay out of pocket. In fact, many are paid bonuses anyway. ■

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Wall Street's Pound of Bush Flesh

Much as Enron Corp. once used the likes of George W. Bush to deregulate energy markets, Wall Street is leveraging chits amassed as the premier financier of Bush's re-election campaign to try to roll back post-Enron market reforms. Leading the charge is new Treasury Secretary Henry Paulson. As head of New York-based investment bank Goldman Sachs in 2004, Paulson served as an elite Bush fundraiser along with George Herbert Walker IV—the presidential cousin then running Goldman's hedge fund division. Media reports about Paulson's nomination last June made much of how hard White House Chief of Staff Josh Bolten—Goldman's ex-director of legal and government affairs—had to woo a "reluctant" Paulson to the post. To land this fish, the *Wall Street Journal* reported, Bolten "promised him more clout in domestic and international economic policy" than his predecessors wielded.

Clues to what Paulson intended to do with this influence soon surfaced. In a Columbia University speech last August, the new cabinet member aired his view that parts of a key post-Enron reform should be repealed. When Congress passed the so-called Sarbanes-Oxley, or "Sarbox," reform in 2002 as its response to scandals involving Enron, WorldCom Inc., and Tyco International Ltd., just three members opposed it. The nays included "Dr. No," lonely Lone Star Rep. Ron Paul.

The month after Paulson advocated eviscerating some Sarbox reforms, an elite group of corporate and financial leaders announced it was forming the Committee on Capital Markets Regulation to recommend ways to improve U.S. capital markets. What set this newborn group apart was that it came into the world with the explicit blessing of a sitting U.S. Treasury secretary. "This issue is important to the future of the American economy and a priority for me," the press release announcing the group's formation quoted the secretary as saying. "I look forward to reviewing their findings and ideas."

Soon after a Thanksgiving celebration of what was turning out to be a bullish year on Wall Street, the committee published an "Interim Report" that fleshed out Secretary Paulson's agenda. Despite the stock market's banner year, the report warned that U.S. capital markets are failing to cope with unprecedented global competition. It blamed this dire situation on the "excessive regulation" and "unwarranted litigation" that followed "several high-profile corporate scandals and abuses." It identified Sarbox as a major culprit. The Wall Street elite's report fixated on provisions requiring corporate managers and auditors to formally vouch for a company's lawfulness and financial reports. The report said these honesty pledges are too costly and make auditing firms "virtually uninsurable." Alluding to Enron's late auditing firm Arthur Andersen LLP, the report groused that "improper criminalization of entire companies has sometimes forced them out of business, eliminating thousands of innocent employees' jobs."

The report neglected to mention that the number of companies and jobs that prosecutors have destroyed is negligible when compared with the wreckage inflicted by corporate fraud. Indeed, much of the report is imbued with a narcotic nostalgia for the go-go Enron days, when corporate fraud basked in regulatory indulgence. At that time investor class-action lawsuits were one of the only checks on corporate fraud. Yet the report also concludes that investor class actions must be sharply curtailed to save America's endangered capital markets.

One of the report's most innocuous-sounding findings may be the most telling. "Insufficiently coordinated state and federal enforcement laws and activities have led to state authorities driving matters that are more national in scope," the report found. The state authority that inflicted the most misery on Wall Street was Eliot Spitzer, the New York attorney general whom New Yorkers elected governor in a landslide three weeks before the report's publication.

Although Enron was a huge embarrassment for Wall Street, the Street's real problems began when Spitzer decided to go beyond Enron in pursuing the industry's many conflicts. In 2002, 10 top investment banks agreed to pay a record $1.4 billion to settle Spitzer's charges that they had won lucrative stock-underwriting contracts by pressuring their analysts to publicly hype stocks that they privately scorned. Spitzer next ripped into conflicts at mutual funds and insurance companies—taking on some of the most powerful financial wizards in the world.

Spitzer's jihad came at a pivotal moment. The aftershocks of Enron's 2001 implosion temporarily decimated the Houston-based energy industry that did so much to bankroll Bush's first presidential race. Bush moneymen who had foundered in Houston swamps by 2004 included Enron's Ken Lay, Dynegy Inc.'s Chuck Watson, Reliant Energy Inc.'s Steve Letbetter, El Paso Corp.'s William Wise, and Arthur Andersen's Stephen Goddard. To eke out a second term, Bush needed another flush-yet-needy industry to fill his war chest. As the *Observer* reported three years ago ("Bush's Bounty Hunters," February 13, 2004), financial executives answered this call. While the New York-based finance industry has keen interests in such perennial Bush issues as tax cuts and privatizing Social Security, it had provided limited financial aid for Bush's first White House run. By

the end of the first term, the patriotic fallout from the September 11 terrorist attacks on Manhattan and Spitzer's dogged pursuit of white-collar crime changed Wall Street's political calculus.

One of Spitzer's bitterest enemies is elite Bush fundraiser Maurice "Hank" Greenberg, who was ousted as head of New York-based insurance giant American International Group Inc. while battling Spitzer-induced fraud charges in 2005. Soon after the Interim Report's publication, the media revealed that the report had been financed with $500,000 from the Starr Foundation—a private foundation chaired by Greenberg. Spitzer stuck Greenberg's family on the hot seat in 2004 when he accused insurance broker Marsh & McLennan Cos. Inc.—headed by one of Greenberg's sons—of taking undisclosed kickbacks from insurers to which it awarded corporate insurance contracts. Insurers admitting to such bid-rigging with Marsh & McLennan included AIG and ACE Ltd.—an insurer headed by yet another Greenberg son. The Greenberg money trail suggests that the Interim Report's agenda may not have been solely concerned with saving U.S. capital markets from impending doom. Another of its aims appears to be combating Spitzer and those who would follow his lead.

Early in the 2004 re-election campaign, Bush's then-Securities and Exchange Commission Chair William Donaldson endorsed an industry-backed bill to centralize state securities powers into his hands. But the timing was bad for such a scheme, with memories of corporate abuses fresh and Spitzer unearthing one industry conflict after another. By the 2006 midterm elections, the market value of the financial industry's heavy investment in Bush was plummeting with his approval ratings and the "thumping" that voters gave Republicans at the polls. Three weeks later, Wall Street's elite made its doomsday case that key post-Enron reforms must be revoked to save American markets—a theme that Paulson had struck again days earlier in a speech to the Economic Club of New York. R. Glenn Hubbard, the former head of Bush's Council of Economic Advisers who co-chaired the panel producing this report, pointedly told reporters that federal regulators could implement many of the report's prescriptions without the approval of Congress's new Democratic majority. But it might not be that easy.

Notwithstanding the expanded authority that the White House pledged to Treasury Secretary Paulson, the rollback of post-Enron reforms is likely to be a tough sell for the finance industry in the immediate future. The new Democratic leaders of congressional finance committees have expressed views ranging from caution to scorn about such a rollback. Moreover, Bush's current Securities and Exchange Commission chief, former GOP lawmaker Chris Cox, repeatedly has defended the very Sarbox provisions that Paulson and his cronies want repealed. Whatever the outcome, it is remarkable that Wall Street has sprung from the just-cremated ashes of Ken Lay to demand a rollback of the common-sense regulatory reforms that are supposed to prevent "another Enron." Such a demand would be laughable but for the extraordinary clout that the Street has cultivated within the White House. To a remarkable extent, this industry fostered this clout by following the Enron playbook. Apparently Arthur Andersen, Enron, and Ken Lay did not die in vain. Their legacy thrives among the dealmakers on Wall Street and Pennsylvania Avenue. Meanwhile, Republicans eyeing the 2008 presidential race—including Rudolph Giuliani, John McCain and Mitt Romney—already are scrambling to commandeer the elite Bush fundraisers for their own campaigns. ■

Award-winning Observer *columnist Andrew Wheat is research director of Texans for Public Justice.*

Guarded Language

BY MICHAEL ERARD

It's a couple of days after Mel Gibson's Mayan fantasy *Apocalypto* opened in the United States, and my wife and I are following a young Mayan man, Agosto, through the Yucatán jungle. A tour guide and biologist, he's showing us a group of spider monkeys that live on the Punta Laguna preserve run by his village. It's late afternoon, and while rain clouds gather, Agosto offers to show us around so the other guides can go home. As we walk down the slippery paths, he tells us about the place in a Spanish that's remarkably easy to understand, probably because, as for us, it's his second language; his first language is Yucatec Maya, the language that's notoriously used for what little dialogue there is in Gibson's bloody confection.

Yucatec Maya (or simply "Maya" if you're in the Yucatán) is spoken by a million or so people on the peninsula, in Belize, and in northern Guatemala. As we travel, we notice it everywhere: in the markets, the hotels, even written on the plaques at Mayan ruins along with Spanish and English. (In other parts of Mexico, the signs appear in Tseltal or Nahuatl, other local indigenous languages.) Because we're traveling for nearly a month, I figure wouldn't it be cool to learn some words of Maya, to be able to bust it out while buying fruit or asking directions, not out of necessity—we can do everything we need in Spanish—but because of all the things one encounters as a traveler, language leads to some pure, real connections. Buying something? In my mind, handing over currency always reinforces who's a tourist and who's not, who has money and who doesn't. Simple greetings and politenesses? That's real, but anyone can do it. Kissing? Out of the question—this is my honeymoon.

I ask Agosto the Maya word for monkey; it's something like *maax* (pronounced "maash"). I ask the word for "howler monkey," and he says something else. Which is when I encounter the first of several difficulties in my adventure in Maya: I didn't bring a notebook, and I have a memory like a sieve. Ten feet down the path I've forgotten the word for "howler monkey." And if I did have a notebook, now's not the time to whip it out, as wet limestone ridges and tree roots block the path we take with our eyes to the trees, hoping to see a monkey chuckle across the sky through the branches.

A lot of the *Apocalypto* press describes Yucatec Maya as an "ancient" language, which isn't accurate. Though it's a descendant of the Classic Mayan spoken by the inhabitants of the empires whose ruins we admire, it's a very contemporary language, beset by all the problems faced by indigenous languages in Mexico and elsewhere in the world: Young people opt to speak the dominant language; the government doesn't support indigenous-language education; the indigenous language carries a stigma. This is the next set of obstacles I encounter in my Mayan learning plan: It's not a language that native Mayan speakers seem to be happy to have outsiders speaking.

At one museum bookstore, I found *Maya For Travelers and Students*, a remarkable book published in 1995 by the University of Texas Press and written by linguist Gary Bevington. When he describes how to learn Maya—not in classrooms, but in the field, where everyone's a teacher and no one will cut you slack—he knows what he's talking about. He set out over multiple summers (many of them in a camper) to learn Yucatec Maya. The book is a lucid guide to the language itself, its grammar and its sounds, which include some interesting consonants pronounced with a popping sound. Because no Yucatec Maya word has a dominant stress on any syllable, speakers have a fluid, singsongy, swishing quality—it's attractive sounding to my ears, a language you want to hear more of, not less.

Culturally, Maya speakers tend not to go for big, empty promises, Bevington explains, unlike Mexicans or Americans do, so if you want to learn Maya, it's not enough to say, "I'm really interested in the language." You have to show people that you're not just gawking. "Remember," Bevington writes, "that from the native perspective you are an odd thing that dropped from the sky into the middle of their well-ordered and busy world. You are disruptive and confusing because people of your ilk are expected to be remote and generally disdainful of their world."

Even if we were planning to return to Punta Laguna, it turns out that we need much more experience in how invested a person is in his or her indigenousness, and what situations will call it forth. Bevington warns against trying to speak Maya with hotel help at tourist resorts, and "anyone who sees himself or herself as official or important or sophisticated" should always be addressed in Spanish. Because Agosto also speaks English and Italian, and works for an Italian primatologist, we assumed we were dealing with someone Western and metropolitan. Someone like us. A person, that is, who understands that pimping out one's tourism with some words from the language poses no threat.

But Punta Laguna didn't make that so easy. It's also an "alternatour" destination for ecotourists from Tulum and Cancun, who are attracted by monkeys, descriptions of ruins (indeed, there's a small temple on the preserve), and the chance to see and meet real, live Mayas in their houses. One feature of the tour is talking to a Mayan shaman

in the jungle who will, under the sacred ceiba tree, demonstrate traditional rituals. Unlike the ecotourists, we camped in the preserve. Early the next morning, Agosto came to wake us so we could see the monkeys moving. As soon as we popped our heads from the tent, we saw two male howler monkeys swing on branches over the road. He promised more spider monkeys, so we followed him on another trek through the jungle, and under the ceiba tree we bumped into the shaman, a man in his 50s with a deeply creased face, sitting near a fire. He also turned out to be Agosto's father. Agosto introduced us and pointed out the altar, and we talked about the sack of copal, the aromatic tree resin, that he burns for ecotourists.

After we walked away, realizing that we'd just seen a sacred aspect of Maya life tricked out for tourists, I should have just said, in Spanish or English, thanks for introducing us to your father and showing us the altar and the ceiba tree, we're honored by that. Instead, wanting to compensate for having seen a sacred aspect of Maya life, I said in Spanish to Agosto, "I'd like you to teach me how to say in Maya, 'I'm pleased to meet you.'" (Because I should be prepared to meet a shaman in the jungle, right?)

Agosto stopped, turned to me, and quickly rattled off a long string of words, what sounded like 20 or 30 syllables. I lamely repeated a few syllables, left in his verbal dust. He rattled off the string again, just as quickly, then gave the Spanish translation. I shrugged. There was no following what he'd just said, and he wasn't repeating. It occurred to me he might have been annoyed: It was 7 a.m., he's a biologist, not a language teacher, and the question is ill-timed, a distraction. I was still confused, though. We thought we'd been having a genuine interaction with him. But the dark waters of the tourist sphere, in which the real and authentic are performed and sold, lay closer than we thought. People in Punta Laguna charge admission to their houses, so why not to the language, too? Or was the language where they drew the line? Agosto became chilly and left us behind to look for monkeys on his own.

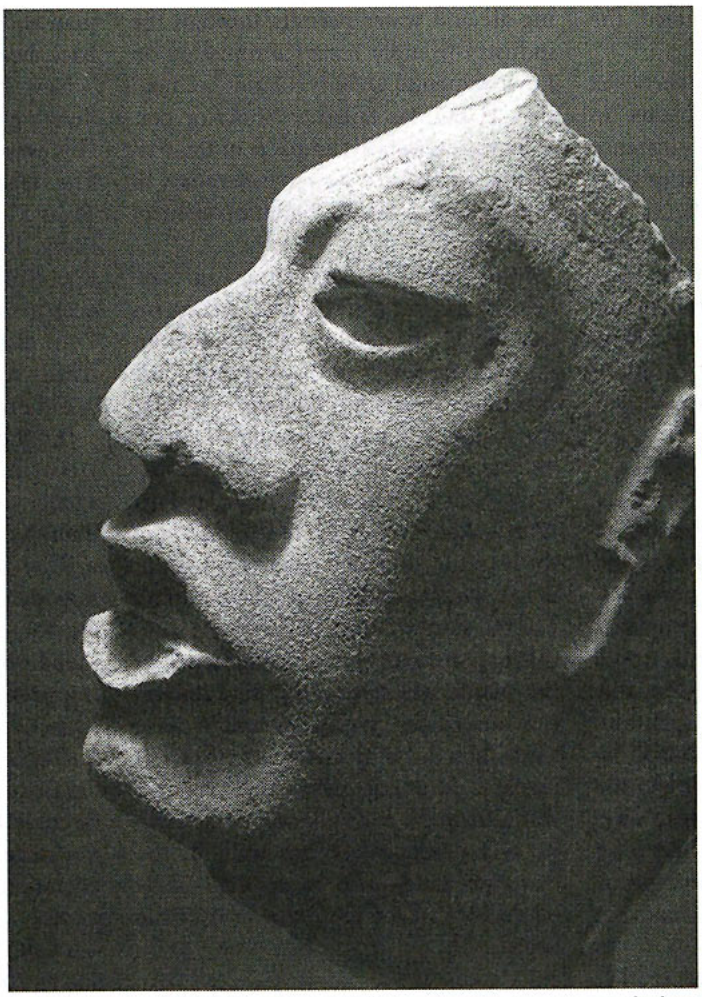

image: iStock Photo

We talked about Agosto for days, puzzling over what we'd encountered, even once we had reached Tulum, a Caribbean coastal city, to spend some time on the beach. I was going to take a few days off from asking about Maya; once we got back on the road, I'd resume. I still listened, and thought I heard someone say something in Maya that could have been "thank you," but I wasn't sure. Later that night, in a group conversation under a darkened *palapa* that served as the lobby of the hotel, the clerk, a young man named Jesús, asks me if I speak Spanish.

Yes, I say, then joke: "Do you?"

"Sort of," he says. "I speak more Maya."

I perk up—this is my chance. "How do you say 'thank you' in Maya?"

He whirls around. "Who are you? Where are you from? Why do you want to know?"

I'm from Texas, I say, and I study languages, and we're traveling in Mexico for a month, so I've been picking up some Maya words. He explains that his grandmother taught him that he should guard his language, because it was a secret. Then he tells a story about his uncle, a farmer, who had found a Maya ceramic that he had to hide: If the government knew he possessed it, they'd take it away.

I'm not a missionary, I say, and I'm not looking to buy artifacts, either. I'm just interested in the language. After he's stated his position and I've stated mine, he says he thinks there are powerful intelligences on the planet that we don't know anything about, and that he believes he is a holy man. He's a little crazy, but the air seems to clear as far as Yucatec Maya is concerned, and a few words dribble out of him. He's sitting with a stray puppy on his lap and offers that the word for "dog" is *peek'*.

"*Peek'*," I say. Where's my notebook? It doesn't matter. Somehow, I think that one will stick.

"Yes, *peek'*," he replies.

Now, I think to myself, we're getting somewhere. ■

Observer *contributing writer Michael Erard lives in Austin and blogs at www.michaelerard.com.*

—Lege, continued from page 9
ventilation, or air conditioning.

A 1998 state Comptroller's report, based on a survey of 614 districts, pegged the cost of repairing Texas schools at about $9.1 billion. In 2000, the National Education Association estimated the figure at more like $9.5 billion.

Districts with the least property tax revenue faced the worst problems. In El Paso's Ysleta district, for instance, 58 percent of the school facilities were "markedly unsatisfactory," Dietz's ruling noted. Problems included major structural flaws, pest and rodent infestations, leaky roofs, and problematic wiring. Since it will require money to remedy these problems, don't count on the Texas Legislature to do much this session.

COAL HARD FACTS

Never have the dire consequences of global warming been as widely grasped as they are today. Much of Europe is moving to control carbon emissions. Even Republican California Gov. Arnold Schwarzenegger has joined the fray. Drought, heat waves, rising seas, and monster hurricanes are but a few of the weather abnormalities that torment the planet and its inhabitants. Meanwhile, here in Texas we are poised to license 18 new coal-fired power plants that promise to pump out greenhouse gasses for decades to come.

Call it the beauty of a free market. When the Legislature deregulated the electricity industry in the 1990s, lawmakers of both parties ballyhooed the notion of letting the market, rather than government, decide what type of power plants should be built to feed the state's insatiable appetite for energy.

So electric companies now want to build plants that use the cheapest fuel and generate the highest profits. Wind, solar, and natural gas didn't make the cut. Coal won. Plans are on track to build 18 more coal-fired plants as quickly as possible, and they won't even have the latest antipollution technology. The plants are expected to spew more than 78 million tons of carbon dioxide a year into the atmosphere, the equivalent of 14 million new cars worth of pollution, according to Environmental Defense, a public interest group. Frighteningly enough, Texas already leads the nation in greenhouse emissions.

Meanwhile, state government's role has been reduced to approving or denying air and water permits through the industry-friendly Texas Commission on Environmental Quality. Critics contend that TCEQ has failed to study or consider the cumulative impacts of the coal plants, or require power generators to use the best available pollution-control technology.

Momentum is growing in the Legislature for a resolution calling on the TCEQ to institute a moratorium on building seven of the proposed coal plants. A "Clean Air Caucus" is springing to life, comprised mostly of urban and suburban lawmakers representing areas such as Houston and Dallas-Fort Worth, which are under federal pressure to clean the air, and cities like Austin or Waco, which are flirting with becoming federal "non-attainment" areas.

What influence these opponents of the plants will have with state leaders remains to be seen. They might have some luck in the relatively nonthreatening area of energy efficiency. Calls for some form of re-regulation of electricity will perhaps fare less well. In the end, this battle will more than likely be decided in the courts instead of the Lege.

STREETS OF GOLD

Since 2001, a clique of powerful Texas officials and their friends in the business community have been laying the legal and legislative groundwork to build a network of superhighways and toll roads. One of the most ambitious road-building plans in the world, the for-pay highways will suck up thousands of acres of farmland, induce development, and do little to reduce congestion along the state's most glutted highways, most notably Interstate 35.

In the process, thousands of miles of state roads that have already been paid for by motorists through gasoline taxes will be turned over to multinational firms that will collect tolls for the next 50 years or so. The deals have drawn plenty of criticism, but with the help of state legislators and a fleet of Madison Avenue-styled public relations firms, highway officials so far have succeeded in steamrolling the opposition. The current leadership authored the plan and has shown little willingness to back away.

New highway proposals are on the drawing board, and portions of State Highway 130, which will likely be the first leg of what's called the Trans-Texas Corridor 35, are already open. Perry, Round Rock's Republican state Rep. Mike Krusee, and Ric Williamson, chairman of the Texas Transportation Commission, are the three officials primarily responsible for pushing this new world order.

In the coming weeks, the Texas Department of Transportation—an agency with annual revenues greater than the entire income of some states—will be back at the Legislature trying to widen its powers. It will also be asking for millions to fund a new entity called the Texas Rail Relocation and Improvement Fund, which basically will help two of the largest rail carriers in Texas—Burlington Northern Santa Fe Corp. and Union Pacific Corp.—upgrade their rail lines and cash in on the staggering growth in freight transportation projected for the next 10 years or so.

TXDOT wants to lift the cap on the 50- to 70-year contracts so it can negotiate more contracts lasting for as long as 100 years with multinationals from Spain, Australia, and Sweden. TXDOT also wants to amend state laws so it can perform its own environmental reviews and approvals. It might seem like an obvious conflict of interest for a department whose main function is to bulldoze and pave, but TXDOT says it could use the latitude to build projects faster, thereby reducing congestion, improving air quality, and enhancing safety.

Though deals are being drawn up, contracts signed, and concrete poured, there's still time to rethink the toll roads if legislators decide to enact a moratorium and demand an open and honest debate with the public about how to address transportation gridlock. Then

photo by Jody Horton

voters could be allowed to decide by what road they prefer to travel. That, as the poet says, may make all the difference.

THE BEST LEADERSHIP MONEY CAN BUY

A good argument can be made that Texas' inability to deal with its pressing problems stems from the ironclad grip a few contributors and lobbyists hold over the state's policy agenda. The influence of their money drives the privatization debate and is felt in most every policy area, from education to transportation and electricity to social services. In one small example, most Texans, including most legislators, are opposed to school vouchers. The fear is that they will take money away from already underfunded public schools. Yet in 2005, Speaker Craddick scheduled a vote on a voucher bill. Might this have had something to do with the fact that the state's biggest voucher proponent, hospital-bed magnate James Leininger, is also one of the GOP's biggest political donors? Most recently, in the 2005-2006 election cycle, Leininger gave more than $5 million to Texas candidates. He's not the only one. Republican home builder Bob Perry—the biggest political donor in the state and nation—gave $6.7 million to Texas candidates and political action committees, according to campaign watchdog Texans for Public Justice.

A number of simple steps could instantly diminish the power of money over sound public policy in Texas. The first would be an aggregate limit on individual contributions. Texas is one of the few states that have no limits on the size of campaign contributions, allowing mega-donors like Perry and Leininger to swamp an election with an endless flow of cash. During the 2004 election cycle, 87 individuals or couples donated more than $100,000 each to state candidates and committees. This accounted for 10 percent of all political donations. TPJ is part of a campaign-reform coalition that has suggested a modest contribution cap of $100,000 per election cycle. While legislation has been filed along these lines, with the current leadership it's not likely to prosper.

In June 2006, state District Judge Mike Lynch tossed out a felony indictment against the Texas Association of Business. Lynch ruled that TAB had not expressly advocated the election or defeat of candidates when it spent $1.9 million in secret corporate money on "issue" ads in the 2002 election cycle. Lynch wrote in his order that most "non-technical, common-sense people" would see the ads as clearly violating the law, but that "these statutes and this indictment aren't equipped to do the job [of keeping corporate money out of elections]." Unless the law is strengthened to strictly prohibit the use of corporate money for electioneering, business interests like TAB will once again use undisclosed corporate money to smear candidates with whom they disagree.

Finally, more legislation would probably not be necessary if Texas had a functioning Ethics Commission. Unfortunately, to call the current commission dysfunctional and ineffectual is charitable. It is a paper tiger, underfunded and, worse, loathe to enforce the law or improve upon it through its rule-making authority. At a minimum, legislators should create a separate law-enforcement division for the commission. They should also provide for a budget based on a funding formula that is independent of the Legislature. Finally, the eight-member commission should be abolished and replaced with one accountable executive director. As with most of what Texas desperately needs fixed, the state's leaders won't likely give the keys to the henhouse back to the public this session without a fight. ■

Additional writing and reporting by Dave Mann, Eileen Welsome, Forrest Wilder, and Jake Bernstein.

—Freshman, continued from page 11

BRAINY MODERATE

Ellen Cohen (D-Houston)

One gets the feeling from talking to Democrat Rep. Ellen Cohen that she will be tough for Republicans to dislodge. Cohen beat two-term incumbent Martha Wong in a race that is held up as an object lesson for what happens to those who follow party leadership instead of constituents. Wong voted against increasing teacher salaries, against curbs on air pollution, and from her perch on the State Affairs Committee, for a constitutional ban on gay marriage. Wong took those votes while representing District 134, the most highly educated district in the state (66.6 percent of adults 25 years or older have at least a bachelor's degree, compared with 23.2 percent statewide). The district also has a sizable gay and lesbian population. While leaning Republican, the 134th is more fact-based than ideological. So is its new representative.

"The district is verbal and smart," Cohen says. "I have to be able to make logical arguments for the positions I take."

Campaign consultants describe the 66-year-old Cohen as a dream candidate. Not only is she highly intelligent and energetic (Cohen estimates that she knocked on 2,300 doors in a campaign that visited 12,000 to 14,000 homes), she is also self-disciplined. Remarkably, Cohen's campaign didn't have a finance director. Instead, Cohen sat down every day by herself to make phone solicitations, which netted more than half a million dollars. As the CEO of the Houston Area Women's Center, she manages a staff of 125. She will try to juggle that job with her new responsibilities as a state rep.

The question is, how will an accomplished leader like Cohen do in a body where she is just one among 150? She will, after all, be a mere freshman in the minority party in an institution where everybody is constantly jockeying for partisan advantage.

"Being one of 150 is just fine," she says. With her husband deceased and her children all grown, Cohen points out, she's ripe for the challenge. She describes even the bruising battle for speaker on her first outing as a legislator as a satisfying, full day of work and a learning experience. In her advocacy on issues like domestic violence and her service on the boards of organizations, she says she learned that "just because people don't agree doesn't make them evil." She is eager to work and relentlessly upbeat.

During an interview in her still largely unfurnished basement office in the Capitol, Cohen insists she didn't run against anything as much as for maintaining and improving what's already there. "We need to keep our institutions strong," she says.

She wants more investment in research and development for the medical center in her district. This includes embracing stem-cell research. She also calls for higher pay for teachers, smaller classroom sizes, and lower college tuition.

Ellen Cohen

In the past two legislative sessions, the fringe became mainstream in the Texas House. And as radical Republicans muscled through their agenda, Democrats reacted, often stridently. Wong was carried away by this tide. How Cohen, who represents a new generation of Democratic moderates, resists its pull will be interesting to watch.—*JB*

SCHOOL SMARTS

Diane Patrick (R-Arlington)

Rarely does a freshman lawmaker enter the Legislature already associated with a signature issue as Rep. Diane Patrick is linked with public education. The Arlington Republican is a former elementary school teacher, and until recently was a professor at the University of Texas-Arlington in the College of Education (she left her position to join the Lege). Patrick, 60, has served on the Arlington School Board for 11 years, including a term as president, and also did a four-year stint on the state Board of Education (1992-1996). Patrick made a name for herself in state politics last spring. She engineered perhaps the biggest upset of the 2006 election cycle—the Republican primary defeat of Kent Grusendorf, the 19-year House veteran and powerful chairman of the House Public Education Committee. Grusendorf had long pushed for a public school voucher program in Texas, and for further reliance on high-stakes testing and teacher incentive pay. Public education advocates and Parent Teacher Association members flocked to Patrick's banner (see "Wrath of the Soccer Moms," March 24, 2006). They had come to view Grusendorf as a symbol of the House leadership's perceived hostility toward public schools.

Patrick's ouster of Grusendorf was another setback for House Speaker Tom Craddick, a Midland Republican. Many Democrats crossed over to vote for Patrick in the Republican primary as a way to oppose Craddick and the House leadership. Yet in her first major decision in the Lege, Patrick supported Craddick against Republican Rep. Jim Pitts (R-Waxahachie) for the speakership. Patrick defended her vote by contending that she was honoring a pledge to Craddick made on November 8. "I intended to keep my word unless some previous unknown information came to light ... some major scandal I didn't know about," she said.

A strong signal on whether Craddick will reciprocate with support for Patrick will be revealed when the speaker names committees. Will Craddick make use of Patrick's expertise by placing her on the education committee even though it might displease stalwart campaign contributors like San Antonio voucher proponent James Leininger? After all, Patrick has pledged to work toward improving public education, not to dismantle it. She is a reliable vote against any voucher program that takes money from public schools.

Patrick has an ambitious legislative wish list. She wants to reduce property taxes for elderly homeowners and to shore up the finances of the troubled Teachers' Retirement System. She also

Diane Patrick

hopes to improve transportation in Arlington—particularly in advance of the new Dallas Cowboys stadium under construction. Another hot topic in her area is the proposal to build 18 new coal-fired power plants that could pollute North Texas air. Patrick said she wants to "make sure that [plants] are using the highest [air quality] standards." Yet it's her knowledge of the complexities of public education that helped put Patrick in the House and could make her an interesting legislator to watch this session.— ***DM***

WALKING THE LINE

Valinda Bolton (D-Austin)

As Valinda Bolton strode onto the House floor for the first time, surrounded by family members and clad in the red power suit she wore when she kicked off her election bid, she had no doubts about whom she was going to vote for in the speaker's race: Jim Pitts. Then the hours of wrangling and parliamentary maneuvering began. "We had several votes," Bolton said. "I tried to vote in a way that would support Pitts and make the process more confidential and less risky." Suddenly Pitts withdrew from the contest, leaving Bolton and other House members with one choice: a vote for or against Craddick.

Bolton, the new Democratic representative of District 47, which encompasses southwest Travis County and the southern tip of Austin, was conflicted. Her index finger nervously moved back and forth across the red and green buttons. "I had a strong, strong feeling that we needed different leadership," she said. "But I also felt it was important to cast a vote for the healing and solidarity of the House and the ability to work across the aisle." Taking a deep breath, she pushed the button for Craddick.

Bolton's dilemma mirrored that of several other freshmen Democrats this session. Her district, formerly held by Republican Terry Keel, is evenly split between Republicans and Democrats. If she wants her political career to last longer than one session, she'll have to be responsive to both sides. How freshmen Democrats in tough districts like Bolton play the game in Austin and communicate with their constituents back home will determine in part how they fare in 2008.

Bolton has red hair, a warm smile, and an innocent demeanor that belies an inner toughness that enabled her to survive a bruising primary and equally bruising general election. She was one of 11 candidates—five Republicans, four Democrats, and two Libertarians—who vied for the position Keel vacated. Though Bolton was a newcomer to politics, she nevertheless managed to beat back a challenge in the Democratic primary from Jason Earle, the son of Travis County District Attorney Ronnie Earle, and went on to defeat Republican Bill Welch in the general election.

The Republicans lined up solidly behind Welch, who raised almost $700,000, compared with the $225,000 amassed by Bolton. Welch received nearly $435,000 in contributions from the Texans for Lawsuit Reform PAC and another $65,000 from Houston homebuilder Bob Perry. TLR will no doubt be watching Bolton's votes closely.

Bolton, 47, has spent most of her career working for nonprofits, including as training director for the National Center on Domestic and Sexual Violence. Bolton's district is considered the gateway to the Hill Country and is facing numerous problems, including how to cope with expanding population and development at a time when wells are running dry and water resources are shrinking. At the Lege, she hopes to focus her attention on issues she campaigned for—more pay for teachers, better healthcare for children and the mentally disabled, affordable housing, and a more open and accountable government. She also hopes to help draft legislation that would give county governments more tools to manage growth and development.

As a state legislator from a swing district, Bolton knows there will be more tough votes ahead. She's ready. "I live in a district that's evenly split and has mainstream values," she said. "They want the House to get focused and work on issues that will benefit all the families of Texas."— ***EW***

Valinda Bolton

Juan Garcia

HIGH FLYER

Juan Garcia (D-Corpus Christi)

The toughest challenge for Juan Garcia may be living up to the hype that surrounds his incipient political career. Many, including us (see, "The Contender," September 22, 2006), have commented on the 40-year-old Garcia's dream resume: Harvard law degree, Gulf War veteran, Navy pilot, White House service, a Hispanic surname with the looks and accent of an Anglo, and above all, powerful and well-connected friends. Surprisingly, so far Garcia has not disappointed.

He knocked off well-funded incumbent Gene Seaman in a majority Republican district. And his constituents didn't even have to wait a week for him to start fulfilling campaign promises. "When a first time candidate beats a 10-year incumbent, it means people want change. They don't want me to wait in line," Garcia says.

Garcia voted with a majority of Democrats for a secret ballot to decide who should be speaker of the House. Those who voted for the measure were widely seen as supporters of the insurgency against the incumbent Speaker Craddick. After Craddick's challenger Jim Pitts dropped out, the vote to approve Craddick became largely symbolic. No one would have faulted Garcia for voting for Craddick; he was the only candidate. Nonetheless, Garcia was one of only 27 members to vote against the speaker from the floor. "I felt [a sense of] real intimidation [on the floor]," Garcia said afterward. "I can't go along with that."

Three days later, the House took up its rules. Garcia broke with the tradition that freshmen should be seen but not heard by offering a key amendment. Having campaigned on more openness in government, Garcia's amendment called for all votes on the second reading of bills to be recorded. Second reading is often when support for a bill really matters. Garcia says he didn't believe such a measure would make it out of committee with the current leadership, so an amendment to the rules was his best shot. It was a rough floor fight, and Garcia's amendment eventually died at the hands of Craddick lieutenant and Houston Democrat Harold Dutton. Still, Garcia may have won over some of his peers with his humility and good humor. At one point, a Republican accused him of trying to sneak something past the membership. Garcia replied: "I don't know the process well enough to hide the bill."

"It was a lot more dramatics than I envisioned," Garcia said a few days later.

Despite the defeat, Garcia says his constituents are ecstatic over the effort. Now comes the tough part. If the new representative in a swing district didn't already have a target on his back, the Republican leadership will surely come gunning for him after his activities during the session's first week. "Given my first 72 hours, I'm anticipating a seat on the cupcake committee," he says.

Time will tell how far Garcia gets as a politician, but if his beginning is any indication, he will go far, and it will be fun to watch.—*JB* ■

—PIs, continued from page 5

FEAR FACTOR Poor TXU Corp.–in the mega-utility's bid to build 11 highly unpopular coal-fired power plants, it finds itself nearly friendless. Though still loved by Gov. Rick Perry (it didn't hurt that the company helped pay for his last campaign and his inauguration) and adored by Wall Street (soaring profits from high electricity rates), TXU is taking an almost daily pounding from just about everyone else. Dallas Mayor Laura Miller has corralled 35 localities into the Texas Clean Air Cities Coalition to oppose the company's plans. A group of Dallas businessmen–including real estate tycoon Trammell Crow–is publicly calling for TXU to cease and desist. Time, then, to buy some new friends. TXU and other coal interests have enlisted the help of McDonald Public Relations Group. The Austin-based outfit specializes in the creation of instant citizen groups, and most recently helped to pass voter-approved "tort reform" in 2003.

The McDonald Group runs a recently formed, TXU-funded group called Texans for Affordable and Reliable Power. Donna McDonald, a vice president of the firm, describes TARP as a "grassroots organization of local elected officials" who "came together to support these new plants." Membership consists of a dozen or so city officials from small towns near some of the proposed coal plants. TARP has registered three lobbyists with the Texas Ethics Commission this year, including former Democratic State Rep. Paul Sadler, who has a lobbying contract with TXU valued between $50,000 and $100,000.

Mayor Miller describes TARP as a TXU front group. "I thought it was really amusing that they would create a coalition that they're funding and then try to pawn it off as a grassroots organization," chuckled Miller. "Our coalition represents 7 million Texans."

McDonald Group is also the organizing force behind the Clean Coal Technology Foundation of Texas, an industry-funded offshoot of the governor's Clean Coal Technology Council of Texas. Perry created the Council in 2002 through an executive order and charged it with studying and "identify[ing] new, cleaner coal-fired electric generation technologies." In 2005 the council, composed mostly of state elected officials and agency heads, delivered a report to the governor. In addition to pushing for "clean coal" as a solution to Texas' energy needs, it recommended a "campaign in advance of new mining projects and coal-fueled electric generation ... to address the [public's] lack of current knowledge and erroneous information." The report also noted that the council–at the urging of its Vice Chairman Clifford Miercroft (former president of the North American Coal Corp.)–had authorized the creation of a nonprofit foundation, which had paid for the report announcing its inception.

The foundation is stacked almost exclusively with reps from coal-related corporations, including power generators TXU and American Electric Power Co., as well as mining giants North American Coal Corp. and Westmoreland Coal Co. In 2005, according to IRS records, foundation members spent $220,000 on coal-related pursuits through the McDonald Group. The foundation's latest report, "Power Outage," lists Donna McDonald as its administrative director. The report argues that "unless the utility companies that serve Texas begin building additional capacity immediately, the rolling blackouts that shocked consumers across this state in April of 2006 could become all too commonplace." In a recent speech in Wichita Falls, Texas Association of Business President Bill Hammond used the threat of bad weather to raise a similar specter of blackouts if the TXU facilities are not built. Thanks to the good folks at the McDonald Group, expect to hear more fear-mongering and see more pro-coal "grassroots" efforts in the months to come. ■

—Forensic, continued from page 13

not be found 'actually innocent' and Willingham executed based on the same scientific evidence," Sheck wrote to the commissioners. Texas has the highest percentage of arson convictions in the nation. Many other Texans may have been sent to prison for arson crimes they didn't commit.

Without money, the commission has taken no action on the Willingham case or any other. Commission Chair Debbie Lynn Benningfield, who works as an administrator in the Houston police fingerprint lab, refuses to comment on cases that might be pending before the commission (other commissioners referred questions to Benningfield). Choosing her words carefully, Benningfield says commissioners are focused primarily on securing funding from the just-convened Legislature.

The commission certainly won't cost much. Commissioners are unpaid and meet in donated space. The commission would need $156,000 for administrative and setup costs in its first two years, according to an analysis by the Legislative Budget Board. Some proponents of the commission hope the Legislature will make an emergency appropriation so the panel can begin work soon. If lawmakers include funding for the 2008-2009 fiscal year, which isn't guaranteed, the commissioners will have to wait at least until next September. Hinojosa says the Senate Criminal Justice Committee, chaired by Sen. Whitmire, may hold hearings on the commission's lack of funding. "We're going to be pushing this very hard to make sure that there is funding," he says. "We want some answers as to why it's taking so long."

Sheck says, "You can't blame the commissioners. They haven't been given anything to work with." He believes that innocent people may remain in Texas prisons, perhaps on death row, wrongly convicted because of faulty forensic evidence. The longer the commission's work is stalled, the longer those injustices remain, and the longer negligent forensic practices persist in crime labs that could send more innocent people to jail. "This is all taking entirely too much time," Sheck says. ■

TOXIC CITY

Sometimes of an evening in those rare days when temperature and
humidity abandon their conspiracy to imprison us indoors, and
deadlines and obligations loosen their grip to allow an hour's escape
before darkness summons us to other tasks,

when the breeze trumps the polymer-etched filigree of stagnant ditch
water, temporarily exiling fumes of mosquito fogger, cracking unit and
diesel exhaust,

when the refinery bullhorn forgets the lyrics of the evacuation hymn
and the unexpected silence lures daring souls into neglected garden
and tennis court, outdoor adventure hitherto avoided in the oppressive
ragout of haze and heat and toxic clouds,

when guilty delight banishes worry about work ahead or left undone,
and neither ringing nor beeping interrupts this stolen peace,

when the yard dogs relent of their incessant protest about the cruel
intentions of fleas and fences,
and the chairs on the patio align with the shift change traffic,
achieving an extra-dimensional feng shui, and create ascendance for
the bubbling calm of swimming pool filter,

when jasmine and mourning dove and chlorine seduce my senses,
I slip beneath the surface, suspending my reality, and thrill to the
quivering distortion that lets me forget where I live.

WANDA GARNER CASH *now teaches journalism at the University of Texas at Austin. In the previous 15 years, she edited newspapers and monitored pollution in Baytown, Galveston, and Brazosport.* — ***Naomi Shihab Nye***

Corps Failure

BY CHAR MILLER

The Storm: What Went Wrong and Why During Hurricane Katrina—the Inside Story From One Louisiana Scientist
By Ivor van Heerden and Mike Bryan
Viking
320 pages, $25.95

Just when you thought fate couldn't become any crueler for post-Katrina New Orleans, it did. A December article in *Geophysical Research Letters* concluded that—in addition to sinking—southeastern Louisiana is actually *sliding* into the Gulf of Mexico.

New Orleans and the Mississippi Delta sit on a "large listric normal fault system" that is sagging beneath the weight of sediment channeled by the Mississippi River.

By itself, the pace of this previously undetected movement seems relatively benign: The delta is shifting south at 2 millimeters a year, and subsiding at roughly 5.2 millimeters a year. As Roy Dokka, one of the report's authors and executive director of the Center for GeoInformatics at Louisiana State University, told the Associated Press, this process resembles an "avalanche of material, except that it is happening very slowly. It moved about the width of two credit cards this year."

Dokka's choice of image is more apt than he perhaps knows: This seemingly minimal geological deficit carries with it a number of hidden charges, a fine-print disaster in the making. Combine this new evidence, for example, with well-documented studies indicating that the city was already subsiding approximately 2 inches a year, in part because levees prevent sediment from stabilizing the soft ground. Add decades of groundwater pumping and the disintegration of subsoil organic material, and by the end of this century the Crescent City is expected to have dropped an additional meter or so below sea level.

The bad news keeps coming: The Gulf of Mexico is rising upwards of 2 millimeters a year, a consequence of melting polar ice. The same global warming process is cooking the Gulf's surface, funneling new energy into any hurricane moving across its steamy expanse. A lower city, higher and hotter waters, more-punishing storms: The end is at hand.

So Ivor van Heerden has long prophesied. The co-founder and deputy director of LSU's Hurricane Center and director of the university's Hurricane Public Health Center has been warning for the past decade about the potential devastation to New Orleans should a major storm crash into southern Louisiana. Even a weakening Category 3—which Katrina proved to be—would wreak unfathomable damage, he advised well before Katrina, the eighth major hurricane to surge past New Orleans in 45 years, crushed the Gulf Coast. As it neared landfall, he sent out e-mail after harrowing e-mail warning of the coming cataclysm. When New Orleans went dark, van Heerden lit up. As "one of the more notorious Cassandras of recent years, I was a pretty obvious target for the hundreds of reporters soon on the scene," he writes. Appearing nightly on Larry King, and daily on morning chat shows and drive-time radio, as well as every other possible media outlet, he pounded local, state, and national officials for their criminal negligence and tin-eared politics; President Bush's "pitiful flyover" was but one of many myopic moments. So van Heerden can be forgiven for wanting "to scream in frustration, and, yes, a bit of self vindication, 'We told you so.'"

The Storm is not, however, an extended rant, because van Heerden decided he had another role to play. The epiphany came during one of his first visits to the still-submerged Lower Ninth Ward. Wading through some of the 30 billion gallons of seawater and sewage that had inundated the city, he stopped at a house in which he spotted a prized set of family photographs, high and dry on mantle. "The water was fetid, the air was rancid, I had seen a floating body not a block away, and there, right in the middle of this apocalyptic disaster, was a surreal vision through the open window of gowned graduates, smiling brides and grooms, proud parents and grandparents, happy babies. For some reason, this was the scene that put me over the edge and broke my heart." This was also the scene that led him to think beyond the first-person singular: "Where were these people now? If even alive, what future did they have? How had they been served by their government? I felt I could and should speak for them, and I did." Cassandra had found his clients.

In their service, van Heerden has written, with Mike Bryan, a chilling examination of abject social failure. More precise than Douglas Brinkley's sprawling tome, *The Great Deluge*, and more scientifically informed than *Breach of Faith*, Jed Horne's evocative memoir, *The Storm* recounts step-by-step how the levees buckled, the political establishment collapsed, the communications system went dead, and why the much-promised aid arrived so belatedly. You will have heard or read some of these details before, but van Heerden pulls them together to make clear that this was a human disaster of unimaginable scale.

Start with Pam, the hurricane that wasn't. In July 2004, the Federal Emergency Management Agency sponsored a war games-like planning session for a hypothetical "Big Blow" dubbed Pam. The weeklong session probed many of the exact issues that would erupt once Katrina hit: FEMA learned which neighborhoods would flood and to what depth, and what the human

costs would be; it was tutored, too, on the impact a Category 5 storm would have on the levee and pumping systems, and on the communications grid. Evacuation plans were also tested; how would people escape, by what means, and where would they go? As for the latter issue, van Heerden had a suggestion: The U. S. Army should pre-stage, and then erect, multiple tent cities, as it has in Bosnia, Iraq, and elsewhere. His idea was pilloried by one FEMA official who snorted, "Americans don't live in tents!" (In retrospect, those instant, temporary, and nearby camps might have been a godsend given the mass chaos, bungled evacuation efforts, and New Orleans' continuing struggle to reclaim its workforce, now scattered across the country.)

Van Heerden denounces FEMA for its insufferable arrogance and bureaucratic lethargy, which also got a trial run during the Pam exercises. He levels charge after irrefutable charge that the agency's catastrophic breakdown post-Katrina bespeaks a larger, more disquieting pattern: "Americans need to understand that their government is totally unprepared for major natural disasters, let alone the terrorist's dirty bomb or biological/chemical attack. Don't kid yourself. Very little, if anything, has changed since September 11, 2001."

But van Heerden is most disturbed by the U. S. Army Corps of Engineers. Like FEMA, it has refused to take responsibility for its actions and inactions; like FEMA, it has tried to finger other agencies and individuals for the collapse of the system it built and promised would withstand a Category-3 hurricane. But its studied incompetence has been so pronounced, its ignorance about how badly it got things wrong, from basic geomorphology to structural design, has been so shocking that it is little wonder that van Heerden devotes more than 100 pages to the Corps' screwups and cover-ups.

These chapters are not easy reading. Who, after all, really wants to know that public safety in New Orleans and elsewhere is in the hands of cocksure civil engineers whose inflated self-confidence in this case led to 1,300 deaths and imperiled the lives of so many others? Yet once you have finished these pages, you'll understand the blunt indictment of Aaron Broussard, president of Jefferson Parish: "Bureaucracy has committed murder here in the greater New Orleans area."

You'll understand as well why van Heerden demands that "the same federal government that drowned New Orleans with the failure of its levees should compensate all of those who lost lives and homes." Should it choose to rebuild and better protect "the City that Care Forgot," van Heerden has sketched out an array of environmental and technological fixes in the final chapter. He does a nice job of describing why southeastern Louisiana has lost and must regain its marshes; how it can restore surge-protecting wetlands by redirecting the Mississippi's flow and making its levees more porous; how shoals can be dredging up to reconstruct barrier islands; and how Dutch floodgate technology can bottle up fast-moving waters and minimize scouring waves. All that is missing, he acknowledges, is the necessary funds (which might top $250 billion) and the requisite "political and civic courage."

Because cash and courage are in short supply, *The Storm* ends as a dirge. "The fight for the future of New Orleans is going to be a long and difficult one. I now picture a big theme park as the end result, a plastic place of no vitality" in which those "with the least resources are sure to lose the most." The future will be grimmer still, van Heerden asserts, if "the right decisions are not made about the levees and the wetlands." Absent a massive commitment to repair what humans have torn asunder, New Orleans will vanish beneath the waves, resurfacing only in legend as the Creole Atlantis. ■

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The 2nd Biggest Mesquite Tree in Texas

Or maybe it was the country or even the world. I don't remember, and what good would it do to look it up now?

Sometimes my father, inexplicably, would pick me up from school. The dirty oil-field pickup would pull to the curb in front of Crestview Elementary, and my 9-year-old heart would leap.

I remember the walk past the other country kids in the bus line, feeling their uncomprehending eyes as I left their ranks, feeling like I was lifting off—reprieved and summoned—and how I would open the door of the pickup slowly, careful not to let the empty Bud cans roll out. I remember the blast of frigid air across my face as I climbed into the air-conditioned cab. I closed the door and never looked back, but tomorrow I'd be back among them, and none of this would matter again.

We didn't go anywhere. I mean, there was no destination. There was no point to the drives other than that my father had finished a job early and didn't want to go home to my mother, whom he didn't love, and didn't want to be alone. He just wanted to drive.

We kept to the dirt roads, the two-lane blacktops. Sometimes we drove with the windows down. Smell of wheat, smell of cedar, smell of dust and asphalt and beer and oil.

He drank beer and drove, and Willie Nelson played on the eight-track, which was a new thing, a remarkable thing. We listened to *Yesterday's Wine*, *Phases and Stages*, the incomparably sublime *Red Headed Stranger*. When the stranger shot the yellow-haired lady after she reached for his dead wife's horse I was, every time ... astonished, mesmerized, satisfied but not satisfied. I wanted to know more. I wanted not just to know why, but to understand why. The tape looped back to the beginning:

It was the time of the preacher, when the story began. ...

"I'll show you something," my father said one day.

This was in early fall, when the days were still hot but their ends had that smokiness, that haziness. We were driving down by the river, where the river became the lake, where the sand, rock, and mesquite gave way to lime rock and cedar, and the flat fields and pastures grew gnarled and corrugated. The roads were narrower and twisted, water seeped through mossy green crevices in the bluffs the highway cut through, and sometimes you crossed a creek, and the road would dip suddenly, and the temperature, just for a few yards, plummeted 20 degrees. We were out where the sky stepped back and left you alone.

To me, this was unfamiliar territory and marked the beginning of the rest of the world. I didn't know the roads, couldn't keep up with the turns. I always sat up on the edge of the seat when we went that far. *Here there be dragons*, the ancient maps said. To know what I mean, you must go there someday.

Toward dusk one day, my father pulled to the side of a very quiet county road and parked and killed the engine. Immediately the sound of insects in the trees filled up the world. A breeze ruffled the short grasses in the small field across the road. It was a feeling like we'd reached the place we'd been trying to get to all this time, though I couldn't have been more than eight or nine years old. The sun was going down fast, and the fringed edges of the trees below the sky were flaming, but the trees were dark and without substance.

I saw the sign first: "Second biggest mesquite tree in ..." Then I saw the tree. How could I have missed it? It was enormous.

We got out of the pickup. My father pissed at the edge of the road. I walked down to the tree and looked at it. Part of looking at the tree was knowing that somewhere there was one bigger.

My father came and stood beside me. "Two people can't reach their arms around it," he said. Of course we tried. Of course he was right.

I grew up and went away. Several years later, one summer, I came back to see if this place I thought of as home really was home in the sense that I wanted the word to mean. I'd come back because, at 27, I didn't know what else to do or where else to go. I'd run into a wall where I hadn't expected one to be. I'd come back to the one place where there were no dragons.

I got a job working in the oil field, and I spent a lot of time that summer driving around on some of the same roads my father and I had driven, drinking beer, listening to Willie Nelson—not because I was looking to recapture anything from my youth or understand what my father was going through when I was a boy, but simply because, like him I suppose, I liked driving, drinking beer, and listening to Willie Nelson. Anyway, I couldn't have recaptured any of that—the roads were all much too familiar to me now. Those memories of driving them with my father, the feeling of exploration, of being surprised by something around every turn, could not be replicated. The stronger memories were of driving these roads with high-school buddies, listening to the Steve Miller Band and throwing beer bottles at the road signs. If I was feeling at all nostalgic, it was not for my childhood but for my adolescence, those days and nights of Schaeffer and Bud in an ice chest in my buddy's mother's van, back when we owned everything we could see.

On some of the drives I had a companion. She was the younger sister of one of my oldest friends, home that summer, too, fleeing a bad marriage in Washington state. I'd known her almost her whole life, but she'd always been my friend's little sister, the cute, funny one, and when I saw a pretty girl at the post office one afternoon, I remember being

briefly embarrassed by my casual attraction when she turned and I saw who it was—it felt incestuous. "I heard you were in," she said.

I played *Blood on the Tracks* for her, read her a story I'd written about a man who comes back to search through a pasture for a grave he remembers having found as a child. He never found it, in the story or in real life. One night coming back from eating Mexican food in Wichita Falls, we saw the most intense and theatrical lightning storm I'd ever experienced. It filled up the entire sky, 360 degrees, and it played the entire hour and a half it took to drive down to the lake, and it never did rain. One night we stayed up until dawn, sitting on the boat dock of her parents' lake house, watching a feeding frenzy of sand bass under the halogen light at the end of the dock.

"Do you think you'll go back to him?" I asked her.

"I don't know," she said. She was only 24.

One afternoon we were driving down by the lake. "I'll show you something," I said.

We didn't become lovers. I suppose we thought about it. I'd held her hand tightly while we watched that lightning storm, but nothing else. In all, I probably wasn't back home for more than a couple of months, and our little flirtation couldn't have lasted more than five or six weeks, though I wouldn't be surprised to be confronted with evidence that it was only half that.

I don't get back home very often now, and in the 10 years since that summer I've probably seen her only two or three times—her sister's wedding, maybe at her parents' house at Christmas, down at the family lake cabin when I was passing through and dropped in to see her brother, who'd come back to run the family enterprises—and never for more than a few minutes, never alone, always in passing. Those few times I've seen her since then, she was, as before, an old friend's youngest sister.

But I remember the feeling of the bark rough against my skin that summer as I lay my cheek against the tree, stretching my arms tight around the trunk, reaching for her fingers, and my utter faith that, on the other side of the tree, she was reaching just as urgently for mine. ■

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