

He strode up confidently and faced the myth of power that had defied generations before him. It looked deceptively simple, just a binding running in and out of itself that yoked the stave of an old wagon to a post that was driven into the ground. Still, it assured that power was held by the heirs to the owner of the wagon. Nothing could change that except someone capable of untying the knot, someone who would then rule the East.

He looked it over, the creamy Stetson he was told not to wear seeming out of place, his just-average size and posture even in high polished boots not contributing greatly to the drama. Then Richard Pombo stepped back and, as Alexander the Great had done at Gordium, drew out something sharp to cut through the binding.

“When you hear the tired and inane rhetoric of ‘gut,’ ‘rollback,’ and ‘viscerate,’” Pombo told his House Resources Committee, “take a step back, look at the official Fish & Wildlife Service data, think of all the conflict, and ask yourself, ‘What could we possibly have to roll back?’ It’s time to move forward, update this law, and bring it into the 21st century.” Saying that, he sliced it open with a single cut.

The “Alexandrian solution” to the Gordian knot in 333 B.C. seems easily to suggest a metaphor for violence as the answer to complexity. Other scholars say, however, that Alexander’s solution, while obvious and bold, was the only possible answer to a knot that had no ends. Like a snake that has swallowed its tail, it was impossible to unravel unless one end was cut free.

Although still facing a difficult challenge in the U.S. Senate, Pombo (R-Calif.) had a firm majority of the U.S. Congress behind him in September when he cut open the fundamental strangling power of the Endangered Species Act that had allowed it to seize property and livelihoods without compensation in order to protect a threatened or endangered species.

“You have been doing it for 30 years,” Pombo later told the full Congress. “Now it’s time to pay for it. You are taking land away from the people. Every small farmer or rancher across the country, every homeowner across the country who has had their property taken from them should be compensated for it.”

It was not the hack of a mighty sword that people imagine being brought down by Alexander’s arm. It was not the “gutting” that friends of Pombo said they would prefer. Revised even at the last minute to meet criticism, it was the sharp, almost surgical, severance of tangled law that the ESA had become,

POMBO THE GREAT

The power behind the changes in the ESA. By Tim Findley

defying even basic constitutional protections contained in the Fifth Amendment. However much difficulty Pombo’s bill may face in the Senate, and however much disappointment some of his friends may still find in its provisions, TESRA (Threatened and Endangered Species Recovery Act) will command debate on that essential and revealing issue of property rights.

Emotional opponents may decry the loss of a law that has failed to accomplish more than claimed “recovery” of 10 among the 1,300 species listed in its history and that at best can claim only a one percent success rate. They will demand more time to “save” the rest and they will cast more dire warnings about their loss of ultimate power. But Pombo has cut one end loose. The knot will unravel unless opponents are willing to deny fundamental constitutional rights for compensation in the taking of private property.

Pombo’s bill, in fact, provides controversial new means of working agreements and peer-reviewed science involving state and local governments before consideration is given to any future habitats found on private land, and then only with the understanding that the full rights of property owners will be met. The objective, says Pombo, is to trust landowners as stewards of their lands.

“The only way you are going to recover species,” Pombo told Congress, “is if you bring in the property owners and have them be part of the solution.”

It came, appropriately, just as there was a surge of political eagerness to go on record in opposition to the use of eminent domain as approved in a Supreme Court decision in June 2005. That has been followed with a

rush of state legislation and lower court rulings upholding property rights. In fact, aside from Justice Ruth Bader Ginsberg herself, the only loudmouth from the other side came from former Interior Secretary Bruce Babbitt, proclaiming himself from the political wilderness to be a champion of what he called “federal land use planning” over the rights of property owners or even local governments.

Pombo, the son of a substantial rancher with a spread of his own in the tawny rolling hills in California’s Central Valley, came into politics (on an open seat) with no more background than a year as city councilman. Six years later, he’s breathing a light fog on what he was warned was a deadly third rail in politics, and whacking away with his penknife on the tangle of public policy and special interest that has defied all previous attempts.

He was awarded the chairmanship of the House Resources Committee a year ago by majority leaders who some say were impressed



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with his energy and who others say were willing to let him sacrifice himself on the political “third rail” of the ESA. He bears no resemblance at all to an imagined conqueror like Alexander, and perhaps the comparison is not apt. The curiously quiet, politically unschooled rancher from Tracy, Calif., has to be reminded not to wear his Stetson all the time in Washington.

But it might be well to remember that some historical accounts say that once Alexander cut through the rope of the Gordian knot, he took the loose end and unwound it from where it was bound to the post in the ground. Then, with the wagon pulled behind him, he went off to conquer Persia and most of the known world, including several tyrants in the style of Bruce Babbitt.

No matter what the Senate vote may be in the next session, retying that tangle of the ESA as if Pombo and his house majority was never there may not be so simple.