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OBSERVER

LET THE GAMES

BEGIN!

Foxes in the Henhouse

BY MELISSA DEL BOSQUE

The Republican Divide

BY ABBY RAPOPORT

Legs by the Numbers

BY FORREST WILDER



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OBSERVER ONLINE

Visit Floor Pass online for up-to-the-minute coverage of the 82nd Texas Legislature. Our reporters will take their video cameras to the Legislature to ask tough questions posed by you—our readers. Send your questions to lege@texasobserver.org

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ON THE COVER

Gov. Rick Perry addresses the state House on Day One of the 82nd Texas Legislature.
PHOTO BY KELLY LYNN JAMES

ABOVE

Opening day in the House chamber for the 82nd Texas Legislature.
PHOTO BY JEN REEL



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OUR MISSION

We will serve no group or party but will hew hard to the truth as we find it and the right as we see it. We are dedicated to the whole truth, to human values above all interests, to the rights of humankind as the foundation of democracy. We will take orders from none but our own conscience, and never will we overlook or misrepresent the truth to serve the interests of the powerful or cater to the ignoble in the human spirit.

DIALOGUE

Hacking at the Budget

While they're dumping educational programs, get rid of that State Board of Education and the ridiculous requirement that all textbooks be the same ("Cutting Red Meat," Jan. 7). Let the locals decide.

Donald Albertson

POSTED ON TEXASOBSERVER.ORG

DEFINITELY RIGHT ABOUT THE EMERGING TECHNOLOGY fund and its ilk, and also on the prison issue. Could also feed prisoners less and use them for border security. Our slogan: "a chain gang along the border."

Dennis Schneider

ROUND ROCK

MY FEAR IS THEY'LL CARVE INTO PUBLIC/HIGHER ED, asking people to do more work for less money, and people will rise to the challenge. Then in three to five years, the Republicans will say, "See? It was all fat, we didn't need that teacher/building/program after all." And we'll never return to pre-deficit spending and service levels. At least not while there is a Republican supermajority in the Lege!

Dina Kruckenberg

TOLAND

Governor Ponzi

THERE IS ONLY ONE THING WORSE THAN A BUDGET shortfall, and that is a governor who lies about it ("Krugman Gets it Right," online Jan. 7). If Texas were a corporation, Governor Perry would be guilty of stock fraud. Politicians should be held to the same standard as corporate managers, when it comes to public disclosure of financial information. The managers of Enron are in prison for doing what Governor Perry has done with the budget numbers.

Jonathan Gal

ROCKWALL

Taxing Times

THERE ARE MANY TAXES THAT COULD BE ADDED OR increased ("What Would Reagan Do?," Jan. 7). Broadening the sales tax is a very good idea. Luxury items such as coffee over a certain price could be taxed. A person buying a \$5 latte could certainly handle another 50 cents to the state. A tax on illegals would also be good. Expanding gambling is also a good option. As far as lawsuits with the federal government, though, the more the better.

Dennis Schneider

ROUND ROCK

Smoking Cheetos

MORE MORAL-PANIC LEGISLATION IN A FAILED "War on Drugs" ("Texas and the Feds Fight Fake Pot," online Dec. 28). I thought the Tea Party-type conservatives were supposed to be against government intrusion. Though it is true that smoking some random substance made in a laboratory is generally stupid.

Danny Weir

LUFKIN

WE NEED TO SEND MORE SCIENTISTS AND DOCTORS TO the Legislature. I wonder whether the good senator [Florence Shapiro] realizes that cheeseburgers and Cheetos and Happy Meals also contain chemicals that interact with endocannabinoid receptors. The relatively good thing about designer drugs is at least they are not being brought into the country by people who shoot school children and nuns. And at least the good senator would be keeping law enforcement, lawyers and chemists employed, stimulating the economy.

Robert Rister

GRANGER

Hammer in a Box

I THOUGHT THREE YEARS FOR TOM DELAY WAS STRANGE considering he could have got life (Hammered Softly, January 13). It's time he pays for the damage he has done. His tactics have left a stench that will last for a long time.

Linda Fischer

HUNTSVILLE

WAAAHHH! DANCING WITH THE BARS.

Penny Livingston

TYLER

Sound Off

editors@texasobserver.org

POLITICAL INTELLIG



Tea Party protesters in the Capitol on opening day.
PHOTO BY KELLY LYNN JAMES

DEPT. OF MARGINALIZATION

Tea Party Loses Its Lege

ON JAN. 11, THE TEA PARTY INVADDED THE TEXAS CAPITOL. Activists began lining up to get into the House Gallery at 5:30 a.m. on the first day of the Legislature's 82nd session. By 10 a.m., the line snaked along two flights of stairs and stretched down the Capitol's marbled west hallway. It was a show of force befitting the group that's overwhelmed Texas politics since its stunning gains in the November election.

The activists had come to oust Speaker Joe Straus. The relatively moderate San Antonio Republican has never been popular with the Tea Party or with the hard right. Activists had spent two months blasting e-mails, Internet ads and robocalls pushing for a more conservative speaker. The first day of session was supposed to have been their victory day, and the crowd—wearing white T-shirts emblazoned with the name of Straus' rival, Rep. Ken Paxton—was suffused with a mix of anger and anticipation.

Tea Party activists packed the stairwell and gallery, but they didn't have the numbers on the House floor. Not long after the House began its session, Paxton took to the podium to concede the speaker's race to Straus. "Even though we lost this race, I'm encouraged to say we have not lost the fight," he said, addressing supporters in the gallery. "This is just the beginning." That became evident a few minutes later, when Paxton implored Republican activists to "watch what we're doing ... hold us accountable." The implication was clear: If the Tea Party wants the speakership, it needs to knock off pro-Straus Republicans in future primaries. The activists got their target list a short time later, when a 132-15 roll call vote handed Straus his second term as speaker. The Tea Party now has its list of enemies, but it's an awfully long one.

It was revealing that, despite all their bluster, Tea Party activists garnered only 15 anti-Straus votes on the floor—mostly from freshmen Republicans.

READ more about the session's first day at txdo.com/session1

The Tea Party activists may yet have a major influence on the legislative session. But at least on opening day, the group largely responsible for the GOP's historic 101-seat majority was marginalized.

—ABBY RAPOPORT AND DAVE MANN

DEPT. OF ARROGANCE

No Regrets

STANDING BEFORE THE STATE DISTRICT JUDGE DELIBERATING his sentence on Jan. 10, Tom DeLay had no regrets. The former majority leader of the U.S. House told Judge Pat Priest he had done nothing wrong. "In 2002, I never intended to break the law," DeLay said.

On the Wednesday before Thanksgiving, a Travis County jury convicted DeLay of money-laundering and conspiracy to launder money. A political action committee DeLay set up in Texas had raised corporate funds, which are illegal as campaign contributions in Texas, and laundered the money through the Republican National State Elections Committee, which sent it to Republicans running for the Texas House in 2002.

"Everything I did was covered by accountants and lawyers who told me what I had to do to stay within the law," DeLay told the judge. (During the trial, the judge had told the jury that a lawyer's advising someone that an act is legal does not make that act legal.)

In a largely political speech that began with scripture—"I have fought the good fight, I have run the race"—DeLay even instructed the judge on the statute under which he was convicted. "In my opinion," DeLay said, "money laundering has to start with the intent of criminal activity."

"This criminalization of politics is very dangerous, dangerous to our system, and dangerous to our ability to maintain this Republic," DeLay preached. He admitted he was guilty only of "arrogance"—which might have gone unsaid considering the nature of his remarks.

When DeLay concluded and Judge Priest began to speak, it was evident that DeLay's remarks, and the closing argument of his attorney, Dick DeGuerin, had not been persuasive.

"What America is about is the rule of law, and there should be no more basic law than those who write the law are bound by them," Priest said. The judge said if he had not agreed with the jury's conclusion that DeLay knew that he was violating the law, he would have ordered an instructed verdict at the end of the trial. Nor did Priest buy the argument that the Travis County D.A.'s pursuit of DeLay was selective and politically motivated.

Priest—a San Antonio Republican given the case by the Texas Supreme Court after DeLay's defense objected to a Democratic judge from Travis County—sentenced DeLay to "three years of confinement" for conspiracy to launder money and five years for money

laundering. The second sentence was probated and requires 10 years of community supervision.

DeLay was escorted from the courtroom by four marshals and taken to the county jail. After booking, the former majority leader was released on bail pending an appeal. He declined to speak to the press.

His attorney, DeGuerin, made a one-sentence statement to reporters before leaving the courthouse: "This will not stand." —LOU DUBOSE

BETTER-THAN-YOU-THINK FILES

Weathering Heights

IF YOU ONLY READ MEDIA REPORTS ON TEXAS' STIMULUS-funded weatherization program, you'd probably consider the \$327 million effort an unmitigated failure.

The American Recovery and Reinvestment Act, a.k.a. "stimulus," has been under attack by Republicans and conservative activists since its passage in 2009. Socialism! Government boondoggle! Welfare for losers! Such have been cries from the right. Media coverage of the federally funded effort to weatherize low-income homes in Texas has followed this script. Yet in many respects, the program's been a success.

The press initially attacked the program for a slow start. In February 2010, the online publication *Texas Watchdog* blasted the state for spending \$3.7 million to weatherize just 47 homes. Watchdog quoted the leader of a D.C.-based, fiscally conservative group calling the program "ass backwards." In December, WFAA-TV ran a three-part series excoriating the city of Dallas for allowing contractors to overcharge for light bulbs, water heaters and thermostats. U.S. Rep. Jeb Hensarling, a Dallas Republican, appeared in the series to say the weatherization program "just again shows that the government doesn't do a good job with the taxpayers' money."

That's an unfair assessment of a largely successful effort, program supporters say. "I haven't seen anything positive [in the media], and that's unfortunate," said Randy Chapman, executive director of the nonprofit Texas Legal Services Center.

Texas' weatherization program, administered by the Department of Housing and Community Affairs, has had problems. The state spent the first year, 2009, getting the program off the ground. Some cities and nonprofit agencies have done a poor job of overseeing subcontractors.

To get a more comprehensive sense of the program's performance, the *Observer* reviewed dozens of the most recent monitoring reports by the Department of Housing and Community Affairs. The state agency oversees 44 cities and nonprofit agencies in charge of weatherizing low-income homes and apartments. The reports show that while some areas are struggling with poor workmanship, delays and paperwork snafus, the



States facing the largest deficits for fiscal year 2012, by percentage of budget

ILLINOIS
50.9%

NEW JERSEY
37.4%

NEVADA
37.1%

TEXAS
25%

Source: U.S. Center for Budget and Policy Priorities

READ the *Observer's* past DeLay coverage at txlo.com/delaysen

VIEW the raw documents at txlo.com/weatherize

ANOTHER EXONERATION

“Whatever your truth is, you have to stick with it.”

—Cornelius Dupree, 51, on Jan. 4, minutes after a Dallas judge overturned his conviction for a 1979 rape. Dupree spent 30 years in prison before being exonerated by DNA evidence—and twice turned down a parole offer that would have required him to admit guilt.

“I got a lot of flak from the guys on the block, but I always believed him. He has a quiet, peaceful demeanor.”

—Jim Shoemaker, who served two years with Dupree in the Boyd Unit south of Dallas.

“I recognize the names, but I have no independent recollection of either one of these guys. Obviously, you’re surprised and shocked when you see that.”

—Keven Byrne, the prosecutor who put Dupree behind bars.

“It’s been proven that the system needs to be fixed, and we know actually where we can fix it. How about those people who are in positions of power and influence getting on board?”

—Dallas County D.A. Craig Watkins.

FOR THE LATEST political analysis, read Bob Moser’s Purple Texas at www.texasobserver.org/purpletexas

statewide program is on track. At the end of 2010, more than 24,000 apartments, homes and mobile homes had been weatherized, 71 percent of the 34,000 goal. Thirty of the 44 cities and nonprofits were exceeding federal expectations for units weatherized, according to state records. The housing department expects to spend the rest of the money, about \$186 million, by the March 31, 2012, deadline.

“I think it’s been a knockout success,” Chapman said. “Of all the stimulus programs, it has been one of the most successful.” —FORREST WILDER

POLITICAL THEATER DEPT.

Muckraking

WALKING TO THE CAPITOL, I MET A MAN ON CONGRESS Avenue dressed as a pig. We fell into talking about politics. The man in the pig suit, a former Democrat, said he’d lost faith in both Republicans and Democrats. “They don’t represent the people anymore,” he said. Admittedly, it was hard to focus on our conversation. After all, he had on big pink ears and a snout. Motorists honked, people gawked and snapped pictures. The pig man, whose name is Eric Anderson, smiled and waved his hooves. Everyone loves a man in a pig suit. This one carried a sign that read, “Some Lawyers are Pigs” topped with a painted, pink plastic javelina. Apparently, Anderson had had a very bad experience with the legal profession, but didn’t want to get into it. “It might result in a SLAPP suit,” he muttered. “There are bad lawyers out there, and nothing is done to discipline them.” Well, it’s hard to argue with that.



Eric Anderson
PHOTO BY JEN REEL

Did I mention that it was the first day of the legislative session? On the south steps of the Capitol, the pig man and I met Uncle Sam, President Abraham Lincoln and the Statue of Liberty. The pig man desperately wanted a photo with Uncle Sam. He rooted around in his fanny pack for his camera. I offered to snap the photo. Uncle Sam got wind of our plot, though. “Don’t you even come near me,” he wagged an index finger at us. Anderson looked disappointed. Uncle Sam was at the Capitol for a Tea Party rally, joined by Abraham Lincoln and revolutionary war hero Nathan Hale.

The pig clearly had not been invited. But a man in a pig suit is just irresistible. The Tea Partiers put down their “Conservative Texan” signs and “Don’t Tread on Me” flags and made a beeline for the guy in the pink suit. They asked if I could snap a photo or two. Uncle Sam kept his distance. “People think I’m here for the Tea Party rally,” Anderson whispered conspiratorially, “But I’m my own individual rally.”

Anderson, a retired train conductor, is committed to his cause. “I’m here because the legislators are here,” he said. “Unfortunately, a lot of them are lawyers.” Anderson said he didn’t have anything against good lawyers. “It’s the bad ones that need to be reformed,” he said. Anderson plans to picket the Capitol every day in an effort to convince legislators to enact legal reform. “I’m recently retired, so I’ve got the time,” he said “But it is hard on my knees.”

Before he waded into the Tea Party rally, he waved goodbye with a hoof. In his own small way he was trying to make a difference, he said. Real Democracy is loud, folks. Sometimes it even requires a funny costume. —MELISSA DEL BOSQUE

SEE photos of the pig man at txlo.com/piggie

EDITORIAL

Lessons from Tucson

IT DIDN'T TAKE LONG FOR THE TUCSON SHOOTING to become just another point of contention in the endless shout-fest between liberals and conservatives. Lost amid the partisan bickering was a lesson that states like Texas should heed: Lack of mental health care leads to tragedy.

On Jan. 8, a 22-year-old former community college student named Jared Loughner snuck up behind Democratic U.S. Rep. Gabrielle Giffords while she was greeting constituents in a supermarket parking lot and shot her in the head. He then fired indiscriminately into the crowd, killing six people, including a federal judge and a 9-year-old girl, and wounding 13 others.

Within hours of the attack, some left-leaning commentators were linking the shooting with the violent rhetoric emanating from some right wing and Tea Party activists. The problem with this theory is that it lacks a basis in fact. As of this writing, it appears Loughner had no affiliation with any conservative political group. In fact, it's not clear he had any coherent political ideology. His online diatribes are the jumbled ramblings of someone with severe mental illness.

His classmates at Pima Community College reported that Loughner frequently made "irrelevant and nonsensical comments in classes," according to *TIME*. *The*

Washington Post reported that Loughner had written on a recent exam, "Eat + Sleep + Brush Teeth = Math."

The more you learn about Loughner, the more it seems the shooting wasn't politically motivated. We've found the violent tenor of recent political rhetoric truly dispiriting. But the Tucson rampage seemingly has little connection to anything Sarah Palin has been saying.

If anything could have prevented the shooting, it was probably better mental health care. Arizona, like Texas, has received low rankings from mental health advocates in recent years. The state slashed mental-health funding by 37 percent in 2010 to fill a state budget gap.

Texas should learn from this. The state already ranks 49th in per capita spending on mental health. With a \$27 billion budget shortfall, Texas will likely reduce our meager mental health services even further. Severely mentally ill people who don't receive treatment can become violent, and Texas has seen its share of horrific examples. That includes Otty Sanchez—the schizophrenic San Antonio mother who decapitated her infant in 2009.

We may soon see more tragedies like the Sanchez case. They won't be as high-profile as the Loughner shooting. But reductions in mental health care will surely lead to loss of life. ❏

There is something Texas should glean from the tragedy—but it has nothing to do with Sarah Palin and right-wing rhetoric.

READ more about the Otty Sanchez case at txdo.com/otty

LOON STAR STATE Ben Sargent





MISSION STATEMENT

Commission

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(PROFIT FOR SOME, BUT NOT ALL)

of the citizens of Te

STATEMENT: The Finance
Industry of Texas is to
protect the banks, sav-
ing credit grantors, etc.
(FOR PAYDAY LENDER LOBBYIST)
(PAYDAY LENDERS, PAWNSHOPS, ETC.)
regulated under state law
to protect the financial well-being
(BY REGULATORS, FOR REGULATORS)
of Texas.





by Melissa del Bosque

The Texas Finance Commission is supposed to protect consumers from being plundered.

The commission writes regulations for loans and lines of credit. When the commission was created in 1943, state leaders stated in the agency’s mission that it “enhance the financial well-being of the citizens of Texas.”

Instead, commissioners are enhancing the financial well-being of banks, mortgage and payday lenders and pawnshops. In just one year the payday lending industry makes more than two million loans in Texas, draining borrowers of more than \$280 million in fees and interest payments. Representatives from the financial industries dominate the commission’s nine-member board. The chair, William “Bill” White, is vice president of public affairs for Cash America International Inc., one of the largest payday-lender and pawnshop chains in the country. Not one commission member represents consumers.

Most Texans probably have never heard of the Texas Finance Commission. But it wields the kind of power that affects every consumer who takes out a payday or car loan, or who applies for a second mortgage. The board, made up entirely of Gov. Rick Perry’s appointees, can interpret financial statutes and usury laws, and set guidelines on fees and interest rates for consumer loans. The members also appoint commissioners of three agencies: the Department of Banking, the Office of the Consumer Credit Commissioner and the Department of Savings and Mortgage Lending. These three agencies regulate myriad financial services, from examining the fiscal health of state chartered banks to loans from pawnshops and interest rates for secondary mortgages and car loans. Despite its low profile, the agency’s rule-making can have devastating financial consequences for Texas borrowers, as in the case of Valerie Norwood.

In 2004, Norwood, a disabled retiree living in Austin, took out a \$58,000 home equity line of credit from the New Century Mortgage Corp. She paid seven points on the loan (a point is equal to one percent of the loan and is intended to lower the interest rate) for an adjustable-rate mortgage that started at 8.54 percent, according to court documents. She ended up paying \$4,060 in total fees at closing, and her interest rate was still too high for someone on a fixed income.

Norwood didn’t realize it, but a rule made by the commission allowed her lender to ratchet up the fees on her home equity line. In 2003, the Texas Legislature passed a law allowing homebuyers like Norwood to take out lines of credit on their homes. To protect consumers, legislators capped fees at 3 percent—but left it up to the Finance Commission to interpret what qualifies as a fee. Shortly thereafter, the commission ruled that the 3 percent cap did not apply to most closing-cost fees. Under the cap, Norwood should have paid only \$1,740 in closing costs instead of the \$4,060 her lender charged. After being gouged on her loan, Norwood joined several other homeowners in a lawsuit against the

commission over its ruling. Instead of working with consumers to lower excessive fees, the commission fought them in court.

In 2006, State District Judge Scott Jenkins sided with Norwood and the other homeowners, finding that the commission had made the state’s 3-percent cap “essentially meaningless.” The commission and the banking industry appealed the case with the 3rd District Court of Appeals in Texas and lost again. It’s now under review before the Texas Supreme Court. Whatever the outcome, the commission’s support of the industries it regulates won’t change unless state leaders do something about the agency’s board.

Perry, during his long reign as governor, has made a habit of appointing industry executives to the commissions that regulate them. His choice of Cash America’s White to head the Finance Commission is as egregious as they come. Perry appointed White to the board in 2004, then made him chair in 2009, where he’ll serve until 2016. According to Texas law, four of the nine commission members must represent financial industries.

The remaining five seats are reserved for the public, presumably to provide a voice for consumers. Under Perry, nearly all of these seats are held by lawyers and CPAs from corporate firms with clients in the financial service industries, with the exception of Paul Plunket, a former lobbyist for Onco Electric Delivery. Seven members have contributed, either through PACs or individually, to Perry’s campaigns. Perry has received at least \$15,000 from the Cash America International PAC since 2006, according to the nonprofit Texans for Public Justice.

Texas has been good to Cash America, which has 251 pawnshop and payday-lending businesses in the state. Recently the company announced that profits had increased to \$81 million in the year ended last October from \$63 million a year earlier. Cash America and other payday lending companies advertise heavily on street corners in low-income neighborhoods and offer easy cash on the Internet to borrowers in financial crisis. These “easy” loans carry jacked-up fees and exorbitant interest rates. In Texas, an eight-day payday loan carries a 1,153 percent annual rate—one of the highest in the nation. The average annual rate for loans in other states is 400 percent, according to the nonprofit Center for Responsible Lending. Borrowers find themselves trapped in an endless cycle of poverty, taking out new loans to pay for the ones they already have.

More than a dozen states call these exorbitant loans a form of “predatory lending” and have outlawed them. In Texas, payday lenders can charge as much interest as they want. The Finance Commission, which has the power to protect consumers from unfair loans, has made no attempt to rein them in.

Last session, state Sen. Wendy Davis, a Democrat from Fort Worth, filed a series of bills that would have stopped payday lenders from charging excessive fees and rates, only to see her legislation die in committee after a formidable lobbying effort by Cash America and other lenders. (White was a lobbyist for Cash America before he joined the commission in 2004. He’s no

LEARN more about the Texas Finance Commission at txdo.com/fin

Valerie Norwood didn’t realize it, but a rule made by the commission allowed her lender to ratchet up the fees on her home equity line.

READ about the payday lending industry in Texas at txdo.com/pay

LEARN more about responsible lending practices at txdo.com/lend

longer a registered lobbyist, according to the Texas Ethics Commission). Davis calls White's appointment to the commission "the classic fox in the henhouse. It's really disgusting that an industry that profits from the poor by charging 1,000-plus interest is put at the head of the state's financial regulatory agency," she says. "It's saying, 'It's not only OK, but we're going to put them in charge.'" Davis recently filed two reform bills for the current session and says she will fight the industry's lobbyists "in the next session and the one after that until something passes."

White says his industry's loan practices aren't predatory. "The fees are no more excessive than a bank's overdraft charges," he told the *Observer*. White says he doesn't see his appointment as a conflict of interest. "I'm just one voice on a nine-member board." He says there's nothing his commission can do to rein in skyrocketing interest rates anyway since the payday-lending industry found a legal loophole that allows them to escape state regulation. "It's up to the legislators," White says, to pass legislation to close that loophole.

In 2005, payday lenders found the loophole, which is unique to Texas law, allowing them to register their businesses as "credit services organizations." Ironically these groups are supposed to help consumers repair credit and provide counseling to consumers. Now the only requirement is a \$100 license fee with the secretary of state, and payday lenders can charge any interest rate they choose. Meanwhile, the Finance Commission has watched the state's predatory lenders escape regulation. Sen. Davis, who authored legislation last session to close the loophole only to watch it die under intense lobbying, says White isn't motivated to help consumers. "He wants to maximize profits for his company and keep them in the loophole," she says.

While White says his commission is powerless to act on the loophole, he adds the agency is always willing to listen to consumer complaints or suggestions during hearings they hold six times a year. "We have a portion of every meeting open to the public. And once we start the formal agenda, we take testimony. That's two opportunities for the public to speak. As far as I am concerned we've never said we were unwilling to talk to anybody," he says.

If the commission is listening to consumers, it's not doing much to protect them. It may be up to the Legislature to close the loophole, but there are still many things the agency could do, including hearings on predatory lending practices and interpreting the Texas Constitution's usury laws in a way that protects consumers. It could even draft resolutions in favor of closing the payday-lender loophole.

The agency hasn't done any of those things. It hasn't even collected data to see whether payday lending is hurting low-income communities. Commissioners have a duty to take action when consumers are being hurt, including asking the Legislature for help, says Robert Doggett, who serves as lead attorney in the homeowner lawsuit against the commission. "They sure didn't mind passing a resolution to ask the Legislature to change the (home equity) law to help lenders."

With Perry recently re-elected, the commission is unlikely to change its industry bias unless the state Legislature forces it to change. Republican state Rep. Burt Solomons of Carrollton has worked with the commission on legislative issues over the years as a


member and chair of the House Financial Institutions committee. He says the commission "needs to have a voice for consumers on the board." Last session, he introduced an amendment to appoint two consumer seats to the commission. "The one thing that is very noticeable is that they always take the position of the industry," he says. "They interpreted the home equity laws and were sued over it because they took the position of the lending community."

Solomons' amendment stipulated that the consumer representatives not have business dealings with the industries they regulate. He offered the amendment to a bill by Republican state Rep. Dan Flynn of Canton, who is also a banking executive, that would have added another banking seat to the commission. After accepting Solomons' amendment, Flynn declined to ask for a vote, allowing the bill to die. "Mr. Flynn pulled it down because the banking industry or whoever was interested in the issue didn't want to do it, which brings up the question 'Well, why not?'" Solomons says. "It's obvious they didn't want to do anything that had the word 'consumer' in it."

Solomons may try again this session to add the two consumer advocates to the commission. He's not fired up about fighting the commission and its industry supporters this session, when there's a \$27 billion budget shortfall. "We've got a lot of work to do this session," he says. "I thought it was a good idea at the time, and I still do."

It's doubtful we'll be hearing or seeing much of the Texas Finance Commission in the hearing rooms of the Legislature. On the final day of the last session, the commission had itself exempted from the legislative appropriations process and its grueling public hearings. Drew Darby, a Republican state rep from San Angelo, tacked the lengthy proposal onto legislation carried by fellow Republican Rep. Vicki Truitt of Keller during a conference committee meeting. In the frenzy of the session's final hours there's little time to ponder the fine print. With the commission's newly independent status, it will only submit a yearly report to the Legislature instead of seeking regular appropriations. This legislative session, the Finance Commission won't have to submit itself to public scrutiny. The industries they regulate prefer it that way. ❏

This article is the first in a series of stories called "The Poverty Business" about regulators and the industries that enrich themselves at the expense of Texas consumers.



Human Impact
Medicaid Funding

2.3m
of Texas children that receive health insurance from Medicaid

1 in 8
Number of total Texans receiving Medicaid in 2008

1.4m
Projected number of new Texans on Medicaid rolls by 2019 (Kaiser Health Report)

200,000
of children who lost health insurance after the Legislature cut access to the Children's Health Insurance Program during 2003 budget crisis

55%
Percentage of births in Texas paid for by Medicaid

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SPEAK NO EVIL

Van Taylor was elected to the State House as an economic conservative with Tea Party backing. So why won't he talk about Texas' most famous case of eminent-domain abuse?

BY ANDREW WHEAT



THE GOVERNMENT TAKEOVER OF private land for economic development projects is a cardinal sin for property-rights conservatives. In one of the nation's most notorious examples, officials in the Gulf Coast town of Freeport tried to seize land so a developer could build a yacht marina. The marina was supposed to transform the small, working-class Texas town's struggling economy. Instead, Freeport's marina became nationally known as a poster child of eminent-domain abuse.

Over the past decade, the battle in Freeport has ripped a town apart and changed the law of the land in Texas. So why would a new conservative member of the Texas House—a man who witnessed and participated in some of this heady history firsthand—not want to talk about it?

In an ideological mismatch, the blueblood family of first-term Rep. Van Taylor, R-Plano, was on the *eminent domain* side of Freeport's marina fight—the side that gives many of Taylor's fellow Texas conservatives hives. However, few in Taylor's Plano-based district seem to know much about the issue, which never surfaced during his campaign.

To understand this tale of greed and conservative hypocrisy, a little history helps. Taylor descends on his mother's side from the 1909 marriage of Humble Oil founder Robert E. Lee Blaffer to a Texaco founder's daughter. Gov. James Hogg dubbed the union “the conglomerate of the century.”

Now fast-forward almost a century. In 2002, Taylor and 10 other young descendants of that marriage inherited a seemingly insignificant scrap of Blaffer wealth: nine acres on Freeport's dingy waterfront. That beachhead is where Freeport's imaginative officials envisioned a marina to attract wealthy people, shops and hotels to a city laboring under a petrochemical cloud.

Freeport officials wanted the marina so bad that they made the Blaffer heirs an offer that was hard to refuse. The city would loan the Blaffers \$6 million to build the marina on land valued at \$750,000. On paper, Freeport's generous loan suggested to some that the Blaffers didn't have much to lose. But they were putting their reputations at stake.

The marina project's chief failing was that it did not limit itself to land already owned by either the Blaffers or local government. When negotiations with several adjacent landowners broke down in 2003, the city-controlled Freeport Economic Development Corp. invoked eminent domain to buy the disputed properties. The Blaffers soldiered on with the project despite its assault on property rights.

The marina debate in Freeport unfolded as a national debate over seizing private land for economic development was coming to a head. In 2005, a 5-4 U.S. Supreme Court majority ruled that a Connecticut town could use eminent domain to seize waterfront homes for a private developer. The majority and dissenting opinions in *Kelo v. City of New London* could have been written just as well about the Freeport marina. “Any property may now be taken for the benefit of another private party, but the fallout from this decision will not be random,”

wrote dissenting Justice Sandra Day O'Connor. “The beneficiaries are likely to be those citizens with disproportionate influence and power in the political process, including large corporations and development firms.”

REP. TAYLOR WAS NOT the Blaffer family's front man on the marina. That role fell to his cousin, Dallas developer Hiram Walker Royall. On behalf of the Blaffer heirs, Royall agreed in 2002 to develop the Freeport marina.

When Freeport officials invoked eminent domain at the marina in 2003, Taylor was 7,000 miles away, doing a reserve tour with Marines who spearheaded the invasion of Iraq. The military later decorated Capt. Taylor for valor in the fight for the city of An Nasiriyah and the rescue of Army Private Jessica Lynch.

His military service did not keep Taylor away from the marina debacle forever. In May 2005, the future legislator accompanied Walker Royall to Freeport for a public meeting about the project. Taylor left the speaking to Royall that day, but he witnessed verbal combat. One citizen asked the developers how they squared the project's use of eminent domain with the Tenth Commandment's prohibition against coveting your neighbor's property. Another wanted to know why taxpayers had to finance the project. It was a good question, given that the Blaffers are stockholders in the local Texas Gulf Bank (Taylor sits on the board).

“Unfortunately, the market here, the way it is right now, is not a proven market,” Royall responded. “The banks would not be willing to lend us the money under terms that we could accept for the project, meaning that the interest rate would go up, the amount of risk would go up.” No commercial bank, in other words—not even the Texas Gulf Bank—would match the terms the city of Freeport had offered the developers.

A month after that contentious meeting, the Supreme Court released its explosive *Kelo* decision. The ruling was denounced by property-rights advocates such as Republican Congressman Ron Paul, who represents Freeport in Washington, as a prime example of how “we find ourselves increasingly enslaved by petty bureaucrats at every level of government.” Two months later, Taylor formed a fundraising committee for his first political campaign. Preparing his ultimately unsuccessful challenge to Waco Democratic Congressman Chet Edwards, the young Harvard graduate apparently recognized that a personal stake in the Freeport marina could tarnish his conservative credentials.

Brittany Eck, Taylor's chief of staff, says her boss sold his interest in the Freeport property sometime after he returned from Iraq in 2005 and “doesn't want to comment about something he wasn't involved in.” Eck declined a request to ask Taylor about his sale of the property and his impressions of the meeting he attended in Freeport.

Royall did speak to the *Observer* and said that he bought out Taylor's interest in the Freeport property. Royall said the transaction “could've been around that time” when Taylor attended the Freeport meeting. Whatever the timing, Taylor did not list the Freeport property among his assets on

READ the Supreme Court's *Kelo* decision at txdo.com/keloruling



Rep. Van Taylor

The Texas Conservative Coalition, which counts Rep. Van Taylor among its members, called eminent domain “government power in its rawest” and a “slide toward socialism.”

a congressional campaign disclosure filed months later. According to the report, Taylor's stock in Exxon Mobil Corp.—successor to his great-grandfather's Humble Oil—was worth between \$5 million and \$25 million.

TAYLOR LEVERAGED HIS FAMILY FORTUNE to win a Texas House seat last spring. In one of the priciest House primaries in Texas history, Taylor spent almost \$1 million of his own money to become the Republican nominee for the seat of the retiring Plano Rep. Brian McCall—and a shoo-in to win the general election. McCall, a moderate Republican, had tapped GOP candidate Mabrie Jackson as his preferred successor. But Taylor, backed by Texans for Fiscal Responsibility and the North Texas Tea Party, won the three-way GOP primary in a runoff. In its endorsement, the Tea Party group called him “the prototypical fast-rising star of the Conservative wing of the GOP ranks.”

Jackson, Taylor's vanquished opponent, says she was unaware of Taylor's ties to the Freeport marina. Would this issue have changed the outcome? Jackson says that would have depended “on how much he really had to do with it and when he sold.”

Plano real estate broker Olin Jaye supervised the Texas Association of Realtors members who quizzed District 66 candidates about eminent domain. The trade group, which endorsed Jackson, keeps the details confidential. But Jaye recalls that “they were all very conservative, well-informed candidates on our issues and very supportive of Realtors and property rights.”

While Taylor declined to discuss his views for this article, cousin Royall told the *Observer*, “I'm not a supporter of eminent domain.” The marina embarrassed the conservative Blaffer heirs, it seems, because its land grab conflicted with their core beliefs.

It also conflicted with the convictions of conservative groups that backed Taylor and routinely denounce the use of eminent domain for development projects. Eleven conservative groups, including Texans for Fiscal Responsibility and the Texas Conservative Coalition, joined *Kelo* plaintiff Susette Kelo and Freeport's Western Seafood in a 2009 letter to Texas lawmakers urging legislators to strengthen a proposed state constitutional amendment to stop “eminent domain abuse.”

The Conservative Coalition—which counts Taylor among its members—has called eminent domain “government power at its rawest” and denounced *Kelo* as a “slide toward socialism.” These tracts never mentioned the elephant in the room: Freeport's marina. (A post-*Kelo* paper by the conservative Texas Public Policy Foundation skewered the project. “It is inconceivable that the Founding Fathers would have thought that the Fifth Amendment would have allowed the City of Freeport to take the property of Western Seafood,” it said, “and give it to their neighbor to build a private marina.”)

The Conservative Coalition may have glossed over the Freeport marina out of deference to the Blaffer clan. Coalition Executive Director John Colyandro now awaits trial on criminal charges alleging that he helped Tom DeLay's Texans for a Republican

READ the North Texas Tea Party's endorsement of Van Taylor at txdo.com/fortaylor



BAD BILLS

House Bill 22

Rep. Debbie Riddle (R-Tomball)

Parents may be sending their kids to school with more than just notebooks and lunches next year. If Texas House Bill 22 passes, kids will be bringing their birth certificates or immigration papers to school too.

One of many anti-immigration bills filed by Rep. Debbie Riddle, R-Tomball—the same Debbie Riddle who claimed on national television last year that the United States faced the threat of an intricate “terror babies” plot—HB 22 mandates that parents submit their children's birth certificates or immigration papers to enroll them in Texas public and charter schools. The bill would require parents to inform the school of their child's

immigration status in the first 30 days of the school year.

The bill also would require schools to report the number of students who are citizens, immigrants or are enrolled in bilingual or special-language classes to the Texas Education Agency.

“This bill is really more boring than people make it out to be,” Riddle's Chief of Staff John English told the *Observer*. “Right now we are concerned with collecting data and numbers. Our aim is to end the guessing game of how much the state is spending on illegal immigrants.”

But school boards, administrators, teachers and families might not find the bill so boring.

Dax Gonzales, spokesman for The Texas Association of School Boards, fears the bill will create an adversarial relationship between schools and parents. “If parents start recognizing schools as immigration enforcers they will no longer want to have anything to do with the school,” Gonzales said, “This would just be an additional burden to the student already below the level playing field.”

Then there is another concern: Parents without immigration papers may opt to not send their kids to school at all. “The unintended effect of this bill would be to discourage a large number of school-aged children from exercising their constitutional right to education,” says Dotty Griffith, public education director for the American Civil Liberties Union of Texas. “While this bill may not explicitly deny an

undocumented student a right to education, the consequence will be just that.”

Because public education funding is based on attendance numbers, anything that discourages parents from putting their kids in the classroom would take money out of school districts' pockets.

Which brings us to the final issue here: money. With a \$27 billion budget deficit, legislators are sure to cut education funding this session. Not only will school districts have to reduce spending, but HB 22 would require the districts to somehow find the money, personnel and time for collecting, filing, and reporting birth certificates and immigration papers.

Jackie Lain, director of government relations at the Texas Association of School Boards, put it simply, “There are immigration officials and there are schools. The school's role is to teach kids.” — *Daniel Setiawan*

Taylor's family didn't have much to lose in the Freeport marina deal—except their reputations.

Majority PAC launder corporate funds during the 2002 Texas elections. Those elections famously elevated Midland Republican Rep. Tom Craddick—a founder of the coalition's research arm—to the speaker's dais. For 12 years, Craddick has sat on the board of a Midland energy company headed by Rep. Taylor's father, Nicholas. Craddick reciprocated as speaker in 2005, appointing Nicholas Taylor to the Texas Ethics Commission.

At the time of Nicholas Taylor's appointment, the commission was investigating a complaint that Freeport's mayor had filed against Western Seafood. It alleged, among other things, that the shrimp company illegally spent \$1,000 in corporate funds to

back an anti-marina candidate for the city council. Commissioner Taylor brought awkward baggage to the case. He had served as executor of the estate that left the waterfront property in Freeport to the young Bluffers—including his children.

Nicholas Taylor tells the *Observer* that he knew—and respected—Western Seafood's patriarch, Wright Gore Sr., when they both served on the board of Texas Gulf Bank. Despite these ties, the ex-commissioner says he can't remember if he participated in the agency's decision to fine Western Seafood \$2,000. "I think I recused myself," he says, "but I can't recall."

WESTERN SEAFOOD, which led the fight against the marina, is a shrimp wholesale business that has been owned for three generations by the family of Wright Gore III. When Freeport officials and the Bluffers sought to build part of the marina on a slip of Western Seafood's waterfront, Gore's family, which employs 56 people and supports 200 shrimp contractors in the Gulf, sunk \$700,000 into the battle. Gore poured some of his energy into such websites as "6million4Walker.com," which panned the marina as a raw deal for Freeport taxpayers.

Gore is a character, a fellow with "a flair for Texan slang," according to reporter Carla Main's 2007 book about Freeport's marina, *Bulldozed: 'Kelo,' Eminent Domain and the American Lust for Land*. Gore "summed up the marina development for Freeport residents as he saw it," Main wrote, "warning that they would 'get the boot' and 'the bill.'"

Gore's spin got to Van Taylor's cousin, Walker Royall. The Dallas developer told Gore's lawyers in 2008 that their client unfairly portrayed him as "a property-taking, tax-dollar stealing robber baron.

"When I got involved in the project, there was no talk of eminent domain," Royall said, and all affected property owners indicated that they were on board. Royall told Gore's lawyers in 2008 that the shrimp family brought eminent domain upon itself by demanding a king's ransom for their land. "They have a property that was on the tax rolls for \$60,000, that they were interested in, in my opinion, extorting \$1.4 million from the City of Freeport for," Royall told the lawyers.

Royall has filed defamation lawsuits against many critics. Western Seafood's insurers paid \$300,000 in 2009 to settle one suit. Royall also filed a 2008 defamation suit against author Main, her publisher, a professor who wrote a blurb promoting her book and a writer who reviewed the book in the *Galveston County Daily News*. Complaining that Main's book has prompted repeated questions from friends and business associates, Royall's lawsuit says his "reputation has been damaged," causing "mental anguish." Main dismisses Royall's suit as "an affront to the First Amendment." A state appeals court in Dallas is expected to rule soon on Main's request to dismiss the case on free-speech grounds.

Like the marina project's land grab, Royall's litigation has drawn conservative condemnation. "So slapdash are Royall's accusations against Main," wrote national columnist George Will, "that his suit seems to reflect nothing more substantial than his dislike of her opinions."

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Closer to home, Catherine “Trinka” Blaffer-Taylor gave \$25,000 during the marina battle to Texans for Lawsuit Reform to combat lawsuit abuse. This opponent of lawsuit abuse is Royall’s aunt and the mother of Rep. Van Taylor—who lists “abusive litigation” as a chief concern on his legislative website.

AFTER ALL THE FUSS, Freeport officials failed to acquire any land for the marina through eminent domain. Brazoria County courts halted the condemnation proceedings on the Gore family’s Western Seafood land in May 2007, finding that Freeport’s condemnation rights had not been vested before Texas enacted a post-*Kelo* law in 2005.

That Texas law, passed in the wake of the Supreme Court decision, prohibits land condemnations that chiefly promote economic development or benefit a private party. Texas voters subsequently adopted a 2009 constitutional amendment that largely prohibits land takings for private-sector economic development projects. It’s not clear that these changes would have occurred if a shrimp family hadn’t drawn a line in the sand in Freeport.

“The Wright Gore family’s struggle put a human face on eminent-domain abuse in Texas,” says Matt Miller of the Austin office of the libertarian Institute for Justice. “His indefatigable efforts meant that lawmakers could not ignore the issue.” Miller’s group is defending author Main against Walker Royall’s lawsuit.

Van Taylor’s cousin never built a marina in

Freeport. Local opposition came to a head in 2006 when the city-run Freeport Economic Development Corp. replaced Royall as developer of the troubled project. The development corporation decided to build the marina itself, and then lease or sell it back to Royall.

Part of the Freeport Municipal Marina opened last fall. It has leased 16 out of 150 boat slips, says manager Angie Degetaire. Estimating that the marina will end up costing \$11.5 million, the development corporation filed suit last April alleging that Walker Royall fraudulently breached his marina contract. Royall made counterclaims of his own. Development Corp. President Jim Barnett, who was mayor in the early days of the marina fiasco, says Royall and the agency are discussing a settlement.

Rep. Taylor, meanwhile, is silent about one of America’s most notorious eminent-domain controversies. Old rivals Hiram Walker Royall and Wright Gore III are not talking to each other. Gore says, “I don’t hold anything against Van Taylor,” but he won’t say the same for Taylor’s cousin. Both men say that they would love to see Freeport’s marina succeed, though they weigh its prospects differently.

“There’s a reason we’re called the petrochemical underarm of Texas,” Gore says. “As far as the eye can see, it’s nothing but petrochemical stuff belching out. I can’t understand why anyone would want to park their recreational boat there.”

Contributing writer Andrew Wheat is research director of Texans for Public Justice (www.tpj.org).



Wright Gore and Wright Gore III in front of their business
PHOTO BY RANDY BROWN

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MOLLY IVINS



PHOTO BY ALAN FOGUE

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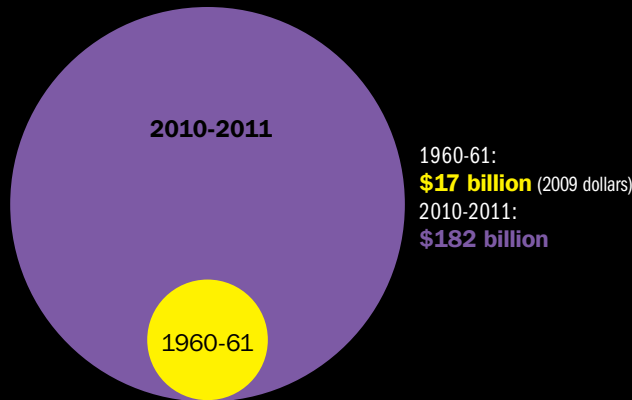
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LEGE BY THE NUMBERS

BY FORREST WILDER

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Texas State Budget:
An Inflation-Adjusted
Comparison

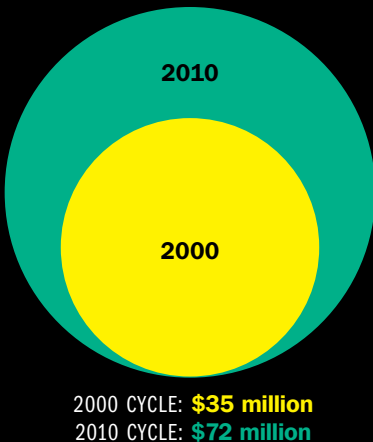


TOTAL BILLS FILED *by year*

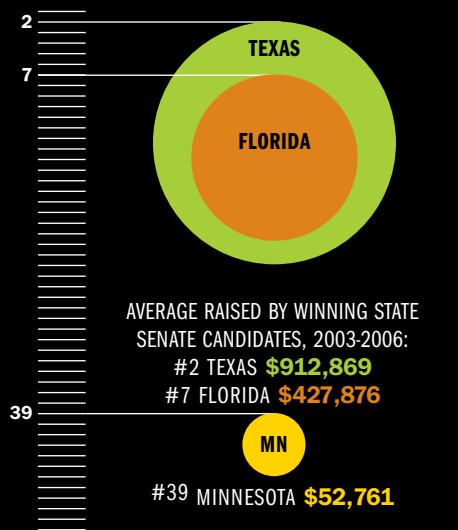


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NUMBER OF LOBBYISTS IN 1999: **1,510**
NUMBER OF LOBBYISTS IN 2009: **1,690**

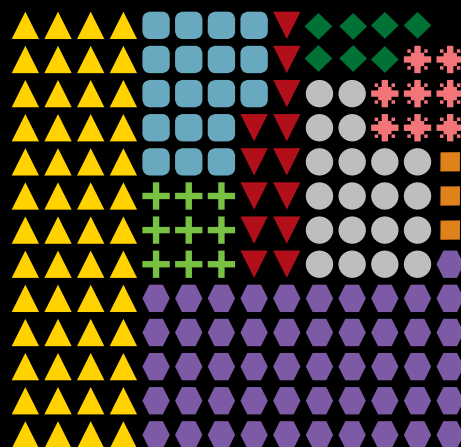
Minimum number of
FORMER LAWMAKERS
registered as lobbyists
2006-2009

101

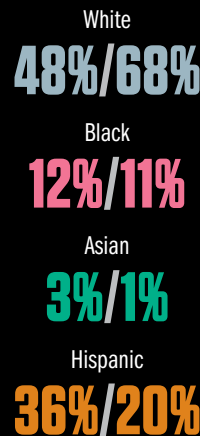
IDENTITY

- ▲ Law (52)
- ◆ Business (51)
- Finance (18)
- ▼ Medical (13)
- + Real Estate (9)
- * Insurance (8)
- ◆ Ranching/
Farming (7)
- Education (3)
- Other (20)

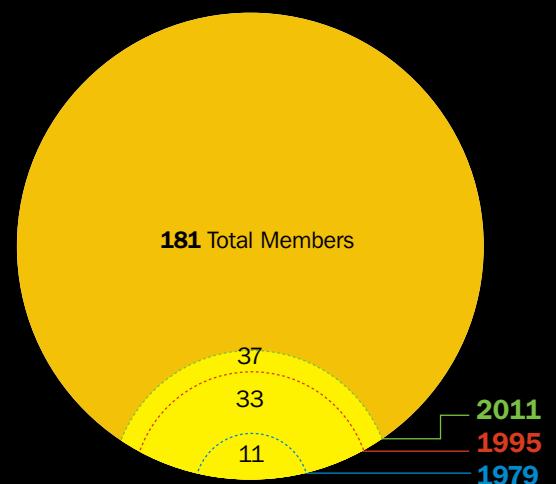
OCCUPATIONS OF TEXAS LEGISLATORS



RACIAL MAKE-UP OF
STATE/LEGISLATURE, 2011



NUMBER OF WOMEN IN THE LEGISLATURE





ABBY RAPOPORT

FLOOR PLAY

Family Feud

PRACTICALLY EVERY ELECTED REPUBLICAN IN TEXAS WILL SWEAR up and down that he or she *just loves* the Tea Party. What's not to love about the movement that re-energized the GOP and handed it a state House supermajority? But in truth, most traditional—dare I say establishment?—Republicans have an ambivalent relationship with the movement, to put it politely. Not that the Tea Partiers are the establishment's biggest fans, either. ¶ When the House Republican Caucus voted in a closed-door meeting to support House Speaker Joe Straus for a second term on Jan. 17, many Tea Party activists—who'd deemed Straus a wild-eyed moderate—weren't about to let it go. As the lawmakers exited out the side door of the state office building where they'd convened, they were met by an angry mob who had spent months organizing, making calls and ads in the hopes of dumping Straus. "You will be fired!" screamed one Tea Partier, his voice already hoarse from yelling. "The people who elected you will fire you!" Another woman began chanting, "The eyes of Texas are upon you—now and for the next two years!" (Less than 24 hours later, Straus would be reelected House Speaker by the whole chamber, with only 15 "no" votes.) The raw anger and disappointment among Tea Party activists was already palpable. The question now is how long will that anger—on both sides—last?

The GOP establishment likes the Tea Partiers, so long as it can control them. In the speaker's race, the Tea Party wasn't controllable. Now that they've lost their long-shot challenge to Straus, the movement's leaders have a choice: Work from inside the party, cooperating with moderates and all, and risk becoming subsumed by that which is Grand and Old. Or maintain their purity, fight the establishment, and risk irrelevance. Decisions, decisions.

Kaufman County Tea Party Chair Ray Myers is ready to take the risk. "We put our heart and soul into this," he sighed after Straus decisively won. Before we'd heard the outcome, Myers had told me this fight for the speakership was "bigger than the Super Bowl." He now plans to go to San Antonio and help recruit someone to run against Straus in the 2012 primary. Peter Morrison, a hardline Tea Partier with a weekly newsletter, has gone one step further and promised primary opponents for everyone who supported Straus. With 83 Republicans to oppose, he's got a busy year ahead. Others were more relaxed. "Once the election's over with, you have to start working with the people you have in place," said John Cook, a member of the State Republican Executive Committee and a vehement Straus opponent. Both Myers and Cook came under attack for their comments about Straus and

calls for a "Christian" House Speaker. (Straus is Jewish.) But now, Cook said, differences are "going to get bridged, and we're going to pass some conservative bills."

There are risky choices for Straus and his allies to make, too. Traditionally, those opposing the speaker find themselves in the penalty box for the session. Straus could punish the 15 members who voted against him, putting them on, say, a new Dustmites and Mold Committee. That would leave the Tea Party without many powerful players on the floor. But such a move could backfire on Straus, leaving him and his followers even more despised by the activists. The speaker could also choose to forgive and forget. He could give a few Tea Party members powerful committee posts, hoping to bring the extremists into the system. But that approach could empower his enemies.

Whatever decisions both sides make, there's another confrontation looming in the 2012 Republican primaries. We'll find out then just how unhappy this marriage is going to be. ❧

"You will be fired!" one Tea Partier screamed at Republican representatives.

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Arundo donax, the giant cane that is taking over the Rio Grande Valley, is virtually indestructible. Burn it out, and it sprouts from the ashes. Spray it with pesticide, and within weeks it springs back. The cane grows everywhere and is absurdly thirsty, siphoning off, by some estimates, between 30 and 40 percent of the water in the Rio Grande Valley. That, John Adamczyk explained to me as we rode through the Valley in his four-wheel-drive SUV, is why the federal Department of Agriculture is resorting to biological warfare.

Adamczyk is a head entomologist at the USDA's Kika de la Garza research station in McAllen. An affable Midwesterner, Adamczyk oversees an audacious and controversial plan to breed, test and release swarms of Arundo wasps, tiny Mediterranean insects that make their home in the cane's leafy stalks and help slow its growth.

I wanted to see the cane, so we'd driven down U.S. 281 looking for some. It wasn't hard to find. The cane was everywhere, thick, green stands 15 to 20 feet high, anywhere its roots could pull up water. It was along the highway. It was beside irrigation ditches. It flourishes on the banks of the Rio Grande.

"Man, the stuff's all over," Adamczyk said, steering toward a gap in the border fence next to a Border Patrol station. "The Rio Grande Valley is already arid, and that's not going to get any better. The world is getting warmer, and agriculture on the river is expanding. We really can't afford to be losing that much water to a weed."

Mexicans call the cane *el ladrón de agua*, the water thief. It grows so dense and pulls so much water out of the river and irrigation ditches that parts of the Valley are going dry. It's drained habitats and helped make certain species of fish extinct.

While Adamczyk kept an eye out for Border Patrol agents, I got out of the SUV and walked across a farmer's field toward the Rio Grande. I could hear the river, but I couldn't see it. The Arundo cane was too dense. When I stepped into it, it was so thick I could

COMBATING AN INVASION

In South Texas, scientists breed super wasps to control a water thief.

BY SAUL ELBEIN

PHOTO BY JOHN M. RANDALL,
THE NATURE CONSERVANCY, BUGWOOD.ORG



The cane grows everywhere and is absurdly thirsty, siphoning off, by some estimates, between 30 and 40 percent of the water in the Rio Grande Valley.

READ an Observer report about the plan to poison the cane at txdo.com/canekill

barely move. It took 10 minutes to wrestle my way 30 feet to the water. The cane stretched up and down the river on both sides as far as I could see.

This unnatural density is one hallmark of an invasive species. The *Arundo* cane has spread so fast in Texas because nothing is feeding on it. In Europe, where it originates, specialized insects keep it under control. When the Spanish brought the cane to colonies in South Texas in the 1500s for basket-weaving, they didn't bring anything that would eat it. Now, 500 years later, we are paying the price.

"Every native plant species in the Rio Grande Valley has spent millions of years in constant competition with every other plant and animal species in the region," Adamczyk said. "They have bred to keep each other in check. But there's nothing doing that for the *Arundo*. Nothing is eating it or slowing its spread, and it's able to out-compete everything."

There are three primary ways to control invasive plant species: Kill them with herbicides, clear them with bulldozers and machetes, or attempt to introduce a new predator. The least controversial approach, clearing the cane, is not going to work. There are thousands of square miles of the stuff, and *Arundo* cane is nearly impossible to cut out. Each stalk has a thick taproot that sends shoots in every direction. You can bulldoze or chop the cane down, and it will grow right back. Worse, any stress on the plant—say a machete blow—causes it to send out more root stalks. Every chopped-up joint of cane that floats downstream can sprout another stand.

Killing the cane is not going to be easy, and until recently, the USDA was considering spraying the Rio Grande and its tributaries—an area known for its intensive agriculture, which drains into the Gulf—with Monsanto's Roundup herbicide. The drawbacks are obvious. In 2009, scientist John Goolsby of the USDA's Beneficial Insects Research Unit proposed using "biocontrol" on the cane. The approach involves fighting one invasive species with another invasive species. In this case, wasps. The *Arundo* wasps are what entomologists classify as "primitive wasps"—they don't live in colonies, they don't build nests, and they can't sting. They can, USDA scientists hope, help control the cane.

The wasps are from the same part of the Mediterranean as the cane, and the female wasps have sharp, tapered abdomens that they use to inject their eggs deep into the green stalks. The eggs cause the cane to form galls and grow outward, seriously retarding growth. Later, the young wasps emerge from the galls, and the cycle continues. Since 2009, the USDA has begun releasing them in test sites in Laredo and McAllen.

SINCE THE EGYPTIANS brought cats into their homes 4,000 years ago to eat rats, biological control projects have rested on a simple premise: If pests spread because they don't have natural enemies, then introduce some. As the age of international travel began introducing new species willy-nilly, biologists began combing the globe for new, exotic predators to keep the invasives in check.

"We determine the pest's point of origin," said Adamczyk. "Then we observe the pest in its natural environment to see what natural enemies prey upon

it. Then we try to reintroduce that natural enemy wherever the weed is located."

Similarly, in 1870 U.S. Secretary of Agriculture Charles Valentine Riley launched the modern age's first organized biological control project by sending a boatload of American predatory mites to France. The mites were supposed to eat the *Phylloxera* flies that were decimating the French grape crop. Riley's attempt had approximately zero effect. The mites didn't kill enough flies to save the vines. The only reason the French have a wine industry now is that they imported *Phylloxera*-resistant vines from Texas.

This debacle suggests that biocontrol's underlying equation may be too simple. "The whole premise of biocontrol," said Dean Pearson, a research ecologist with the Forest Service's Rocky Mountain Research Station in Colorado, "is that things spread because they don't have natural enemies. But that isn't necessarily true. What keeps an invasive in check in its home ranges may not be another animal: It could be differences in climate, or in the soil chemistry, or in the bacteria in the soil. If you move them someplace else, they may spread for reasons that have nothing to do with what eats them."

Biocontrol specialists, Pearson said, often don't look at those other factors—they go straight for the "natural enemies."

Pearson said he isn't opposed to biocontrol, but thinks it needs to be used with extreme care because so much can go wrong. Most importantly, ecologists have to make sure that whatever natural enemy they import attacks only the target. Many of biological control's most spectacular failures stemmed from carelessness about this risk. Sometimes, as with the cane toads the British brought to Australia in the 1930s to attack beetles, the new organism will devastate the environment it was supposed to save. The cane toad ignored the beetles, preferring native small mammals and amphibians. It has since driven many native Australian species extinct.

The scientists in McAllen have put a lot of time and money into making sure that they don't repeat this sort of mistake. Part of this process involves finding an insect so specialized it can only live on one subspecies of *Arundo* cane. Among other things, the scientists looked at 16th-century shipping records to discover the cane had probably come from the port of Alicante, Spain. They compared DNA samples from South Texas *Arundo* to samples from eastern Spain. Living on the cane there were four species of insects that appeared to live nowhere else. Of these, the most promising was the *Arundo* wasp.

When the wasp eggs arrived from Europe, sealed in stalks of *Arundo* cane, agency scientists took samples of every plant in the Rio Grande Basin and put each in a glass case. They put wasps in to see what they did. "We had these biology students from Brownsville High School," Adamczyk said, "and they would go into the sterile rooms, put on their iPods and record every time they landed on a non-target species, how long they stayed, what they did."

He said the tests are so strict that if an insect eats a non-target plant even once, the USDA will likely ban its release. "There's too much agriculture down here for us to release something we're not sure of," he said.

Pearson, the research ecologist, said you can't ever

READ Pearson's paper on the knapweed biocontrol fiasco at txdo.com/knapweed

be sure. "Biocontrol folks say, we have screening procedures to make sure introduced organisms won't attack other organisms," he said. "And it's true, we've gotten very good at that. But there are other things that can go wrong."

In 2008, Pearson published a paper showing how a "perfectly well-behaved" biocontrol agent wound up seriously changing the environment. In the 1970s, faced with European knapweed spreading over the Rocky Mountains, the USDA introduced the gall fly, a small fly that—like the Arundo wasp—lays eggs in the invasive plant. The USDA ran extensive trials to make sure the fly wouldn't attack other plants in the region. They weren't mistaken; it only laid its eggs in the weed.

But as the flies multiplied on the knapweed, their eggs multiplied as well. Native deer mice, which usually died out in the lean winters, suddenly had something to eat when everything else died. Their population exploded. The rodents carried hantavirus, and people in Rocky Mountain cities started getting sick. The flies, like Riley's mites, haven't stopped the target species from spreading. There's still knapweed all over the Rockies.

Aside from attacking the wrong species, Pearson said, there are other ways a biological control agent can have unexpected effects. It may turn out that the invasive species takes on a valuable role in the ecosystem, like creating habitat for native species. Introduced control agents can also bring in new diseases: In the most dramatic example, amphibian populations all over the Americas and Australia were inadvertently devastated when species infected with *chytridiomycosis*, a lethal fungal infection, were introduced.

The South Texas Kika de la Garza facility has had successful biocontrol projects in the river. Until recently, many of the Rio Grande tributaries were fouled with water hyacinth, a South American ornamental plant said to have escaped from the 1884 New Orleans World's Fair. The hyacinth had grown so thick that in places it covered the water entirely, slowing down flow and starving native plants of oxygen. To fight it, the USDA introduced an East Asian diving beetle that eats hyacinth roots; the plant population has since been reduced to manageable levels.

There's no way of knowing now whether the Arundo wasp project will work. This is why the USDA is releasing the insects slowly, the better to track their effects. "The wasps have to survive," Adameczyk said, ticking off the unknowns as we drove back from the river. "They have to not all get eaten. Then it becomes a question of whether they can keep the cane in check."

Even if the introduction works, Adameczyk said, it's not going to eliminate the cane. At best the wasps will be a control measure that, in conjunction with machetes and herbicide, will help keep the cane in check. The wasp-infested cane will grow slower and pull less water from the river. "Go to Alicante [Spain], and you'll see the cane growing down by rivers. It grows all the way through Iran and into India. But it's not everywhere—you don't have it in massive stands like you do here. It's just a normal plant.

"That's what we're trying to get to here." ❏

Contributing writer Saul Elbein lives in Austin. His work has also appeared in The Jerusalem Post and the online magazines Tablet and Nerve.



Photo: Alan Fogate

"Ordinary Americans are going to save us."
— Molly Ivins

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CULTURE



Danny Trejo in *Machete*
PHOTO COURTESY FOX STUDIOS

CRITIC'S NOTEBOOK

Revenge of the B-Movie

by **Josh Rosenblatt**

LAST MONTH, THE TEXAS FILM COMMISSION informed Texas director Robert Rodriguez that his blood-soaked comedy *Machete* would not be receiving state incentive funds, despite earlier indications that it would. Apparently the commission had buckled to a right-wing email campaign claiming *Machete* was “nothing less than an attack on conservative Americans who oppose illegal immigration” and a “racist bloodbath.” The commission denied the application under a bizarre clause in the incentives statute that prevents money from going to films that feature “inappropriate content or content that portrays Texas or Texans in a negative fashion.”

Rodriguez’s movie, recently released on DVD, follows a righteous former Mexican *federale* nicknamed Machete, played by the imposing, pockmarked Danny Trejo. Machete is mistaken for a day laborer by an aide to an anti-immigrant U.S. senator from

Texas (Robert De Niro). This senator is so anti-immigrant, in fact, he secretly hunts and kills just-arrived “illegals” in the desert with an all-white border militia. The aide offers Machete a large sum to shoot the senator—saying Texas needs cheap illegal labor to maintain its economy—but then double-crosses Machete in an elaborate plot to gain sympathy for the senator and his anti-immigration platform. Down but not out, the knife-wielding Machete goes on a 90-minute, outlandish bloody rampage—slicing, dicing, decapitating, and disemboweling the men who set him up and the xenophobic power structure they represent. Along the way, Rodriguez finds an excuse to have Lindsay Lohan, dressed in a nun’s habit, shoot De Niro, which—let’s be honest—is probably reason enough to see the movie.

Oh yeah: The Texas senator, policy aide, and border guard are all in bed with a Mexican drug lord played by Steven Seagal.

WATCH the trailer for *Machete* at txlo.com/trailer

Does all that qualify *Machete* as inappropriate content portraying Texas or Texans in a negative fashion? Probably. But as one character in the movie says, “There’s the law and there’s what’s right,” and what’s right in this case is for the Texas Film Commission to lighten up and recognize that *Machete* is a mindless exploitation film, a ham-fisted satire, an absurd, over-the-top, gore-filled firebomb set off in the middle of a national debate on immigration reform. The movie lacks any subtlety or self-seriousness. Sure it’s a bloodbath, but it’s not a racist bloodbath. Racism is something that occurs between human beings; Rodriguez is only interested in comic-book characters.

Machete is both sensationalistic schlock and social critique, an excuse to show scantily clad women slicing bad guys in half with samurai swords and an exuberant middle finger to white America’s racially tinged

neuroses. It’s worthy of Texas’ tax dollars. Good or bad, *Machete* is a blend all its own that has inspired the kind of xenophobic hysteria and reactionary censorship that more artful satires could only ever dream of.

I watched the DVD of *Machete* shortly after the bureaucrats at the Film Commission condemned it. That helped me appreciate the film much more than I otherwise would have, or should have. Sure, the film is plagued by sloppy editing, lowbrow violence, lousy acting, and one-dimensional characters. But what difference does that make when those characters put the fear of God into the hearts of right-wing alarmists? Surely the best way to appreciate a scene with hundreds of armed illegal immigrants driving through the streets of Austin in bouncing, bejeweled low-riders is to imagine that Rodriguez has captured Arizona Gov. Jan Brewer’s worst nightmare on film for all the world to see. ❏

BOOK REVIEW

Motherless Texas by Steven G. Kellman

EXCEPT FOR ITS SETTING IN RURAL Lavaca County, roughly midway between Houston and San Antonio, the opening chapter of *The Wake of Forgiveness* might have been another Dickens tale about a birth that kills the mother. Bruce Machart begins his rich and riveting debut novel with an account of how a midwife is powerless to save Klara Skala, who gives birth to a healthy baby boy, Karel. Klara was the only woman Vaclav Skala, a rancher with the largest spread in Lavaca County, ever loved. Her death embitters him, making him “as likely to spit tobacco juice on a woman’s shoes as to tip his hat at her.” Nor is he affable toward men, particularly his four sons: Stan, Thom, Eduard and Karel, whose bodies bear the brunt of his bitterness and whose psyches he scars with the conviction of guilt. “There’s nothing ever happens that ain’t *somebody’s* fault,” Vaclav snarls. “Even if it’s God what made a mess of things, it’s always someone to blame.”

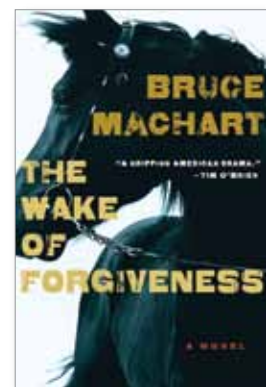
Can an infant be blamed for the death of his mother? Can he avoid the Freudian pull toward patricide? Vaclav works his fields by harnessing all four sons to a plow. The brutal labor leaves the Skala boys disfigured, with necks “bowed over like a fern blade weighted with dew.” Their fear and fury remain contained until, when Karel is 15, the arrival of a dapper stranger arouses sibling rivalries and challenges Vaclav’s hold on his domain. An elegantly attired and smooth-tongued Mexican named Guillermo Villaseñor shows up in the South Texas Czech community accompanied by three nubile daughters, two armed thugs and a bundle of cash. Intent on marrying his daughters off to three Skala sons, Villaseñor offers Vaclav a 200-acre dowry for each of his three girls. Already the lord of 600 acres, Vaclav sneers at the proposal. As a counter-offer, Villaseñor suggests wagering daughters and acres on a horse race. Vaclav, who had already acquired 200 acres when Karel outrode a neighbor boy on a bet, agrees, though four lusty boys do not divide evenly into three eager girls.

The competing equestrian skills of Karel and beautiful young Graciela Villaseñor will determine the fate of the Slavacs. It is one of three thrilling horse races crucial to Machart’s novel, and each leaves readers short of breath and longing for more.

Machart, who grew up around Houston and teaches at the Lone Star College—North Harris campus, is a gifted storyteller. He draws readers into the echoing complexities of abuse, revenge and reconciliation by jumping about in time. The novel begins in 1910, but the chronological setting skips back and forth among 1898, 1910 and 1924. The physical locale, on ranches and in the towns of Lavaca County, is vividly rendered. Machart pays convincing attention to details of what could be found in stables, kitchens, saloons and churches back when most traveled by horseback and farmers moonlighted by selling bootleg beer. The dialogue is pointed and pungent, inflected by the Czech spoken by an earlier generation of settlers. “Is it someone told you to quit?” Vaclav asks Karel when, plowing, his son puts down his yoke without permission. Elsewhere, Thom Skala states: “We might all ought to keep what’s ours.” Machart locates his story in the rueful gap between *ought* and *is*.

A publicity release likens Machart to Cormac McCarthy. Both evoke the harsh appeal of the Texas landscape and the violence for which it serves as cosmic stage. Though absent mothers shape the action, Machart, like McCarthy, is intent on depicting what he calls “the scalded, dusty world of men who took their spurs off only to sleep or shit.” In such a world a father gels a favorite horse to spite his son. The ornery Knedlik twins, Raymond and Joe, who are, according to Karel, “half a head shy on horse sense,” could be kin to Faulkner’s Snopses; they, too, are barn-burners. However, Machart has his own distinctive voice, and the territory on which he squats is not quite the same as Yoknapatawpha or McCarthy’s borderlands. Given what he has already accomplished, Machart is a prodigiously talented newcomer worth watching. ❏

Contributing writer Steven G. Kellman is vice president for membership of the National Book Critics Circle.



THE WAKE OF FORGIVENESS
By Bruce Machart
HOUGHTON MIFFLIN
HARCOURT
320 PAGES, \$26



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STATE OF THE MEDIA

News for Sale

IN THE NEXT FEW WEEKS, *THE DALLAS MORNING NEWS* WILL BEGIN CHARGING FOR online news. It's a daring attempt to reinvent the news business. The old formula that used to drive newspapers—85 percent of a paper's revenue was from advertising, 15 percent was from circulation—is dead. Digital advertising is not replacing the money that newspapers have lost on print advertising and subscriptions. The *News* and other newspapers across the state have resorted to massive layoffs, salary freezes and pullbacks in coverage to keep driving corporate profits. ¶ Through it all, the Dallas newspaper kept its fine investigative unit intact. It still routinely does some of the most important work in the state—whether it's drilling down on the Texas Youth Commission or looking for malfeasance inside the Dallas Independent School District.

On Feb. 15, the Dallas paper will become one of the only large American newspapers to try to reverse what industry analysts call "the original sin"—giving away original reporting online. Here's how publisher Jim Moroney framed the decision to charge on KRLD radio in Dallas: "I think a lot of people are waiting to see what happens with some of the early companies that go out there, like us and *The New York Times*. We're going to give you more value."

On Jan. 1, the paper raised its monthly print subscription cost to \$34 from \$30. In February, print subscribers will also get the digital *News* and so-called "subscriber content" on dallasnews.com. There are iPad and iPhone apps for the service, as well. There are tiered deals for digital-only subscribers. Here's how the *News* framed "subscriber content" in its own story about the deal: "Subscriber content will include proprietary news and information produced by *The News*. Headlines, breaking news, most blogs, obituaries, classifieds and nonproprietary content such as syndicated wire stories will remain free."

If the experiment in Dallas works, other dominos will fall. Jeff Cohen, editor of the *Houston Chronicle*, once told me that *The Dallas Morning News* was his gold standard. Cohen and editors around the state (hell, the nation) are watching the *News* try to pull off this transition. So we're back to square one in the art-versus-commerce debate and what might be driving decisions in Dallas: corporate profits.

The plan to charge online readers might make the paper more money. There's no doubt that the *News* will be limiting how many readers see the most important investigative stories. That raises the question of whether the *News* is playing Texas Hold 'Em with its civic obligation—just as the state is facing massive budget cuts that will breed more poverty,

racism and white-collar crime.

Now the paper wants to charge for that proprietary investigative work online. If people choose not to pay, will there be enough readers to spark the collective indignation necessary to change anything? Is the paper about to abandon its civic mission by deliberately shrinking its audience?

"We hope we are doing our job," Moroney told the radio reporter in Dallas. A lingering argument has been that Big Media's "job" is to make a living, a profit, by telling the truth. Now, as the last remnants of the Big Newspaper Monopoly cascade down, it's time to re-examine the priorities of that "job." If the *News* and other traditional enterprises have to reinvent themselves, then they have to examine their job description, their mission, their day-to-day checklists.

The stakes are high for the *News* and journalism in general. So the reporters up in Dallas must rededicate themselves to producing even more investigative journalism that serves the public's right to know. The *News* has to do its edgiest, bravest work, ever, in this new pay-for-content dynamic. It has to prove that unassailable public service journalism—the kind that makes readers howl "What The Fuck!?"—will make money for Big Media's online outlets.

Moroney says the paper will give readers "more value." He needs to think about making civic values the driving engine for corporate profits.

Almost a century ago, the *News* famously took a stand against the KKK's entrenched control of the city. Circulation initially suffered, but the paper emerged stronger than ever as the KKK's overt influence and anti-*News* smear campaign eroded. That kind of editorial commitment will be more important than ever. ▣

Is The Dallas Morning News playing Texas Hold 'Em with its civic obligation?

LISTEN to the interview with publisher Jim Moroney at txdo.com/moroney



PHOTO BY KOLIN TONEY

Thoughts of Dust by Elroy Bode

DRIVE INTO NEW MEXICO.

In the summer heat I walk down a roadside in the Gila River Valley beside dry horehound and roadside greases. I hear unseen insects clicking like miniature sawmills within the weeds and roosters crowing from nearby farms.

Yellow leaves of walnut trees drift along in the *acequia* running beside the road. I stop at a fence that stretches beside a pasture and feel, with pleasure, the smooth, twisted wire. The solid corner fencepost, with its weathered wood, shines in the sun like gray gunmetal.

The valley of the Gila is, to me, a perfect place.

A brood of quail, following their leader into the road, peer about before they disappear again into the nearby weeds. In an alfalfa field, cows eat white-blossomed prickly poppies. A hawk sits on the top branch of a juniper tree: unmoving, uninvolved.

I keep watching the sky. At four o'clock, it is still clear and bright toward the west, but above the eastern mountains thunder has begun to rumble and clouds are darkening in swatches of purplish rain. Roadside flies fuss about in the quiet and heat, and along the Gila the cottonwoods, their leaves looking like green explosions in the air, are beginning to move about lazily in the breeze of the approaching rain.

The first drops are falling when I return to my car. Within minutes, the rain is pouring down and hard claps of thunder roll overhead. I sit in the car and read, eat an apple, look around from time to time at the heavy sheets of water coming down.

After a while the rain passes on, and I stand outside by my car watching the junipers drip and smelling the wet fields. The sky has turned a wintry gray, and a cool aftermath remains. The hawk still sits in his tree.

Standing there, I have no answers to any of my basic questions. All I know is that I am very lucky. I continue to have the land in my life—to walk on, to be next to. The Gila is not an answer, but it is the next best thing.

A MEMORY: Mother, a smiling, big-boned rancher's daughter who loved to read. In her younger years, she rode her horse Dolly through the live oaks and cedars of my grandparents' hill country ranch to the Klein Branch Community School, then later graduated from Harper High up the road from Kerrville. Grandpa sent her 70 miles away to Thomas School for Girls in San Antonio (Katherine Anne Porter went there too, I learned recently), but ran short of money after her first year there, and that was that for Mother's higher education.

But she was a genuine reader. I remember summer afternoons on Gilmer Street when she had finished cleaning the house, and it was the slow stretch of time between three o'clock and five-thirty. She would take off her shoes and pull the oscillating fan up close and she would lie on the front room sofa and read. Sometimes it was the *Ladies' Home Journal* or *Good Housekeeping*, but more frequently it was a book from the Book of the Month Club or from the downtown Kerrville library or maybe a book that Miss Mitchell—the high school math teacher next door—had brought over and recommended.

She read Thurber and Louis Bromfield and Winston Churchill and Pearl Buck and Somerset Maugham. Kipling and *The Red Pony*. Herman Wouk. Although I never paid much attention to when she started or finished a book, I believe she was a fast reader, probably even a remarkably fast one because she read constantly, and she read a lot. Across the years she read her way out of the frustrations of her marriage—not a particularly

I have no idea where I should ask to be buried. I have not pushed that far ahead, do not really care. Ground is ground, death is death.

I was gazing skyward, transfixed by the silence, when a small bird, high in a tree, dropped a sizeable splat of chalk on my glasses.

fulfilling one—and beyond the confines of her small-town Kerrville life. She read Dag Hammarskjöld and Norman Vincent Peale and Hemingway and J. Frank Dobie. She read Fred Gipson and Thomas Mann.

She was also a clipper of quotes, an underliner of wise or pithy sayings, a collector of newspaper columns and articles. After I went off to college there was usually a bonus of some kind in each of her weekly letters to me: a ringing proclamation by General Douglas MacArthur, some piece of wit by Dorothy Parker, part of a speech given by Adlai Stevenson—she was a fan of “ol’ Adlai,” as she called him.

I’m not sure when the bulletin board went up in the bathroom. (Actually, it was just a piece of cardboard with clippings stuck on it with straight pins.) I think it first appeared during my senior year in college. I remember I had come home for the Christmas holidays and gone into the bathroom. Ours was notably small and constricting. As I stood, ready to begin taking a leak, there at eye level was the Nobel Prize speech by William Faulkner, cut out from an old *Life* magazine; an even older wartime column by Ernie Pyle; and a bit of current inspiration from Billy Graham.

For years afterward we family—and guests—bathroom users were my mother’s captive audience: mainly the males, of course, because what choice did we have? We stood, somewhat at attention, and we read. A number of times I vowed I would resist. I went in, flipped up the lid, and proceeded to take a leak with my eyes closed. But usually I weakened and sneaked a glance or two before I left—perhaps a quick read of an Art Buchwald interview, a quote from Shakespeare.

The bulletin board was probably my Mother’s way of passing the reader’s torch—of contributing her modest bit to the uplift of others, particularly her family. She was not “preachy”; she was simply a wide-ranging reader who wanted to share the fruits of her casual harvesting—feeling, I guess, it was the least a mother could do.

IN NEW MEXICO, SUMMERTIME: One night, as I took a long walk outside Glenwood, I got to thinking, “I am not really walking along a quiet highway that leads in and out of a small New Mexico town. On this summer night I am walking along the curve of the earth under a dark sky loaded with stars, and I have no idea what I am doing—here or anywhere.”

The following day at three o’clock, I stood open-mouthed in the Mogollon Mountains. I was among 70-foot pine trees: a Gulliver among giants. A decaying pine—cinnamon brown—lay in front of me like a forgotten sculpture. Experimentally I said words aloud, but they did not fit properly in such a place. They were disturbing, wrong: words did not belong with the moss on the ground, the rotting wood smells, the crows overhead, the sun slanting on fields of apple trees and unpaved mountain roads.

It was quiet, but I could imagine a deeper quiet when the snows came, bringing deeper afternoon shadows.

I was gazing skyward, transfixed by the silence, when a small bird, high in a tree (alone in its own orbit, knowing its own needs better than I knew my own), dropped a sizeable splat of chalk on my glasses and blurred—finished—my mountainside reverie.

OUR OLD CAT BLOTCHETT, who has been living the past year in the garage, has finally died.

I put her in a cardboard box, get a shovel, and with Blotchett and the shovel in the trunk of my car, I drive to the edge of town along Interstate 10. I turn off onto a deserted sandy area of low mesquites, huisache bushes, cacti and greasewood.

I take the box and the shovel out among the mesquites and dig a hole about a foot-and-a-half deep. I put Blotchett into the hole, on her side, and then refill it. I shape the sand on top into a mound, break off a piece of yucca stalk and plant it at the foot of the grave. I find a reddish, granite-looking rock about the size of a bowling ball in a nearby wash and place it on top as a headstone.

A grave for a cat.

I stand for a while, looking at the mountains that lie in a morning haze far to the south in Mexico. I listen to the faint hum of the I-10 traffic. Small black ants are busy in the shade of a nearby broomweed.

I start thinking about my own funeral that one day will have to be dealt with, that family members will have to endure: a typical human funeral with all its sadness and pain.

I have no idea where I should ask to be buried. I have not pushed that far ahead, do not really care. Ground is ground, death is death.

If I had my way about it, I think—picking up the box and the shovel—right here next to Blotchett, next to the ants and broomweed and mesquite, with mountains nearby, would be just fine. ☐

Elroy Bode is a longtime Observer contributor and the author of, most recently, In a Special Light (Trinity University Press).

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Home Soul

W

E'VE LIVED IN OUR HOUSE IN WEST AUSTIN FOR ALMOST 14 years—the longest we've ever lived anywhere. Our kids finished school here, brooding and backtalking through the sullen years of adolescence. We hosted annual holiday parties here, and almost always something memorable happened—like the year a poet tried to attack my husband with a butter knife, or the time one woman loudly confronted another about writing a semi-romantic newspaper column about her twenty-something son. And there was the unforgettable night when four teenage girls slept off their first drunks in the house after projectile vomiting in my husband's car.

We've renovated the kitchen, refinished the hardwood floors, painted, roofed, re-roofed. More than anything, we've sunk deep roots here, in our house and neighborhood. "It's a happy house," a friend once said. "You can tell that." She was right. I'd always felt that there was some kind of warmth and comfort and harmony in our house that was rare. I'd only leave the house feet-first, I'd often announced.

But, no. We're leaving our house in a couple of weeks and I'm still on my own two feet. It's been sold and my husband and I are moving to a downtown condominium.

I can tell you it's a smart decision. My husband and I are both in our early sixties and our children have grown up and left. With only two of us, we don't need as much space as we have. We need to be on one level, not two. We don't want to worry about a yard or pay someone else to worry about it for us. We want to be closer to restaurants, to be able to walk more.

I'll repeat: It's a smart decision.

But we're talking about a house where we've lived and been happy. Since when is that about rational decisions? To me, few things are as emotional—ridiculously emotional—as real estate.

Maybe it's because my parents grew up in the Great Depression and it was the realization of their greatest dream to pay off their house. Maybe it's because life is so damned uncertain and precarious—and real estate fools me into thinking there's some kind of permanence and stability in this world. Maybe it's because I'm mostly agnostic about religious matters, but I do believe houses have souls, that stories and secrets and echoes and emotions are stored in their walls.

Settle in a house and you're presenting an image of who you are or who you want to be. Solid and

traditional! Edgy and modern! Obsessively neat and organized, with your squared-off shrubs; defended and hidden by the wall in front of your doors and windows; so relaxed and *laissez-faire*, you don't care if your grass gets brown or needs to be cut.

But more than anything, a house often tells where you are in your life. Ours is a family home, built solidly to weather lots of footsteps and slamming doors and loud noises. It needs kids on the front lawn kicking soccer balls. It needs a younger family, full of energy for maintenance and improvement.

And therein lies the pain in our smart decision: We used to be those people and now—suddenly—we're not. We were the hilarious souls who used to joke about measuring our kids at the pantry door as they grew and ourselves as we shrank, till the humor grew a little too raw. We used to be in the thick of life and now we're somehow closer to its edges.

The day our house was being inspected for sale, I packed up my newspapers and iPad and went to a nearby coffee shop. Three hours passed, then four. I drove back to our neighborhood and saw there was still a number of cars in front of our house. So, I sat in the car in front of a neighbor's house and read a novel till it got dark and the ice cream in my grocery sack was melting.

I walked across the street to put the ice cream in the freezer and met the young couple who's buying our house. "We love the house," the young woman said. She motioned toward two of her three children playing in the front yard. "And our kids love it, too. It feels like people have been happy here."

"We've been very happy here," I said. I felt sad and relieved and good. We had our time here. Now it was their turn. ❏

We joked about measuring our kids at the pantry door as they grew, and ourselves as we shrank.

RUTH PENNEBAKER will read from her new novel, *Women on the Verge of a Nervous Breakthrough*, at *BookPeople in Austin* on Sunday, Jan. 23, at 3 p.m.



BOB MOSER

PURPLE STATE

Sanctuary Perry

GOV. RICK PERRY OF TEXAS, HIS POLITICAL POPULARITY BADLY diminished by anti-tax policies that led to record budget deficits and the closings of hundreds of schools and state parks, reportedly fled his state early Thursday morning, under cover of darkness, in a National Guard convoy headed to the “sanctuary state” of California, or perhaps farther north into British Columbia. Three newspapers have reported, but we cannot yet confirm, that Perry’s convoy was pursued across parts of New Mexico and Arizona by a heavily armed, loosely organized caravan of middle-class “warriors” from suburban Harris County, including several schoolteachers and small-business owners and middle managers, who were heard shouting through bullhorns such slogans as “Texas Tough!” and “Don’t Tread on Us!” and “Bob Perry is Next!” The pursuing Texas citizens were stopped and detained at the California border on several charges relating to the illegal possession of firearms. ... —WIRE REPORT, 6/17/11

Perry dissembled shamelessly about the \$27 billion shortfall, then made a demagogic bid to change the subject.

Left-wing daydreams that will never come true. Rick Perry, who was to be sworn in for his third full term as governor a few days after I wrote this column, will never have the decency to get the heck out of the state he’s spent a decade helping turn into an inhumane, corporate-owned nightmare. And Texans, it appears, will never muster the outrage to run him off.

But Rick Perry takes no chances—at least not politically. He’ll gamble Texans’ futures on a “wealth-first” economic theory that has never worked in practice, but he won’t toss away his popularity without a fight. And so, on the week when Republicans returned to Austin with a state House supermajority and a \$27 billion bundle of problems to grapple with, Perry stepped up like the leader he is. That is, he dissembled shamelessly and made a demagogic bid to change the subject.

In press releases, in speeches to the state House and Senate, and in a jittery address to the conservative Texas Public Policy Foundation, Perry poked fun at people who worry about the budget deficit. He blamed Texas’ revenue shortfall on the “national recession.” And with a rhetorical wave of the hand, the governor shimmied straight past the notion that millions of people will suffer from the budgetary bloodletting that is about to ensue.

“As families and employers are doing all across this state and nation, we will separate the wants from needs, and then cut spending,” he said.

Separate “the wants from needs”? That is, of course, a euphemistic way of telling working- and middle-class Texans that they’re just going to have to cut down on their opulent lifestyles and not make a fuss about it. Why *does* everybody have to have health care, good schools, that whole nanny-state business? Are such things truly needs, or merely “wants”?

But this was nothing next to Perry’s even bolder gambit: While pooh-poohing the budget deficit, he invented “emergencies” to stir empty and loud debate and take the focus off that pesky \$27 billion. On the Legislature’s first day, Jan. 11, Perry announced his “emergency items,” which are supposed to be pressing issues of such great and immediate consequence to the state that they can be considered and advanced during the first 30 days of the session. Other, lesser bills have to wait. And what are these matters of such great moment, as chosen by the governor? Eminent domain laws, a new round of “tort reform,” and a fictional creation called “sanctuary cities.”

“We must abolish sanctuary cities in Texas,” Perry informed the TPPF, about five of whose members applauded that weird sentiment. Perry himself could not name any sanctuary cities in the state, when the Associated Press asked, though he made noises about Houston.

The beauty part, for Perry the pol, is that the debate over sanctuary cities could get so loud, so emotionally violent, that it will do wonders to drown out the truly necessary debate over the human consequences of Texas’ mountainous budget shortfall. And as an “emergency” item, it can take center stage right away.

Rick Perry has been selling economic snake oil to Texans for a decade now, and peddling it nationally almost as long. At the same time, he’s been kicking the flimsy foundations out from under Texas’ ability to provide decent social services or schools or health care. No wonder, now that the fallout from his chicanery is about to hit millions of Texans right where they live, he’s desperately seeking political sanctuary. Let’s not let him have it. ❏

EYE ON TEXAS Sarah Lim



ALLIGATOR HUNTING *Guadalupe River*

“With a 12-foot alligator just a few feet away from the boat, Steve Emery (left) readies the pistol as Ron Ohlinger (right) pulls the gator in closer so it can be shot at the base of the skull. This photo was taken from a series I shot for *The Victoria Advocate* in August 2008. Hunters will go to places where the gators roost and hang whole chickens, tied to a rope, as bait. Alligator hunting season in South Texas is approximately 20 days long, starting in late August or early September.”

See more of Sarah Lim’s work, including a multimedia accompaniment to the photograph, at www.texasobserver.org/eyeontexas.

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