

## Sobriety inquiries incriminate drivers

The Oregon Supreme Court ruled last week that a driver's refusal to take a field sobriety test could not be held against him or her in court because the tests are potentially self-incriminating.

The Court is right. Sobriety tests do incriminate drivers.

Oregon law states that drivers who refuse to take a breath test to determine their blood-alcohol level will have their license suspended for 90 days on the first offense. Second and third refusals carry suspensions of one and three years, respectively.

The driver's only alternative is to take the test, which can result in an arrest and conviction for driving under the influence of intoxicants (DUI).

**D**river's have two choices, proving their guilt or implying it. Neither option is acceptable.

Whether drivers "blow" over the limit or refuse to take the test, they will face consequences for their actions. In effect, drivers have no choice. Unless they take the test and blow under the legal limit of .08 percent blood-alcohol level, they can be punished.

Justice Richard Unis called this choice a "cruel dilemma," because the law incriminates drivers either by implication or by evidence.

It's not that drunken driving laws are bad or unjustified. Drunken driving is a horribly irresponsible crime in which intoxicated people willfully disregard the lives of those around them. Drunken driving kills many and injures even more. Strict penalties should be exacted against those convicted for drinking and driving.

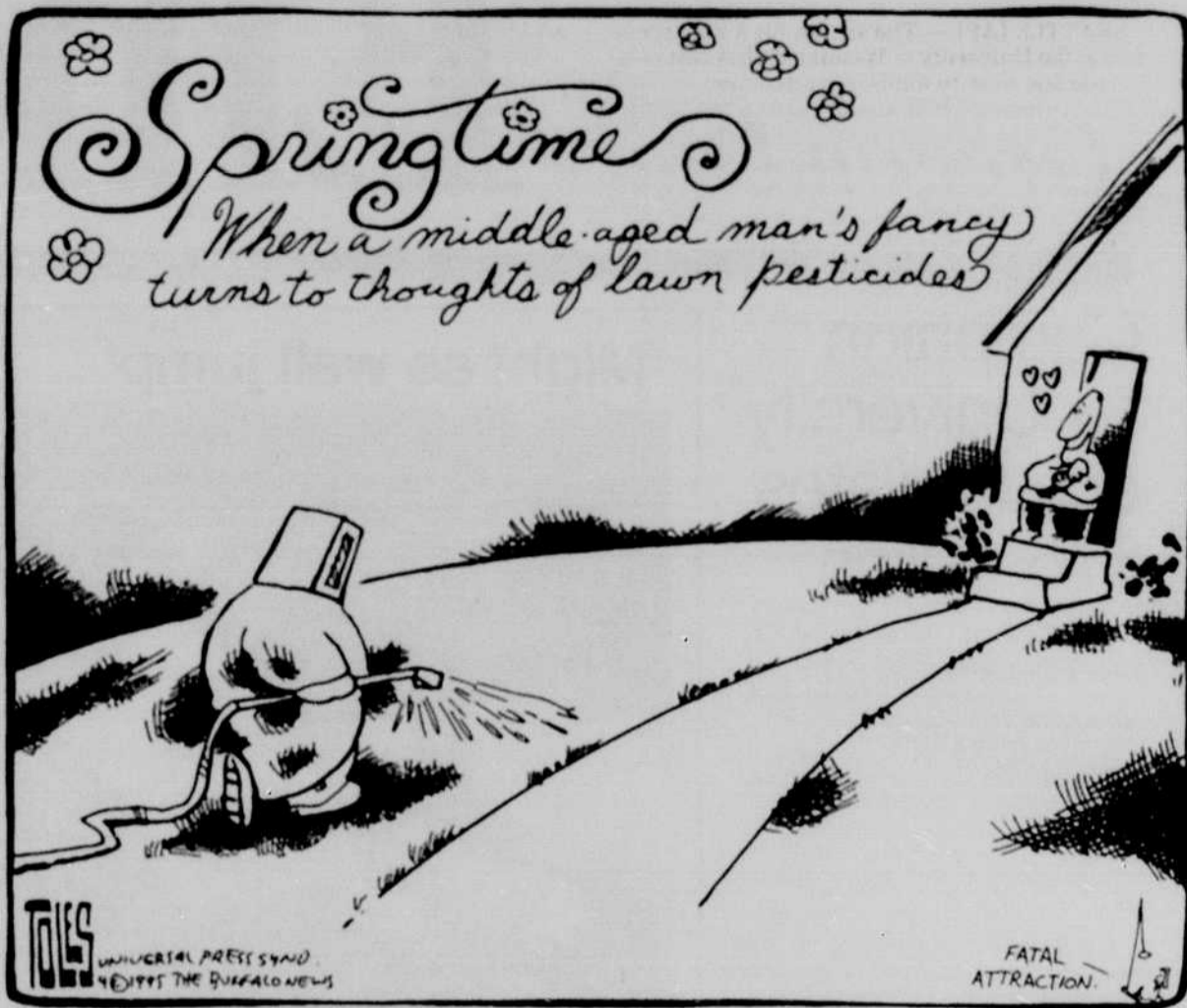
However, the accused are innocent until proven guilty. In refusing to take a breath test, suspects are, in effect, refusing to incriminate themselves — a constitutional right. Drivers have two choices, proving their guilt or implying it. Neither option is acceptable.

Refusals to take drinking and driving tests should not imply guilt. Some people believe the tests are unfair and refusing to be tested may be the only way they can protest.

Police and prosecutors have said they will still be able to convict drunken drivers with the new restrictions. This is ideal. No one wants to let drunken drivers off the hook. However, we shouldn't squash people's constitutional rights because they are accused of committing an irresponsible or hurtful crime. Everyone — accused criminals included — deserves protection under the Constitution.

The Court made the right move to disallow sobriety test refusals as evidence against drunken driving suspects.

As one attorney said after the decision, "The air of liberty in Oregon is a little bit sweeter today."



### OPINION

## Baseball still loved, even after strike



PRIMO A. J. FONTANA

Forgive me, my fellow cynics, for I have sinned against you. I am sorry to have sold out, but I cannot help myself. I still love baseball.

When the strike began during the summer, I would repeat over and over again: "When they come back, I'm going to be the one on strike. No more for me. Come on, why should I even care? There's the NFL, the NBA, even the NHL. Forget it."

My friends and I would spend hours discussing the intricacies of the situation and why each side was wrong.

On one hand, we had the owners. The big media outfits such as the New York Yankees and the Chicago White Sox wouldn't even budge on the issue of revenue-sharing, which certainly would have ameliorated many of the league's financial woes.

On the other, we had the players. Whining spoiled brats talking high-minded jib-jab about "the rights of the workers" and "player solidarity." Who were they kidding? They weren't exactly laboring in Dickensian factories. If they are so interested in the plight of workers, why don't they talk to the folks from Oregon Public Employees' Union, who actually have a reason to strike?

Well, all of this is still true, and I do understand that to uphold my intellectual integrity, I should have stuck to my guns.

But during the last week, I have been checking ESPN ten times a day just to see what the score of the Giants game is, sometimes for each inning. I write group e-mails to 10 people about the

knowledge I have accrued from the 'Net on the progress of the new pitchers, and I can even stand to listen to the goofball announcers on PSN.

Once again, I beg your forgiveness. To be honest, I don't know how to explain it.

When I was a few years younger, before I left the Bay Area to come to school in lovely Eugene, baseball was not a real fascination for me. I played a bit as a kid; I'd watch the World Series, maybe even a game here and there, but I didn't pay attention to it the way I did football or basketball.

Then I left Frisco, and when the season began I suddenly became enchanted, and I couldn't figure out why. At the time, an old buddy of mine who had the same experience, Shawn Kelley and I had a theory: we suddenly liked baseball because San Francisco had acquired Barry Bonds, the best player in the league.

Over time, though, I realized that it was more than just Bonds or even San Francisco returning to dominance in the National League; it was the game itself.

I remember watching a game with my dad the summer after my freshman year. As we sat in the freezing cold, he looked at me in his philosophical way, and said, "It's a funny game, son, isn't it? That little ball, one man pitching, one hitting. The slow pace..."

That's what it is about baseball: everything.

It's not simply Barry Bonds' grace in left field, Matt Williams' power at the plate, or Gregg Maddux's incredible perfection on the mound, but the game itself.

The older I've become, the more I've realized why baseball is the American pastime.

Basketball may be more attuned to our generation with its quick cuts and frenetic pace. But it is too fast and arduous to resemble the lives that most of us live. Its players are not people to whom we can relate like those in

baseball, but are superhuman specimens who can defy gravity at their will.

Football is grand and mighty, as George F. Will called it, "a spectacle." Its size and scope make it an awe-inspiring event that completes our weekends during the fall. It certainly makes more money than any other sport, but it's not like our lives. We watch it not to relate but to gaze in wonder. Its players are titans, gladiators whose size and strength for most of us, lie only in the imagination.

Soccer is more graceful and difficult, and hockey has suddenly become the sport of choice for the super chic, but neither can touch the American heart like baseball.

This is because baseball is the game that is the most like life. It ebbs, then it flows. You rest in the dugout; you go out to the field; you keep your eyes open and are cautious. Every once in a while you make the play, and every once in a while you make an error.

You go back to rest, then finally you get your chance at the plate. With luck you get on base, and now and then all of the pieces fall into place, and you knock one out of the park.

Aside from the actual game, the players themselves are people. It doesn't matter what kind of money they make or how awesome they are. They are still closer to normal people than athletes in the other sports. They come in all shapes, sizes, colors and nationalities. Some are strong; others are portly. They are all of us.

I'm sorry, but no strike, no number of rehab visits for Steve Howe and Darryl Strawberry, no amount of big contracts, nothing, not even the travesty of the designated hitter, can change the national pastime.

Welcome back baseball; it has been too long. Please don't do it to us again.

Primo A. J. Fontana is a columnist for the Emerald.

## Oregon Daily Emerald

P.O. BOX 3159, EUGENE, OREGON 97403

The Oregon Daily Emerald is published daily Monday through Friday during the school year and Tuesday and Thursday during the summer by the Oregon Daily Emerald Publishing Co., Inc., at the University of Oregon, Eugene, Oregon.

The Emerald operates independently of the University with offices at Suite 300 of the Erb Memorial Union and is a member of the Associated Press.

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