

SEPTEMBER 2016

Veritas

A PUBLICATION OF THE TEXAS PUBLIC POLICY FOUNDATION

Education Freedom in Action

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MAKEMS AND TAKEMS: SETTING A PATH TOWARD PROSPERITY

Texas Public Policy
FOUNDATION



Veritas

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PRESIDENT'S MESSAGE

A few weeks back, I contacted many of our most committed supporters to ask their counsel and concerns for Texas and the country. The overwhelming majority responded with one voice: everyone, from all walks of life, is deeply concerned about the direction and future of the United States of America. Some of it is the election season, to be sure, but there is something more to it.



Americans are asking themselves whether the American experiment still works—and whether the American promise still holds. It is an extraordinary thing to say, but men and women of common sense and uncommon patriotism are saying it, because Washington, D.C., has pushed them that far.

The good news is that we can answer both questions. Yes, the American experiment still works, and yes, the American promise still holds ... in Texas.

Our challenge is to preserve them here—so the rest of the country may rediscover them.

At the Texas Public Policy Foundation, this is our work, and we do it because of people like you. It is with you and your families in mind that we are working to carry forward the accomplishments of the last Legislative Session into greater achievements in the 85th Legislature in 2017.

With the Affordable Care Act and American health care in shambles, we are working with members of the Legislature to hone proposals for how Texas can help pick up the pieces and create a workable health care system for all based on free enterprise, competition, and personal choice. To help spearhead this effort, we have just welcomed Dr. Deane Waldman as Director of the Center for Health Care Policy. You can read more about him in this issue, and I hope you will join me in welcoming "Dr. Deane."

As a further illustration of the expansive variety of issues our team is advancing on the march toward the 85th Texas Legislative Session, this issue of *Veritas* includes an article focused on the Texas Grand Jury system—a secret weapon of the over-criminalization of our laws—along with an important overview of ways Texas can boost prosperity in the Lone Star State.

We are hopeful of advancing educational freedom this session. Being able to choose the educational options best for your own children has a huge impact on their success and, thus, our state's future prosperity. The wonderful Buie family from Houston shared with us their compelling experiences with home schooling and their frustrations with the process of admission into a charter school, which also is highlighted in this issue of *Veritas* and can be found in video form on the TPPF website.

Despite our shared deep concerns, I know we also share an abiding faith in the principles of liberty, personal responsibility, and free enterprise because we know it is not just faith that makes them work but their enduring truth. With you at our side as we advance and defend these principles, I know our beloved Lone Star State will continue to shine as a model for hope, action, and success to inspire and guide the rest of our hurting nation to renewal. Thank you for the essential role you are playing in this battle for America's future.

Brooke Rollins
President and CEO

Veritas

Veritas is a publication of the Texas Public Policy Foundation, a 501(c)(3) nonprofit, nonpartisan research institute. The Foundation's mission is to promote and defend liberty, personal responsibility, and free enterprise in Texas and the nation by educating and affecting policymakers and the Texas

public policy debate with academically sound research and outreach. Our goal is to lead the nation in public policy issues by using Texas as a model for reform.

Welcome, Dr. Deane Waldman!



“Dr. Deane” and an 18-month-old he found exploring the hallways of his hospital. He reluctantly returned the cute little tyke to his frantic mother and father.

Dr. Waldman earned a BA in history from Yale, an MD from Chicago Medical School, and an MBA from Anderson School of Management. After medical school, he trained at Northwestern, Mayo Clinic, and Harvard in Pediatrics, then Pediatric Cardiology, and finally Pediatric Cardiac Pathology. Dr. Waldman was the Chief of Pediatric Cardiology at three major medical institutions, responsible for budgets in excess of \$20 million at Children’s Hospital of San Diego, University of Chicago, and University of New Mexico.

A practicing pediatric cardiologist for 37 years, Dr. Waldman reluctantly retired when the Supreme Court upheld Obamacare in 2012. “It was a sacrifice,” he says, “because I loved my work. I was actually paid to play with babies.”

Beyond his impressive credentials, Dr. Waldman enjoys competitive velodrome bicycle racing. He has two grandsons—9 and 6—whom he describes as serious students and great baseball players. To his young patients, he is known as “Dr. Deane.” ★

The Texas Public Policy Foundation welcomes Dr. Deane Waldman, MD, MBA, as its new Center for Health Care Policy director. Dr. Waldman is a clinical physician, systems theorist for sick patient health care, and award-winning author.

“The addition of Dr. Waldman to the distinguished body of scholars and analysts at the Texas Public Policy Foundation further enhances an already extraordinary team of world-changing warriors for liberty,” said Dr. Kevin Roberts, executive vice president of the Texas Public Policy Foundation. “His exceptional record of achievement, and his indisputable dedication to the principles undergirding our freedoms, make him a perfect fit for our efforts to secure health care reform not only in the Lone Star State, but across America. The challenges facing any reformer in that sphere are tremendous—and in Dr. Waldman, we have a man equal to the task.”

“Joining the Texas Public Policy Foundation is like coming home, as these people are kindred spirits,” said Dr. Waldman. “They are not ideologues—they simply want to solve problems to improve people’s lives. They are committed to Texas and Texans, not to a political party or its agenda. Whether the issue is fiscal, legal, governmental, or health care, the Foundation is focused on fixing what’s wrong rather than doing what’s politically right. I am excited to help make the health care system in Texas a model for our whole country.”



GRAND JURIES: THE SECRET WEAPON OF OVER-CRIMINALIZATION

by Greg Glod

“Think about your kids, darling,” a grand juror tells a mother of three as a not-so-subtle threat. At the moment, Erika Dockery is just a witness, with no attorney by her side, facing a state prosecutor and a grand jury who don’t believe her story. The prosecutor and grand jury are certain her boyfriend, Alfred Brown, killed a Houston police officer during a burglary of a check-cashing business.

In the ensuing months, this mother would be arrested and jailed for perjury for the testimony she gave.

The foreman of the aforementioned grand jury was a police officer, and this was no coincidence. At the time, Texas allowed jury commissioners, appointed by the judge, to select grand jurors. Not surprisingly, studies show this selection method skewed toward placement of individuals with law enforcement backgrounds, while the racial make-up of the empaneled jurors did not resemble the community. This system has been abandoned in Texas but is still used in California.

Erika Dockery originally testified that Brown was at her house during the morning when the state believed he was casing businesses to rob. Dockery also stated that Brown called her at work from her home landline. But, the state disputed, Brown was at another location

with his alleged accomplices. The state’s prosecution theory did not match the facts, and, unfortunately for her, Dockery was getting in the way of their conviction.

Threat after threat rained down upon Dockery from the grand jurors and the prosecutor, who implied that they would take her kids, her means of making money, and her freedom if she didn’t testify the way they wanted her to.

Eventually, this single mom of three succumbed to the prosecutorial intimidation tactics and changed her story. Subsequently, she was indicted on three counts of aggravated felony perjury and spent 120 days in jail, away from her children and unable to afford her \$15,000 bail. In a letter from jail, she “admitted” to her perjury and pleaded with the judge to release her so that she might see her children. He eventually did, but not without strict conditions to ensure her cooperation as a state witness.

At Brown’s murder trial, Dockery testified against him, stating that Brown had told her he was present during the crime. Brown was convicted in 2005 and sentenced to die, while Dockery was able to get her charges dismissed after completing probation.

continued >>

Seven years after Brown's conviction, a phone record was found in a detective's garage, showing that someone did, indeed, call from Dockery's house while she was at work. The document was then forwarded to Brown's defense team by the district attorney's office in Harris County, who admitted the evidence should have been given to Brown. In 2014, the Texas Court of Criminal Appeals threw out the conviction, and Brown was subsequently freed after the Harris County DA's office dropped the charges.

This story sheds light on how a misunderstood, little discussed, non-transparent, but very important process intended to protect citizens can be used by an overzealous government to humiliate, harass, and ruin the lives of citizens.

History of the Grand Jury

The grand jury, as with many of the legal canons of American criminal justice, can trace its roots to English Common Law. From the 12th through 16th centuries, "jurors" in England were nothing more than a mouthpiece for the Crown, indicting and convicting whom the Crown saw as an enemy, or just maybe a political threat. Jurors themselves were routinely jailed for not returning the "correct" ruling.

It wasn't until the 17th century that the people began to use the grand jury system as a means to combat an oppressive monarchy. In 1681, Lord Shaftesbury was accused by the Crown of making "treasonous statements." Even though the grand jury was under immense pressure to indict, they refused to charge Lord Shaftesbury for the flimsy accusation.

The American grand jury system came into being under similar circumstances of overcoming oppression from a tyrannical government. Britain not only taxed without representation, but also prosecuted without it. "Assistants" appointed by the Crown made laws, accused individuals of crime, and could be jurors as well.

Criticisms of the Crown were routinely treated as crimes and the grand jury became the patriot's best defense against the criminalization of free speech. To further distance themselves from British rule, grand

juries would also levy taxes, appoint local officials, and essentially "subpoena" elected leaders who were not doing their job.

The grand jury was, in essence, the means by which citizens were able to exercise their constitutional rights. When the people's interests were put secondary to their government's, the grand jury made sure the cart did not get before the horse.

Modern Grand Jury

The American modern grand jury doesn't look much like its 18th century predecessor. Although the grand jury is supposed to be a non-adversarial process where the prosecutor represents the interests of the state and the accused, this does not necessarily happen in practice. Indeed, most states share several mechanisms that have slowly turned prosecutors into judge, jury, and executioner inside the grand jury room. Prosecutors get to tell the story they want to tell with no check by the other side. There is usually no requirement that the prosecutor present evidence that could be beneficial to the accused.

Sometimes the subject of a grand jury investigation is permitted to submit a "defense packet" that includes information about the case that may not be divulged by the prosecutor. The problem with this method is threefold.

First, there is no law that requires the judge or prosecutor to allow the grand jury to receive this packet. Second, in most cases, the accused does not know that they are the subject of a grand jury investigation. Texas, for example, only requires notification if the individual is going to be called to testify. Not notifying the subject is done intentionally and for good reason; notice could put many people in peril. Third, even if an individual is aware of the grand jury investigation, people on the lower socio-economic scale generally will not have representation to put up a "defense" at this stage.

Generally, the only people (sans interpreters and the like) allowed in the grand jury room are the grand jurors, witnesses, and the attorney representing the state.

Most of the time, it is not the white collar CEO who is damaged by the grand jury process. It is the person who cannot afford multiple attorneys—or even one.

Most states do not allow an attorney in the grand jury room during their client's testimony, even if that client is the subject of the grand jury. Nor do states generally provide the legal framework to allow an individual to consult with an attorney outside a courtroom during questioning. As the Dockery episode illustrates, that can have dire consequences.

Surprisingly, many states do not require transcription of the proceeding. In Texas, only the testimony of the accused is required to be recorded. However, the defendant is usually not called to testify, unless they request to do so—if they know the grand jury is meeting. Moreover, Texas does not require notice to be given to the accused unless they will be called to testify.

If a prosecutor does not procure an indictment, a grand jury can be convened again against the individual, even if no new evidence has been discovered. Former U.S. Rep. Tom Delay was the subject of three grand juries for the same act. The first grand jury refused to indict outright, the second indicted on the lesser conspiracy charge, and finally a third indicted on a more severe money laundering charge.

The Case for Reform

When standing trial for a felony, defendants are guaranteed certain rights. Those rights include: legal representation, access to exculpatory evidence by defense counsel, transcription or recording of proceedings to use on appeal, and, if found innocent, that the state cannot retry you.



Greg Glod is a Policy Analyst for Right on Crime as well as the Center for Effective Justice. In 2010, he graduated from The Pennsylvania State University with a B.A. in Crime, Law, and Justice and Political Science. Glod received his JD from the University Of Maryland School Of Law in 2013 and began his legal career as a law clerk for the Honorable Judge Laura S. Kiessling on the Circuit Court for Anne Arundel County, Maryland. He practiced at a litigation firm in Annapolis before joining the Texas Public Policy Foundation.

These all fly out the window when an individual is the subject of a grand jury. However, making a grand jury proceeding a full blown trial would not be beneficial to the suspect or the state. The secrecy of the grand jury ensures that individuals not charged with a crime are not labeled as criminals. Witnesses who are currently able to freely testify may be hesitant if the defense had carte blanche access to the process. The proceeding is intended to be investigatory in nature and should stay that way. However, the grand jury process has become so lopsided in favor of the state that changes are imperative.

Records must be kept so defendants and attorneys can properly prepare for pleas and trial. Counsel should be able to at least advise their client while they are on the stand. Exculpatory evidence should be provided to the grand jury to ensure that the whole story is laid out, not just the state's version. Prosecutors should not be able to bring a second grand jury against a citizen for the same offense unless new material evidence has been found. It flies in the face of our legal system for the government to seek repeatedly to indict a citizen of a crime until it gets the result it wants.

Most of the time, it is not the white collar CEO who is damaged by the grand jury process. It is the person who cannot afford multiple attorneys—or even one. Requiring the state to provide transparency and "right size" the grand jury process will help ensure that persecution of people like Erika Dockery in Harris County, Texas will not happen again in the Lone Star State. ★

MILLENNIALS RISING: ENERGY AND THE EPA

If you have children or grandchildren between the ages of 20 and 32, you're acquainted with a Millennial. You're probably also acquainted—and perhaps fascinated or frustrated—with their paradoxical views on issues such as taxes, economics, energy, and the environment.

You may have sent them off to college for an education but, unfortunately, they returned home expressing beliefs that are anathema to their upbringing. How do you talk with them? How do you educate them? What can you do to factually counter propaganda? In this and upcoming issues of *Veritas*, our TPPF analysts offer key points and resources that might help.

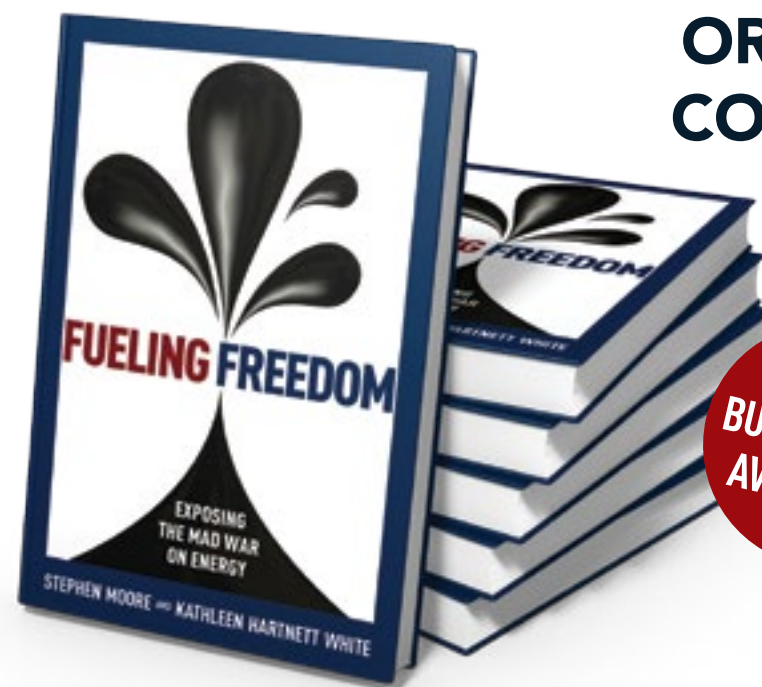
Here we begin with tidbits from the Fueling Freedom Project on the connection between fossil fuels and human progress.

FACT: Fossil Fuels Have Vastly Improved the Human Condition

- For an overview of the Fueling Freedom Project, go to www.FuelingFreedomProject.com.
- Find “The Moral Case for Fossil Fuels” at www.FuelingFreedomProject.com.
- For more in-depth information, purchase *Fueling Freedom: Exposing the Mad War on Energy* by Kathleen Hartnett White and Stephen Moore.

FACT: Air quality is vastly improved over 1980 and the EPA's Clean Power Plan will do almost nothing to improve it further. The following facts are based on the U.S. government's own data. For a series of short videos explaining each of the facts below to go www.Youtube.com and search for “Fueling Freedom Project.”

- Carbon Monoxide levels are down 85 percent since 1980.
- Lead levels are down 98 percent since 1980.
- Nitrogen Dioxide levels are down 57 percent since 1980.
- Ozone levels are down 33 percent since 1980.
- Sulfur Dioxide levels are down 80 percent since 1980.
- The EPA's Clean Power Plan will hike electricity bills by 30 percent and do next to nothing for the climate.
- Paying 30 percent more for electricity will cut global temperatures by no more than 0.03°C by 2100. ★



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TPPF BOARD PROFILE KEVIN SPARKS



When Kevin Sparks attended his first Texas Public Policy Foundation meeting more than a decade ago at the invitation of long-serving Board Member Ernest Angelo, he was hooked. In late 2015, Kevin joined the Foundation Board. When he introduces others to the Foundation, Kevin explains, “TPPF is the group we are involved with that has the best chance of saving our freedoms.”

A graduate of the University of Texas, Kevin is president of Discovery Operating, Inc., a family owned and operated oil and gas company in Midland. Kevin and wife Jill have been married for 25 years, and have three sons and a daughter. As an active dad, Kevin has spent many years coaching baseball, basketball, and football because, as he observes, “I enjoy it because I can help create future leaders.”

Now sending his own progeny off to college, Kevin is turning his desire to create future leaders toward helping the Foundation build a Liberty Leadership Council in the Midland area.

He continues to coach youth athletics, serves on numerous non-profit boards, and is currently an elder with his church. Like many West Texans, Kevin enjoys hunting, particularly Blue Quail, which he reports have begun to surge in population following many years of scarcity.

“If you look at groups that have a chance of having a significant impact for our state and our country, I believe you would see the best results through the Texas Public Policy Foundation.”

As he travels around West Texas, Kevin encourages interested, like-minded friends and acquaintances to become involved with the Foundation saying, “If you look at groups that have a chance of having a significant impact for our state and our country, I believe you would see the best results through the Texas Public Policy Foundation.” ★



Liberty Leadership Council

In early 2016, the Foundation created the Liberty Leadership Council to actively involve young professionals aged 40 or younger to help advance individual liberty, personal responsibility, and free enterprise. Councils are being organized in Houston, Midland, and Austin this year, with others coming in the future.

If you know a young professional who might be interested or would like more information, please contact Shannon Tracy at: stracy@texaspolicy.com or (512) 472-2700.



HOW THE 2016 PRESIDENTIAL ELECTION COULD IMPACT ESTATE TAX POLICIES

TPPF DONOR PROFILE ROGER KEATS

Like many of today’s Texans, former Illinois State Senator Roger Keats and his wife escaped to Texas. Leaving was not easy, because Illinois had been Roger’s home for his entire life, and he had invested most of his adult life serving his community there.

An All American swimmer at Evanston Township High School, Roger went on to earn an undergraduate degree from the University of Michigan and a Master’s Degree from the University of Illinois. He served on active duty with the U.S. Army for two years during the Vietnam conflict, and after that for nearly 26 years on reserve duty, retiring as a Lt. Colonel.

For the year after leaving the military, Roger was a Senior Research Associate for the House Republican Study Committee in Washington, D.C., where he worked for Ed Feulner, who went on to become long-time president of The Heritage Foundation, and with Rep. Jack Kemp (R-NY), both of whom strongly influenced Roger. Returning to Illinois, Roger was elected to the Illinois House of Representatives in 1976 and to the Illinois Senate in 1978, where he served until 1993. Roger was the President of an environmental engineering firm during his tenure in the Legislature and later founded the Illinois Conservative Union.



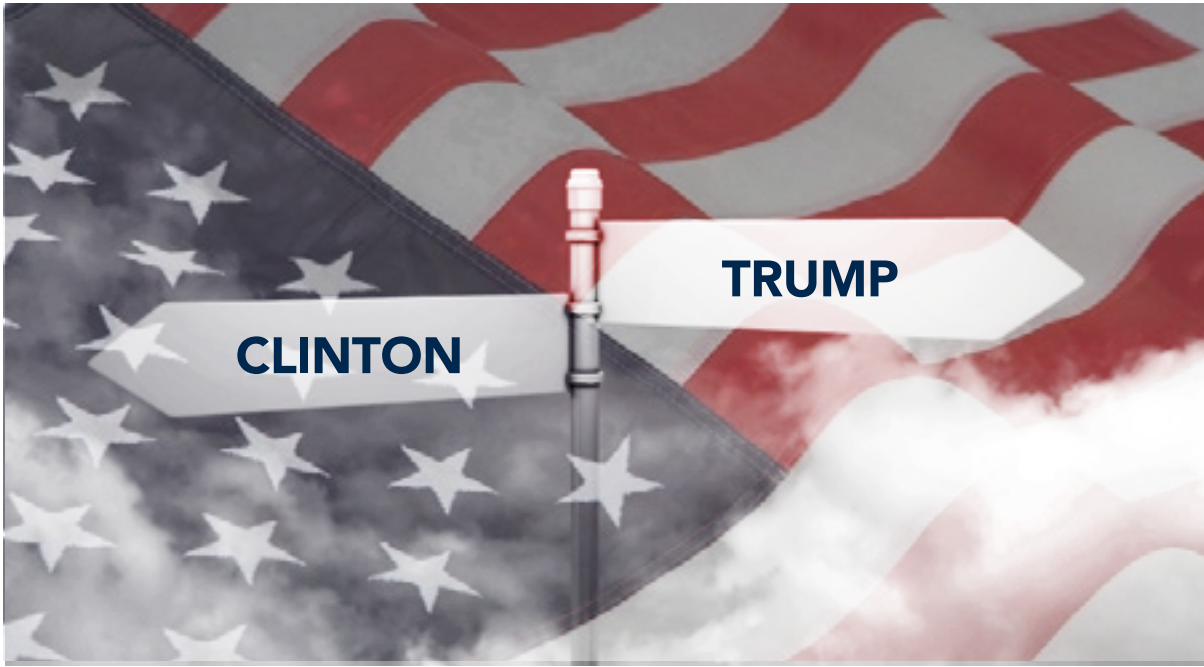
Roger Keats and grandson Emmett.

As a legislator, Roger spearheaded unprecedented bipartisan legislative change: Reform of the Illinois financial services industry; working with Chicago Mayor Harold Washington to ensure long-term financial viability of the metropolitan mass transit system; and reform of the notoriously corrupt Cook County Courts. His accomplishments were lauded publicly by top Republicans and Democrats of all races.

By 2011, with retirement approaching for Roger and wife Tina, they concluded they were sick and tired of the corruption and high taxes in Chicago, so they “voted with their feet and their wallets” and readied to move to the Lone Star State. But, before departing, Roger penned a now famous farewell email to friends that went viral. It landed on then-Governor Rick Perry’s desk, and, before the Keats had even settled into their new Dripping Springs home, Gov. Perry had invited them to join him for a luncheon at the Texas Public Policy Foundation.

When Roger speaks about the Texas Public Policy Foundation, he explains, “Texas is not an accident. It takes effort to stay this way—believe me I know. If we don’t do something for the future, Texas will drift away like all of the great industrial states.”

Earlier this year the Keats became members of the Lone Star Legacy Society, providing for TPPF in their estate plans. Roger asserts, “My participation in the Lone Star Legacy Society is not about my future. It is about my grandson’s future.” ★



November’s election of a new president could signal changes in estate tax laws that stand to significantly impact the legacy you leave your family and favorite non-profit organizations. As outlined below, the two major candidates take highly divergent positions on estate taxes:

	Estate Tax Rate	Exemption
Current Estate Tax Policies	40%	\$5.45 million
Hillary Clinton	45%	\$3.5 million
Donald Trump	0%	Total Estate

Implementation of either approach would require very different approaches to estate planning, and brings to mind the 2012 mad rush to complete complex planning when the laws last changed. To avoid a redux of 2012, many financial advisors are encouraging their clients to closely monitor the situation and anticipate how they might respond in order to protect and direct their hard-earned savings.

The Foundation’s Lone Star Legacy Society allows you to make a gift in perpetuity to ensure your support of freedom carries on to future generations. It’s an excellent way to establish a legacy for a cause you believe in, in a way that cannot be used by government for purposes with which you disagree.

If you are interested in preserving our Founding Fathers’ principles and would like information about including the Texas Public Policy Foundation in your estate plans, please contact Shari Hanrahan, Special Campaigns Director, at (512) 472-2700 or shanrahan@texaspolicy.com.



EDUCATION FREEDOM IN ACTION: THE BUIE FAMILY



MELISSA BUIE OF HOUSTON HOMESCHOOLS her three daughters while they are on a charter school waiting list. “I want them to see that they have a strong mother. They have a mother that cares, who wants to see them develop into the best person that they can possibly be,” says Melissa. “I want to give them everything I never had.”

Each year, charter schools hold a “lottery” to determine which children will be accepted into the program. The lottery’s purpose is to select children free of bias, scrutiny, abilities, or any other factors.

The Buies’ story is just one of thousands across Texas. Over a hundred thousand Texas students are on waiting lists trying to get into better schools.

Working on behalf of the Buies and other families to reform our state’s education system, the Texas Public Policy Foundation filmed a video in May exploring the Buies’ experiences with education freedom and the long wait for new opportunities. Through education freedom, all families can choose the form of education that best meets their student’s needs. Melissa notes that homeschooling “is providing me the option to find out who my three children are,” but for her girls, it has always been an intermediate step.

Shortly after TPPF introduced our video of the Buie family, we heard from Melissa. The charter school where her daughters were on a waiting list held their new student lottery drawing, and the three girls were not selected.

For the present, Melissa continues to homeschool her girls, who are waiting, yet again, for a chance at an open space—waiting for new opportunities to achieve the education that the family wants.

Like the Buie girls, each child must walk his or her own path to success, and in education, one size does not fit all. Parents deserve the opportunity to help their children do better. Educational freedom will give them those opportunities. ★

See Melissa Buie compellingly tell the story of the hope she has for her children at <http://www.texaspolicy.com/multimedia/video/education-freedom-the-buie-family>.

Research Shows Multiple Benefits from Education Freedom

- As the share of students able to choose their school rises and more than 6 percent of students are enrolled in a choice program, test scores also rise in traditional public schools.
- A full school choice program would result in Texas students eventually achieving the levels of their counterparts in Korea and Japan in math.
- A comprehensive school choice plan would result in a larger Texas economy: 5 percent after 30 years and 10 percent after 42 years.
- School choice increases student graduation rates for those participating in such a program.



MAKEMS AND TAKEMS: SETTING THE PATH TOWARD PROSPERITY IN TEXAS— AND THE WORLD

by Bill Peacock

The people of Sunderland in England have been building ships on the River Wear as far back as the 14th century. Since that time, their neighbors to the north in Newcastle upon Tyne have been taking the ships from Sunderland and using them to ship goods from the Port of Tyne.



Source: Google Maps

Somewhere along the way the relationship between these good-natured rivals was captured by the term of mackems and tackems, or makems and takems. Each sees their role as superior; but the key point is that these roles take place voluntarily in a free market. When we look at these terms, however, in the context of what is happening in the United States today, they take on a much darker meaning.

What has set the United States apart from every other nation in the history of mankind is that the liberty afforded Americans created a country of makems. The Pilgrims overcame near starvation on their way to making a new life in a cold, hostile environment. Later, other pioneers made their way into the wilderness to expand the boundaries of the colonies. The work ethic empowered by liberty kept on for over two centuries as America made itself the world's greatest economic power.

Of course, there were many problems along the way as takems decided they wanted to share in American prosperity without doing the work themselves. For instance, the English Parliament and English merchants tried to take profits from the colonists through the Stamp Act and the Tea Act and in the process

The Victoria City after being launched from a shipyard on the River Wear at Sunderland >
Source: chroniclelive.co.uk



provoked the American Revolution. But for the most part, America grew strong and prosperous as a country of makems.

Today, it seems, the takems have the upper hand. But these aren't the takems of Newcastle who prospered by employing the ships of Sunderland in the marketplace. Instead, takems in 21st century America have turned to the government to acquire what they can't in the free market through their own toil. The result is sustained declining prosperity in America for the first time in our history. Yet recent movements like the Tea Party, Brexit, and even the ascent of Bernie Sanders and Donald Trump in the presidential primaries suggest there is hope for our country's future; this article will examine the problem of the takems and suggest a path that will turn America again into a country of makems and restore liberty and prosperity.

The Increase of the Takems

As noted, the problem of takems is not new to our country or to the 21st century. But it has taken on a scale unprecedented in the United States. The reason for this is simple, explained by Milton Friedman, "The smaller the unit of government and the more restricted the functions assigned government, the less likely it is that its actions will reflect special interests rather than the general interest."

A relatively small government, which America had for its first 125 years or so, has a limited ability to be used by special interests—our takems—to take wealth from the general public. However, when progressives got hold of government in the late 19th century, the ability of government to plunder its citizens on behalf of the takems began to rapidly expand. Income taxes at the state and federal level gave gov-

ernment the resources it needed to take on its new role, while the courts in the hands of the progressives overturned years of precedence in order to allow the transformation to occur. Despite a few bright spots—notably Calvin Coolidge, William F. Buckley, Jr., and Ronald Reagan—throughout the last century progressivism continued to take its toll on liberty and prosperity by giving takems control of our lives. There are three main areas where this has manifested itself.

Central Planning

There is no denying it—government has taken control of our lives. Whether it is buying a car, building a home, or starting a business, there is no place to escape government regulation today. The costs are enormous—and enormously disruptive to economic growth. The Competitive Enterprise Institute estimates that federal regulation imposes a cost of \$1.88 trillion on Americans in lost economic productivity and higher prices. With state and local spending about half of the federal level, one could reasonably infer another \$900 billion in regulatory costs from that level. The total \$2.8 trillion burden on the American economy destroys jobs, emasculates innovation, and impoverishes tens of millions.

The takems involved in central planning are legion. Government bureaucrats and elected officials build

continued >>

“The smaller the unit of government and the more restricted the functions assigned government, the less likely it is that its actions will reflect special interests rather than the general interest.”

~Milton Friedman

their fiefdoms by consolidating control through regulations on the economy. They are supported in these efforts by private sector participants who stand to gain by the regulation of their competitors and by “consumer advocates” who grow their organizations by advocating for a government takeover of the economy.

A perfect example of central planning is the regulation of the Texas title insurance market. Texas has the most heavily regulated title insurance market in the country. Unlike most states, the government sets a fixed rate for title insurance, preventing competition for consumers’ business. This results in increased costs for both consumers and businesses—a recent LBJ School study estimated the cost at \$1.2 billion per year. Texas policymakers have imposed this regime on consumers over the years at the behest of the title insurance industry, while consumer advocates have done nothing—frozen by their general support of increased regulation.

Compulsory Unionization

In their heyday of the 1940s and 1950s, labor unions saw their members make up more than one-third of the U.S. workforce. But it has been all downhill since then. Today, union members total only about 11 percent of workers. While there is nothing inherently wrong with employees seeking representation to negotiate with employers, the compulsory nature of state and federal laws forcing employers and employees to acquiesce to union demands have wreaked havoc on large sectors and regions of the economy.

States with right-to-work laws, where employees cannot be forced to join a union in order to get a job, have 1.8 percent less unemployment than states with forced union membership or dues, according to the Heritage Foundation. Likewise, forced union membership has

a dramatic effect on the cost of living in a state. States with compulsory union membership or dues occupy the top 11 spots and 16 of the top 17 when measuring for the cost of living, while right-to-work states occupy 11 of the 15 lowest. All of this is brought about by takems in unions and government that seek to extract wage gains for members from employers at the expense of everyone else and the economy.

Texas is a right-to-work state with union members totaling only 4.5 percent of the workforce. Yet we still have our problems. “Corporate campaigns,” where unions use the media, elected officials, and even the government to pressure businesses to ease the way for union certification, have resulted in the spread of union membership in industries such as janitorial services, health care, and airlines. In fact, since 2008, only Florida has seen a bigger increase in private sector union membership than Texas’ 31,456.

Welfare

When we think of welfare, we generally think of means-tested welfare programs like food stamps and Medicaid. In 2012, over 52 million Americans directly received some kind of a payment from these programs—these payments went to households in which 109 million people lived. The cost of these welfare benefits was about \$153 billion per year, which was paid by the 106 million full-time workers reported by the Census Bureau in 2013. Studies have shown how welfare disincentivizes work. In the 10 states with the highest welfare benefits—like California—welfare benefits average \$35,000 annually for a mother with two children, which is more than a full-time worker makes at \$15 per hour. What’s more, welfare benefits are not taxed. While there is overlap between these two lists—some welfare recipients do work. But, the divide between the makems and takems here is obvious.

However, a less well-known, but equally insidious type of welfare—corporate welfare—is rapidly growing to the point where it could be doing more overall harm to the economy and liberty. The Cato Institute estimates that direct federal subsidies for business cost more than \$100 billion per year. Add in tax breaks and state and local subsidies, and it is quite possible that corporate welfare costs more than individual welfare. Adding to the problem, these takems employ armies of lobbyists to ensure that the payments from makems keep coming—and expand.

In addition to the cost of the individual and corporate subsidies themselves, the transfer of wealth from the most productive to the least productive members of our society imposes a tremendous cost on innovation and economic growth. Texas ranks fairly low among the states when it comes to both types of welfare at the state level, but at the local level corporate welfare is growing at an alarming rate. Tax abatements by local governments might cost as much as \$1 billion a year. Add in the hundreds of millions per year spent at the state level on the Texas Enterprise Fund, subsidies for wind energy, and other corporate benefits, and it is clear Texas needs to address the problems as well.

The Path to Liberty and Prosperity

Not a very pretty picture, is it? Yet there are beacons of hope amidst the flood of special interests that are dominating the culture, government, and economy.

Perhaps that hope shines brightest of all today in Texas. For while Texas is, as we’ve noted, far from perfect, it is still a reflection of better days gone past and an example of brighter days to come. In Texas, we have done a better job of restraining the growth of government so the government of Texas has less capacity to work on behalf of the takems. In Texas, where people get to spend more of their money on what they wish it to be spent on, less money is transferred from the most productive to the least productive, and less money is spent on things that are harmful to the general public.

The best way to see how well Texas is doing is to take a look at state spending per capita. This measure is

helpful because it is a good proxy for both how much money the government takes from the public and how much capacity a government has for doing harm to the public through central planning and welfare. Ballotpedia shows the average state spent \$5,711 in 2015. Texas only spent \$4,098, fifth best in the nation and 28 percent below the national average. Texas is clearly a low tax, low spending state with less capacity than most states for doing the bidding of the takems. So how are liberty and prosperity faring in Texas?

Two measures of liberty are the Fraser Institute’s Economic Freedom Index and the Pacific Research Institute’s (PRI’s) 50 State Small Business Regulation Index. Fraser’s index indicates that Texas ranks third among the 50 states when it comes to economic freedom, while PRI shows that Texas has the third best climate for small businesses. Looking at prosperity, Texas ranks above average on median household income and GDP per capita. And with perhaps the most important measure of prosperity, job growth, Texas runs away from the rest of the country with a 16.56 percent increase since 2010, well ahead of the U.S. rate of 11.31 percent.

Another measure of prosperity is the poverty rate. At first blush, this may not look so good for Texas, which has the seventh highest poverty rank in the country in the official poverty measure (OPM). But according to a soon to be published paper examining poverty by the Foundation’s Chuck DeVore, the OPM has two serious flaws: it doesn’t address cost of living or ethnic differences at the state level. Making adjustments for these paints an entirely different picture: Texas moves to the 17th lowest poverty rate among the 50 states, and the second lowest among the 12 largest states. Among the 12 largest states, broken out by ethnic group, Texas has the fourth lowest poverty rate for white non-Hispanics, the lowest rate for black non-Hispanics, and the third lowest for Hispanics of Mexican origin. In other words, if you look where most people live in this country, whites and minorities are less likely to live in poverty in Texas than almost any other state.

continued >>



Davy Crocket

One final way to measure how Texas is doing when it comes to liberty and prosperity is simply by watching the choices people make for themselves about where they want to live. And more people want to live in Texas than almost any other state. In a typical year, more people come to live in Texas than any other state except Florida, and its net migration rate ranks seventh in the country. Texas is a place people want to live, just like it was when Davy Crocket, Sam Houston, and Stephen F. Austin came here almost 200 years ago. And they come here today for the same reason they did then—for opportunity and freedom.

Thus the recipe for continued prosperity in Texas is rather simple—more makems and less takems. To this end, we offer a few simple, though challenging to implement, recommendations:

- **Stop the growth of state and local governments:** Texas government is big enough; if it needs to do something new, it can stop doing something else. For as long as government continues to grow, it also increases its capacity for being used by special interests, i.e., takems, to undermine liberty.



Bill Peacock is the vice president of research and the director of the Center for Economic Freedom at the Texas Public Policy Foundation. He has been with the Foundation since February 2005. Bill directs the research of the Foundation to ensure its accuracy, integrity, and application of free-market principles to the issues facing Texas and the nation. His own research focuses on economic freedom and growth, property rights, civil justice, and regulatory issues. Bill has extensive experience in Texas government and policy on a variety of issues, including economic and regulatory policy, natural resources, public finance, and public education. His work has focused on identifying and reducing the harmful effects of regulations on the economy, businesses, and consumers.

- **Stop local governments from eviscerating property rights:** Local governments use zoning, eminent domain, and economic regulation to shut down profitable businesses, make cities less affordable, and take away the rights of citizens to use their property. We need to allow makems (and everyone else) to use their property to their benefit and the benefit of others.
- **Strengthen Texas' standing as a right-to-work state:** Few things have been more important to maintain Texas economic leadership than being a right-to-work state. But unions are making inroads in certain sectors of our economy. We must stop the unions' assault on the secret ballot and stop the government from being a dues collector for unions.
- **Eliminate corporate welfare:** Texas has long since proven that the best economic program isn't corporate welfare, it is lower taxes and spending, fewer regulations, less frivolous lawsuits, and reduced reliance on the federal government. More of this approach, i.e., the Texas Model, is what Texas needs to lead America and the rest of the world to a more prosperous future in the years to come.
- **Get Texas out from under federal programs like Medicaid and federal regulations on the economy and environment:** This is a tough one, but still very necessary. Every time Texas does something to improve the lives of its citizens, the federal government seeks to undermine or reverse our gains. Whether it is interstate compacts, an Article V convention, or just saying no, Texas needs to continue its work with other states to stand up to the federal assault on our liberties. ★



❑ **IN NOVEMBER, 2015**, the Center for the American Future (CAF) filed *Aderholt, et al. v. Bureau of Land Management et al.* protesting the Bureau of Land Management's contention that it should take 90,000 acres of land along the Red River as federal property, which has been owned, ranched, and lovingly stewarded for years by several Wilbarger, Wichita, and Clay County families.

On June 29, 2016, in a win for our side, the federal district court denied the majority of the federal government's dismissal motions against *Aderholt, et al. v. Bureau of Land Management et al.* allowing the lawsuit to go forward to trial. No trial date has been set.

❑ **ROBERT HENNEKE**, CAF Director and TPPF Legal Counsel, was admitted to practice at the U.S. Supreme Court on June 13, signifying our expectation that future Center lawsuits will reach the highest court in the land.

❑ **THE WORK OF RIGHT ON CRIME** was adopted as a part of the 2016 Republican Party Platform. Not only did the platform mention states in which Right on Crime championed a great deal of the reform effort, it added language addressing topics which Right on Crime has led on, including reform of criminal law principles such as mens rea and over-criminalization.

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