THE COWTOWN HUMANIST NOVEMBER 2005

RENOWNED FOLKLORIST JAMES LEE TO SPEAK ON THE FOLKLORIST AS HUMANIST AT NOVEMBER 9 MEETING

James Ward Lee, teacher, author and spinner of a good tale, will be guest speaker at our November 9 session. Make your plans now to be with us on that date for an entertaining evening.

James Ward Lee is a native of Alabama who also received part of his formal education in Tennessee and Arkansas. He has resided in Texas for the past 47 years, first as a professor of English at North Texas State University and, following retirement in Fort Worth, as acquisitions editor for TCU. At NTSU he directed the Center for Texas Studies, which publishes books about Texas—history, literature, cultural studies and fiction--and was founding editor of the University of North Texas Press. He is a long-time member of the Texas Folklore Society and a prolific author of academic papers and of books.

What he likes best about Texas, he says, is its "cantankerous and independent spirit" that he finds most evident in Fort Worth. "Fort Worth is what a Texas city ought to be—not like Dallas, Houston, Austin or San Antonio. I could have moved anywhere, but I thought Fort Worth was quintessentially the Texas I had come to like."

His devotion to Texana notwithstanding, he yet feels a strong attraction to the Alabama of his youth. Lee is planning to write a book about the Alabama he remembers. "It will be about some things that are true, and some that are made up—some things I remember and some things remembered incorrectly."

RECOMMENDED READING: *Adventures with a Texas Humanist*, by James Ward Lee (TCU Press: 2004)

Adventures consists of three parts: Texas Literature, Folklore and Texas Culture, and Memoirs. I must confess that of the numerous authors discussed in the first part only four—J. Frank Dobie, Katherine Ann Porter, John Graves and Larry McMurtry—are familiar names to me but only the latter have I read (mostly essays) extensively. Moreover, McMurtry is probably best known to Texans for his film scripts—chiefly, *Lonesome Dove* and *The Last Picture* than for his books and essays.

For anyone whose reading is geared more toward U.S. and European literature the second part of Lee's book will prove especially interesting for discussion of the various "-isms" that have held sway among critics over the centuries. Lee makes clear that he frowns on making literature serve the cause of ideology, whether it is the New Criticism, Marxism, psychologism,

structuralism, feminism or whatever. The role of the critic, in his view, is to make literature accessible to the common reader, not to "valorize" criticism itself. In his discussion of folklore, he acknowledges that, though he is not a religious person, he has profound respect for the wisdom of the Bible, a surer source than scientific inquiry for the things that really matter in life.

The last part consists of five short chapters: one on school days at Saint Andrews School, three on his military experiences during the Korean War and a concluding chapter on his career at NTSU. What he has to say about the US Navy and his experiences on the USS Radford both in the war zone and in the vicinity of H-bomb testing in the Pacific will resonate with all of us who served in some arm of the U.S. military. Those who have had a career in teaching should especially appreciate the final chapter on faculty politics at North Texas State.

HoFW NEWS AND VIEWS

OCTOBER MEETING: Gwen Gipson spoke on the constitutionality of *Roe v. Wade* at our last meeting. Gwen drew upon Laurence Tribe's *Abortion: The Clash of Absolutes* to present a very engaging discussion of the reasoning underlying the Court's 5-4 validation of abortion rights and of the arguments of Justices Scalia and White and of other legal scholars who opposed the decision, particularly the right to privacy (nowhere to be found in the constitution, so they argued). Since *Roe* is certain to come before a much altered court again before long, *Roe's* supporters would do well to take a look at Tribe's study for a refresher course on the constitutional issues involved.

NOVEMBER MEETING: This month's meeting will be held on Wednesday, November 9, 7:00 p.m., at Friends of the Fort Worth Public Library Bookstore, 5332 Trail Lake Drive, located in the Wedgworth Shopping Center just off Wedgmont Circle North. From I-20 take Granbury Road South to Wedgmont Circle North. Turn left onto Wedgmont Circle North. You will notice a CITGO station on your left. Immediately thereafter turn left again into the Wedgworth Shopping Center. Going west on I-20, you can take the Trail Lake Road exit and approach the shopping center from the southeast.

PRE-MEETING DINNER: Our pre-meeting dinner will be held at Jason's Deli at 5000 Overton Ridge Road (near Costco's). Turn right off S. Hulen St., (going south) and continue a couple of blocks. Jason's will be on your right. Dinner time: 5:30 p.m.

DECEMBER MEETING: No featured speaker on this occasion. We will mark the holiday season again this year with a dinner, this time at the Szechwan Restaurant. Toasts and

impromptu speeches to celebrate the successes of our organization during 2005 will not be out of order.

TREASURER'S REPORT: The Association had income of $54.00 and no outlays for the latest reporting month. The ending balance was $948.15 as of October 12, 2005.

ADOPT-A-STREET PROGRAM: Eight adults and two children pitched in to collect l3 bags of trash along Granbury Road on October 22. The trash run was followed by a breakfast both sociable and delectable at the IHOP a few blocks to the south of the area cleared. Our thanks go to Rollyn and Ken Carlson, John Huffman, Delores and Don Ruhs, Dick Trice, Ray Weil, Jessica Douglas (7) and Rowan Zinn (5). Next pick-up will take place in about three months.

TOO MANY BOOKS? If your bookshelves are groaning under the weight of an excessive collection, consider a donation to our hosts. Friends of the Fort Worth Public Library is happy to take any marketable books you no longer need.

REMINDERS: Dolores is still collecting dues for 2005 from anyone wishing to join: $18 for individual memberships, $24 for persons receiving the Newsletter by regular mail; $30 for couples receiving the Newsletter by e-mail; $36 for couples receiving the Newsletter by regular mail.

Don't forget to bring a can of food for the needy. Dolores will see to its delivery to West Aid.

DON'T FORGET TO VOTE ON NOVEMBER 8!

Amendment 2 mandates discrimination, erodes individual rights and threatens basic legal protections. It is unworthy of a liberal polity.

WE WELCOME YOUR CONTRIBUTIONS AND CRITICISMS FOR A BETTER NEWSLETTER.

YOUR OFFICERS AND HOW TO REACH THEM

Chairman: Don Ruhs, 1036 Hill Top Pass, Benbrook, 76126-3848; 817-249-1829; ruhsd@sbcglobal.net

Vice Chair & Newsletter Editor: Jim Cheatham, 1582 CR 2730, Glen Rose, 76046; 254-797-0277; halfrey@hyperusa.com

Secretary: Reed Bilz, 6316 Walburn Ct., Fort Worth, 76133; 817-292-7974; rbilz@earthlink.net

Treasurer: Dolores Ruhs (Address same as Don Ruhs)

Immediate Past Chair & Webmaster: Russell Elleven, 6120 Comfort Dr., Fort Worth, 76132; 817-370-2171; info@hofw.org

Program Director: Jeff Rodriguez, 4901 Bryce Ave. #5, Fort Worth, 76102; 817-732-4235; schnooks61@netzero.com

WHAT'S GOING ON AT THE COURTS

PADILLA TAKES HIS CASE TO THE SUPREME COURT

"Dirty bomb" suspect Jose Padilla has asked the Supreme Court to limit the government's power to hold him and other U.S. terror suspects indefinitely and without charges. Critics contend the government went too far, by putting hundreds of foreigners and two U.S. citizens in legal limbo following the 9/11 attacks. The Bush administration argues that with national security at stake, terror suspects are not entitled to the constitutional protections given ordinary criminal suspects. The Supreme Court has disagreed, although its changing composition could swing the court toward the government's position on future challenges. Justices will not decide until late this year whether to hear Padilla's case. (AP)

THE DOWNSIDE OF JUDGE SAMUEL ALITO

The concerns about this particular nominee go beyond his apparent hostility to abortion, which was most graphically demonstrated in 1992 when his court ruled on what became known in the Supreme Court as the Casey decision. Judge Alito was the sole judge on his court who took the extreme position that all of Pennsylvania's laws on abortion were constitutional, including the outrageous requirement that a woman show that she had notified her spouse. Justice Alito has favored an inflated standard of evidence for racial- and sex-discrimination. In an employment case, he said that just for a plaintiff to have the right to a trial, she needed to prove that her employers did not really think that they had chosen the best candidate for the job. When lawyers for a death-row inmate sought to demonstrate bias in jury selection by using statistics, Judge Alito dismissed that as akin to arguing that Americans were biased toward left-handers because left-handed men had won five out of six of the preceding presidential elections. At least as worrisome are Justice Alito's frequent rulings to address momentous national problems. Dissenting in a 1996 gun control case, he declared that Washington could not regulate the sale of fully automatic machine guns. In 2000, Judge Alito said Washington could not compel state governments to abide by the Family and Medical Leave Act, a position repudiated by the Supreme Court in a decision written by Justice William Rehnquist.

When a justice is more radical on states' power than Justice Rehnquist, the spiritual leader of the modern states' rights movement, we should pay attention. (NYT editorial)

A very useful guide to important Supreme Court decisions in recent decades and to the judicial philosophies of those sitting on the Court is *Radicals in Robes: Why Extreme Right-Wing Courts Are Wrong for America* by Cass R. Sunstein, Basic Books (2005). The following quote is from the cover:

Even with the recent changes in its makeup, most people think the Supreme Court is roughly balanced between left and right. This is a myth. In fact the justices once considered right-wing are now the Court's moderates; those who were once centrists are now the Court's "liberals"; and the liberal element once represented by Thurgood Marshall and William Brennan has all but disappeared.

Many people also think that judicial activism is the province of liberals. This is also a myth; since William Rehnquist was confirmed as Chief Justice in 1986, the Supreme Court has struck down decisions of Congress more than thirty times—an unprecedented record of judicial activism. Some conservatives want to return to the eighteenth-century Constitution or to restore "the Constitution in Exile," by which they mean the Constitution as it existed before the administration of Franklin Delano Roosevelt.

In *Radicals in Robes,* Cass R. Sunstein explains what this constitutional vision would mean. It would endanger environmental regulations, campaign finance laws, and the right to privacy. It would threaten the Federal Communications Commission, the Securities and Exchange Commission, the Environmental Protection Agency, and many other federal agencies. It might well allow states to establish official religions. It would impose sharp new limits on Congress's authority to protect rights.

Radicals in Robes pulls away the veil of rhetoric from a dangerous and radical movement and issues a strong and passionate warning about what some extremists really intend. One of the most respected legal theorists in the country; Sunstein here issues a warning of compelling concern to us all.

Lest you come away thinking Sunstein has written a liberal polemic, note that he reserves his highest praise for, of the current occupants of our highest bench, not John Paul Stevens but Sandra O'Connor, who, he says, eschews an overarching judicial philosophy a la Scalia for a more modest approach to legal interpretation, which he dubs "Minimalism." "Many fundamentalist will not much hesitate to reject precedents that they believe to be wrong. Minimalists are far more cautious about undoing the fabric of law. Minimalists also favor narrow rulings over wide ones. They like to decide cases one at a time. They prefer decisions that resolve the problem at hand without also resolving a series of other problems that might have relevant differences. Minimalist judges may say for instance, that it is permissible to adopt some kinds of affirmative action plans but not others; everything depends on context. In general, Minimalists try to avoid broad judgments that might turn out, on reflection, to be unwarranted."

Sunstein points out some of the inconsistencies in the "originalism" of the court's right-wing—Scalia and Thomas. All too often they are prone to forget their reverence for the original meaning of the Constitution. [That anyone would want to deify the prejudices of slave owners is sort of flabbergasting.] Clarence Thomas especially is inclined to wave aside "originalism" when it might conflict with his personal political philosophy. In this connection, he has been the court's foremost opponent of affirmative action, ignoring the precedent established by Congress's setting up the Freedmen's Bureau in the aftermath of the Civil War for the express object of helping ex-slaves. Apparently no one at the time deemed it unconstitutional although many poor southern whites questioned its fairness.

There's a lot to chew on here for anyone with a particular interest in constitutional law. Many of you will have read a recent op-ed piece by Sunstein in the Sunday FWST in which he argued that there is nothing novel or especially surprising about the Court's many 5-4 decisions: Only the toughest cases come to the Court.

TESTING JOHN ROBERTS' VIEWS ON FEDERAL VERSUS STATE JURISDICITION

The Supreme Court in mid-October agreed to hear a pair of environmental cases that will provide an early test of Chief Justice Robert's approach to federal/state issues—that is, the balance of power between the national government and the states. In this particular instance, the issue is whether the federal government has the power to protect wetlands lying wholly within one state. The Clean Water Act gives the federal government authority over the "waters of the United States," but one court ruled a few years ago that if the waters lay entirely within a single state, the federal government has no jurisdiction. Under such a reading how could the federal government protect, say a watershed such as the Chesapeake Bay, if it could not prevent people from dumping chemicals into the wetlands that feed it? Looming over the dispute is the broader question of whether Congress has the power to protect wetlands at all.

A decision curbing federal powers would have far reaching consequences, particularly for environmental legislation. (WP)

ROBERTS' COMMENTS ON ASSISTED DYING

In a 1997 TV interview, Chief Justice Roberts gave a revealing quote on assisted dying. "I think it's important not to have too narrow a view of protecting personal rights. The right that was protected in the assisted suicide case was the right of the people through their legislatures to articulate their own views on the policies that should apply in those cases of terminating life, and not to have the court interfering in those policy decisions. That's an important right."

Roberts has not heard any end-of-life policy cases per se previous to *Gonzalez v. Oregon,* making it difficult to predict his stance with any certainty. However, this quote is a good reflection of his record of strong respect for states' rights and an approach to statutory construction that involves careful and close reading of laws. These indicators suggest he would not favor the U.S. Attorney General's attack on Oregon's assisted-dying law. (Compassion and Choices Magazine)

[Oregon permits only assisted suicide—the prescribing doctor cannot even be there when the patient takes the lethal potion, usually barbiturates. The Netherlands allows voluntary euthanasia as well as assisted suicide. It is not limited to adults and the patient need not be terminally ill (though more than 95% are in their last few weeks.) Belgium permits only voluntary euthanasia. The patient must be adult and in a "futile medical condition of constant and unbearable physical or mental suffering that cannot be alleviated." In Switzerland assisting suicide has been legal since 1942, provided it is not "self-serving"—designed to gain an inheritance, for example. Britain is currently weighing a bill that would allow assisted suicide. So far, a select committee of the Parliament trying to find a compromise acceptable to most parties to the issue has been unable to achieve a consensus on the circumstances under which it should be lawful. –Economist magazine]

WHEN THE SHOE IS ON THE OTHER FOOT, CONSERVATIVES MAY RUE THEIR TACTICS

Core activists crippled Harriet Mier's Supreme Court nomination largely by challenging her judicial philosophy, debating the importance of her religious beliefs, demanding to see White House documents and derailing her before she reached a Senate vote. When liberals mentioned a possible filibuster of Roberts, Republicans insisted on an "up or down vote," which Miers never received. Virtually all GOP senators defended the White House's refusal to surrender documents concerning Roberts, but some of them demanded comparable documents regarding Miers. And whereas Republicans said Roberts' religious beliefs should not be a subject of Senate inquiry, Bush cited Miers' church affiliation and religious convictions as one of her chief qualifications. Now the Democrats may be in a stronger position to wage a filibuster or demand more detailed documents and explanations of the next nominee's positions if they conclude he or she is out of the judicial mainstream. Conservative commentator and Chapman University law professor Hugh Hewitt: "Now, with the withdrawal of Harriet Miers under instant, fierce and sometimes false assault from conservative pundits and activists, it will be difficult for Republican candidates to continue to make their winning argument that Democrats have deeply damaged the integrity of the advice and consent process." (WP)

COURT RULES KANSAS CAN'T SINGLE OUT GAY ACTS

The Kansas Supreme Court on October 2l unanimously struck down a state law that punished underage sex more severely if it involved homosexual acts, saying "moral disapproval" of such conduct is not enough to justify the different treatment. The high court said the law "suggests animus toward teenagers who engage in homosexual sex." Gay rights groups praised the ruling, while conservatives bitterly complained that the court intruded on the Legislature's authority to make laws. The case involved sex between an 18 year old and a 14 year old. The former was sentenced to 17 years in prison. Had one of them been a girl, state law would have mandated a maximum sentence of 15 months. "The statute inflicts immediate, continuing and real injuries that outrun and belie any legitimate justification that may be claimed for it," Justice Marla Luckert wrote for the court. "Moral disapproval of a group cannot be a legitimate state interest." The Kansas court also cited the landmark 2003 U.S. Supreme Court decision that struck down a Texas law against gay sodomy. (NYT)

ATHEIST INMATES HAVE RELIGIOUS LIBERTY RIGHTS, SAYS 7TH U.S. CIRCUIT COURT

Prison officials in Wisconsin violated the separation of church and state when they refused to allow an atheist to form a study group, ruled the 7 th U.S. Circuit Court of Appeals in *Kaufman v. McCaughtry.* The court opined that officials at the Waupun Correctional Institute did not have a legitimate reason for denying James Kaufman's request to form an inmate group "interested in humanism, atheism, and free speaking." Kaufman said the group would aspire to "stimulate and promote Freedom of Thought and inquiry concerning religious beliefs, creeds, dogmas, tenets, rituals and practices…" Prison officials denied Kaufman's request arguing that it was not motivated by "religious" beliefs. The court noted that federal courts, including the Supreme Court, have "adopted a broad definition of 'religion' that includes non-theistic and atheistic beliefs, as well as theistic ones. …Atheism is, among other things, a school of thought that takes a position on religion, the existence and importance of a supreme being, and a code of ethics." (C&S)

PROTECTING THE ECONOMY AND THE ENVIRONMENT

GAS TAXES: LESSER EVIL, GREATER GOOD

There's no serious disagreement that two major crises of our time are terrorism and global warming. And there's no disputing that America's oil consumption fosters both. Oil proceeds that flow to Saudi Arabia and other Middle Eastern countries finance both terrorist acts and the spread of dangerously fanatical forms of Islam. The burning of fossil fuels creates greenhouse emissions that provoke climate change. All the while, oil dependency includes the likelihood of foreign military entanglements and threatens the economy with inflation, high interest rates and risky foreign indebtedness. …The best solution is to increase the federal gasoline tax, in order to keep the price of gas near its post-Katrina high of $3 plus a gallon. That would put a dent in gas-guzzling behavior…and it would help cure oil dependency in the long-rautomakers and other manufacturers responded to consumer demand for fuel-efficient products. (NYT Editorial)

THE BUSH ADMINSTRATION'S WAR WITH SCIENCE

Shortly before President Bush departed for Gleneagles, Scotland, for the G-8 meeting, whistleblower Rick Piltz dropped a bomb with his revelations that a political appointee at the White House Council on Environmental Quality (who had formerly worked at the American Petroleum Institute) had taken a metaphorical red pen to government climate-science reports and inserted language that had the effect of magnifying uncertainty about various conclusions on global warming. That wasn't the first or the last instance of administration interference with scientific assessments that didn't meet its political agenda. No need to postulate a nefarious conspiracy to explain the administration's disregard of sound science: We need only point to an army of political appointees in government agencies that are going about their jobs the only way they know how, i.e., talking a lot to their industry or Religious Right allies and frequently rewarding their lobbying attempts in scientific areas. In short, it's a politico-scientific spoils system. And as this particular spoils system proceeds to allocate rewards, it simultaneously

undermines, cheapens, and compromises federal agencies as reliable, public-oriented sources of scientific analysis and information. (Skeptical Inquiry)

WARMING TO CAUSE HARSHER WEATHER, PURDUE UNIVERSITY STUDY FINDS

Extreme weather events—including heat waves, floods and drought—are likely to become more common over the next century in the U.S. because of human-generated greenhouse gas emissions, according to a new study by Purdue University researchers. The Southwest will become drier and hotter, the paper predicts, while the Gulf Coast will become warmer and experience less frequent, but more intense rains. Catastrophic weather events have taken an increasingly heavy financial toll on American homeowners and businesses in recent years. Development in flood prone areas has contributed to those losses. (WP)

The November/December 2005 edition of *Skeptical Inquiry* has a section on "Evolution and the ID Wars" that we highly recommend to our readers:

"Does Irreducible Complexity Imply Intelligent Design?" by physics professor Mark Perakh. Michael Behe's "irreducible complexity," according to "design theorists," implies Intelligent Design of biological systems. In fact, such a conclusion lacks a logical foundation. Irreducible complexity can even more reasonably be construed as an argument against Intelligent Design. [If you found a well-made brick in a pile of ordinary stones wouldn't you conclude that the former, not the latter, was the product of design?]

"Only a Theory? Framing the Evolution/Creation Issue," by astrobiologist David Morrison. Evolution opponents are framing the issues to our disadvantage; they focus on the phrase "theory of evolution," when theory is today understood by the public as a tentative concept unsupported by evidence. Morrison surmises that evolution proponents will almost surely lose the argument if it is framed as a religious debate. Science has to be presented in a non-confrontational and accessible way, he says.

"Why Scientists Get So Angry When Dealing with ID Proponents," by mathematics professor Jason Rosenhouse. ID proponents are constantly quoting scientists out of context to make it wrongly appear they have grave reservations about evolution. They have based much of their case on the so-called "Cambrian explosion," a period that once supplied almost all of the earliest fossils, and have liberally misrepresented Stephen Jay Gould's theory of "punctuated" evolution to raise doubts about Darwinian evolution. Now we have a much more impressive collection of pre-Cambrian fossils that undermines the case for a sudden development (contradicting Darwin's presumption of evolutionary development) of animal life.

KANSAS REBUKED FOR SLIGHTING EVOLUTION

Two leading scientific organizations have denied the Kansas board of education permission to use their copyrighted materials in the state's proposed new science standards because of the standards' critical approach to evolution. The National Academy of Science and the National Science Teachers' Association said the much-disputed new standards "will put the students of Kansas at a competitive disadvantage as they take their place in the world." In the statement, as well as in letters to the state board, the groups opposed the standards for singling out evolution as a controversial theory, and also for changing the definition of science itself so that it is not restricted to natural phenomena. (NYT)