

PERSPECTIVES

August 23, 2000

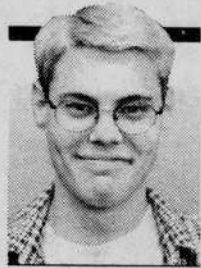
Wednesday

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Holding court with the supreme campus voice

There's an old song that says "two outta three ain't bad." But six out of seven is a lot better, so when it's time to discuss the modern Supreme Court it's only responsible to visit the man who accumulated that win-loss record arguing before that judicial body — "It's the Super Bowl of American law," he said — in his previous capacity as Attorney General of Oregon.



Bret Jacobson

University President Dave Frohnmayer had plenty of ideas on the nature and direction of the Court, along with the constant need to relearn the importance of the First Amendment and the need for students to be informed on the top judiciary's decisions.

"You start with the obvious truth that it's the most powerful

court in the history of recorded civilization," Frohnmayer said. "It's also, ironically, one of our most secretive institutions."

But while there is not much debate on the power of America's top court or its reclusive

habits, there is a flurry of debate on the type of the bias demonstrated by the court. Legendary news man David Brinkley was known to say that something is only biased when you don't agree with it, and with the highly controversial decisions put out by the Court in recent years it is hard to give it a traditional conservative or liberal spin.

However, there is one word that many use, including Frohnmayer, to label the current group — activist.

"Although some people say that it's conservative, it has been an extraordinarily activist court," he said. "First of all, it's shown a willingness to strike down both federal and state legislation that appeared to impinge on the Court's own authority."

This can be a disturbing trend to many. While Frohnmayer pointed to the example of the Religious Freedom and Restoration Act, there have been others cases — such as the recent Dickerson v. United States — which have steamrolled Con-



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gressional ability to make laws in the areas where the court has previously ruled.

In the Dickerson case, the Court held that Congress could not pass a law that affected the Court's previous ruling on police use of Miranda rights. The problem for some, however, is that the Miranda rights were never enacted by Congress but rather instituted by the justices, meaning the Court is now striking down laws by elected officials in favor of their own rulings.

But there is another clear trend, according to Frohnmayer.

"Over the last decade it's shown a real eagerness to redefine the concept of federalism in terms of limitations on Congressional power, in particular," he said.

Whereas the previous notion was of allowing the Congress to exercise supreme power, Frohnmayer said now that's changed.

"So both in striking down Congressional legislation and reasserting federalism and reasserting its own role, I'd

call this an activist court," he said.

With such a powerful and active body setting the legal tempo of the country, and the odds against the average student knowing the goings on of the Court, it's important that the subject is taken more seriously by a greater number of students.

"It's Civics 101," the president said of the need for education on the subject to exist in all states of public school.

But the president did call the high levels of awareness and debate around the recent Southworth case "gratifying." The case led students from all points of view to research, explore and argue about the role of student fees to fund student groups on campus.

In the end, after all the analysis on the nature and biases of the Court, the final thought must be a Frohnmayer quote warning that the Court, while important, is not the end-all, be-all of jurisprudence because the Court is still a body designed to interpret and uphold the Constitution.

"Constitutional law is more than what the Supreme Court says it is."

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It's not always what you know, but why you should know it

"I don't even know what street Canada is on."
—Al Capone

Here we go again, yet another article — this one in The New York Times last month — telling us how incredibly ignorant we Americans are. Like its predecessors, it intended to shock, and shock it did. College seniors from leading universities, among them Harvard, Princeton and Brown, took a high school-level history exam. Most missed half the answers. They didn't have the foggiest idea when the Civil War was, what the Scopes trial was about, or who said "Give me liberty or give me death" — not even with multiple-choice answers. (Most did, however, correctly identify Beavis and Butt-head and Snoop Doggy Dog, among the exam's sops to popular culture.)

If there's one thing Americans do excel at, it's self-flagellation. We seem to take perverse pleasure in putting ourselves down before the world, demonstrating once more how woefully illiterate we are, how bankrupt are our schools, how unworthy is our citizenry.

Perhaps I, as a journalist for 25 years and also a professor of journalism, should be particularly disturbed. But at the risk of incurring the wrath of my peers, I find these studies to be largely empty exercises whose conclusions are misleading and whose consequences are downright dangerous.

I do not defend ignorance, but I do like a little perspective. The studies suggest we are hopelessly ignorant, the laughingstock of the rest of the world. Such lamentations have spawned a cottage industry of academic Henry Pennys warning that those who are ignorant of the past are doomed to repeat it.

Such dire conclusions make headlines. But the hysteria is largely unfounded, the implicit suggestions as hyperbolic as they are destructive. They contribute to a national inferiority complex that is unwarranted, unfair to our youth and our teachers, and a distortion of both our place in the world and that of other nations.

Let's begin with the notion that Americans are know-nothings. Granted, Americans have a slippery grasp of history and current events. Not long ago, Richard Craig, now a professor at San Jose State, found that nearly 75 percent of his otherwise bright students at the University of Michigan didn't know who Stalin was. Another study reported that only 2 percent of Americans

could name Canada's prime minister and Mexico's president.

Unsettling? Of course. I can hardly celebrate such findings, but it would be hypocritical of me to express despair or impugn the citizenship of those tested.

"Everybody is ignorant, only on different subjects," observed humorist Will Rogers. He was right. Who among us would not be red-faced if the true depths of his ignorance and illiteracy were to be exposed? The truth is that there is more and more to know, and less and less consensus about what we need to know.

I need look no further than myself. If I keep my mouth shut and nod knowingly, I can sometimes pass for an educated man. I've been a Fulbright scholar, a Pulitzer Prize finalist, the holder of an endowed chair and the author of a bestseller. My journalism career has been spent with such organizations as Time magazine and The Washington Post. Surely I must be a master of current events, able to rattle off the names of foreign leaders, draw flawless world maps and cite the dates of every major crisis.

Wrong. I find myself routinely drawing blanks in subject areas far too countless and embarrassing to admit. Though I have done reporting in four continents — and covered Congress, the environment, national security and a host of other issues — I cannot name all the Cabinet secretaries, or even a fraction of the leaders of countries in South America, Africa or Asia.

I'm not proud of these glaring gaps, but neither do I wish to see students slandered en masse for the same shortcomings. My hunch is I'm not alone in this, that what separates those who judge and those who are judged is often no more than an absence of candor or humility. "Knowledge is proud that he has learned so much," wrote the British poet William Cowper. "Wisdom is humble that he knows no more."

Besides, life is an essay, not multiple choice. Reasoning and problem-solving are at least as valuable as encyclopedic knowledge, and citizens who fail these tests ought not to be dismissed like "Jeopardy!" contestants. An educated man need not be a walking almanac. Facts are sacred, but no more so than the ability to synthesize and extrapo-

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Ted Gup

late. During political cycles, the news media are eager to pounce on one candidate or another for failing to know the name of some obscure foreign leader, as if the quality of leadership could be so easily divined.

Such litmus tests are no less misleading when applied to students. Nothing I've seen in 20 years of teaching has me the least worried for the body politic. Far from it. I continue to see students who are voracious learners, innovative and reflective.

Now let's look at that other presumption, that our citizens are somehow uniquely ill-informed. In China, a country whose officials delight in citing America's ignorance, I visited a well-spoken woman in her sixties who lived just outside Beijing. I asked her to name the U.S. president. She had no idea. Nor did her neighbors. So what conclusion could be drawn about the national character of China? None. The woman was bright and witty, with no need to apologize to me or anyone else. My observations were merely anecdotal, but they are the sort of thing often used to discredit Americans.

In Britain, a 1997 survey by Gallup and the Daily Telegraph found that only 40 percent of those polled knew Britain had lost the American War of Independence, and 53 percent thought the 13 American colonies were never under British rule!

In Canada, just 23 percent of those polled in the Globe and Mail newspaper on July 1 — Canada's national day — passed an elementary test of that country's history.

In Hiroshima, a modern city in a country with a well-educated populace, I met a recent high school graduate. I asked her what year the A-bomb was dropped there. She guessed 1935 — off by a decade. Was she ignorant? No. She knew her grandparents had been incinerated in the blast, and she understood the significance of that cataclysmic event in a way that made the date seem utterly beside the point. Comprehension is not a mere accumulation of facts, and facts are not to be mistaken for understanding.

We are not educational dwarfs in a world of giants. As educators, we owe our students and ourselves something more than a simplistic vision of Americans based on a fill-in-the-blank mentality. Conventional

wisdom is often wrong, and sometimes hazardous. If we repeat to ourselves often enough that our educational system is inferior and our students are dunces, we will, in fact, become less than we are and be seen accordingly by others. Self-perception is a powerful force. Why do we allow such superficial tests to shape our self-esteem and blind us to our true accomplishments?

The list of U.S. Nobel laureates, the patents in technologies and medicines, the position American scholars enjoy in international scholarship — all are testament to a country that has no need to hang its head in shame.

I don't question that we must do much more to educate ourselves about the past and the present. But I suspect that each generation is aghast that the reality of the succeeding generation doesn't revolve around precisely the same axis. The invasion of Normandy yields to the conquest of cyberspace.

"History depends on memory, to be sure," writes historian David A. Bell, "but if given too much scope, memory suffocates history."

Professor Craig, who routinely quizzed his students and despaired over their inadequacies, a few years ago posed this question: "If our most promising young people have no appreciation for why democracy is worth preserving, how will they know when it is threatened?"

Allow me to respond on behalf of all of us who could readily be embarrassed by what we do not know: Just because we may fail to recognize the name of a dead tyrant doesn't mean we would be any slower in recognizing his successor.

Ted Gup is the Shirley Wormser Professor of Journalism at Case Western Reserve University in Cleveland. This commentary is courtesy of the Los Angeles Times-Washington Post News Service.

Emerald goes on a short break — again

This special Law School edition is our last one until the Back to the Books tome, which hits the stands with a thud Sept. 18.

That issue will be a comprehensive look at how to succeed during the 2000-01 school year.

If you fail anyway, don't blame us.