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# COMMENTARY

Thursday, February 26, 2004

## EDITORIAL

### Quacks & smacks

**Quacks** to Oregon University System officials for suggesting cuts to the Chancellor's Office. If the proposal is accepted, the fiduciary blow that Measure 30's failure dealt to the University would be softened to less than \$1 million.

**Smacks** to the Eugene Police Department (and the Oregon Liquor Control Commission) for using undercover officers to break up weekend parties and hand out minor in possession citations. While their tactics may be legal and their actions well-intentioned, their actions are more complicated (and thus probably more expensive) than necessary.

**Quacks** to ASUO President Maddy Melton for complying with the ASUO Constitution Court's demand to appoint students to the previously empty seats on the court by the Feb. 24 deadline. Filling the vacancies may have been long overdue, but a full court can only mean more efficient justice for the student body.

**Smacks** to President Bush for backing a constitutional amendment that would prevent homosexual marriage. Regardless of how you feel about the contentious issue, the Constitution isn't the place for social policy. Fortunately, the founding document is especially difficult to amend for a reason.

**Quacks** to the University for halting plans to build a replacement basketball arena. While this change of plan means the school will probably end up spending more money on the project years down the road, the cessation is the fiscally prudent thing to do.

**Smacks** to Green-turned-independent candidate Ralph Nader. While more choices aren't usually bad for democracy, they can present an unfortunate dilemma for voters. Nader voters looking to get a realistic candidate into office, in swing states at least, showed in 2000 that it's easy to make a poor choice — from a strategic standpoint, anyway.

**Quacks** to students who use the valuable option of on-line classes. If students can relieve classroom resources while studying in their own space, all the better.

**Smacks** to the caller who phoned in a bomb threat to the Knight Library. Irresponsible pranks of this sort waste taxpayer dollars, precious police resources and countless man-hours of much-needed student studying. Enough said.

**Quacks** to the City's Neighborwoods program for making the University a greener and more pleasant area, one sapling at a time.

**Smacks** to officials at Belpre, Ohio's, Belpre Middle School for suspending sixth-grader Justin Reyes. Justin was punished by school officials for bringing a copy of the Sports Illustrated swimsuit issue to school. Among the rules he violated: "nonverbal harassment." Certainly people who run a junior high populated by hundreds of hormonal teens have more important things to worry about than sixth-grade males bringing already widely available pictures of scantily clad women to a school.

**Quacks** to the six recently arrived Iraqi Fulbright Scholars. Exchange students from the embattled nation will help further open dialogues about American-Iraqi relations and cultural relations in general.

## EDITORIAL POLICY

This editorial represents the opinion of the Emerald editorial board. Responses can be sent to letters@dailyemerald.com. Letters to the editor and guest commentaries are encouraged. Letters are limited to 250 words and guest commentaries to 550 words. Authors are limited to one submission per calendar month. Submission must include phone number and address for verification. The Emerald reserves the right to edit for space, grammar and style.

## EDITORIAL BOARD

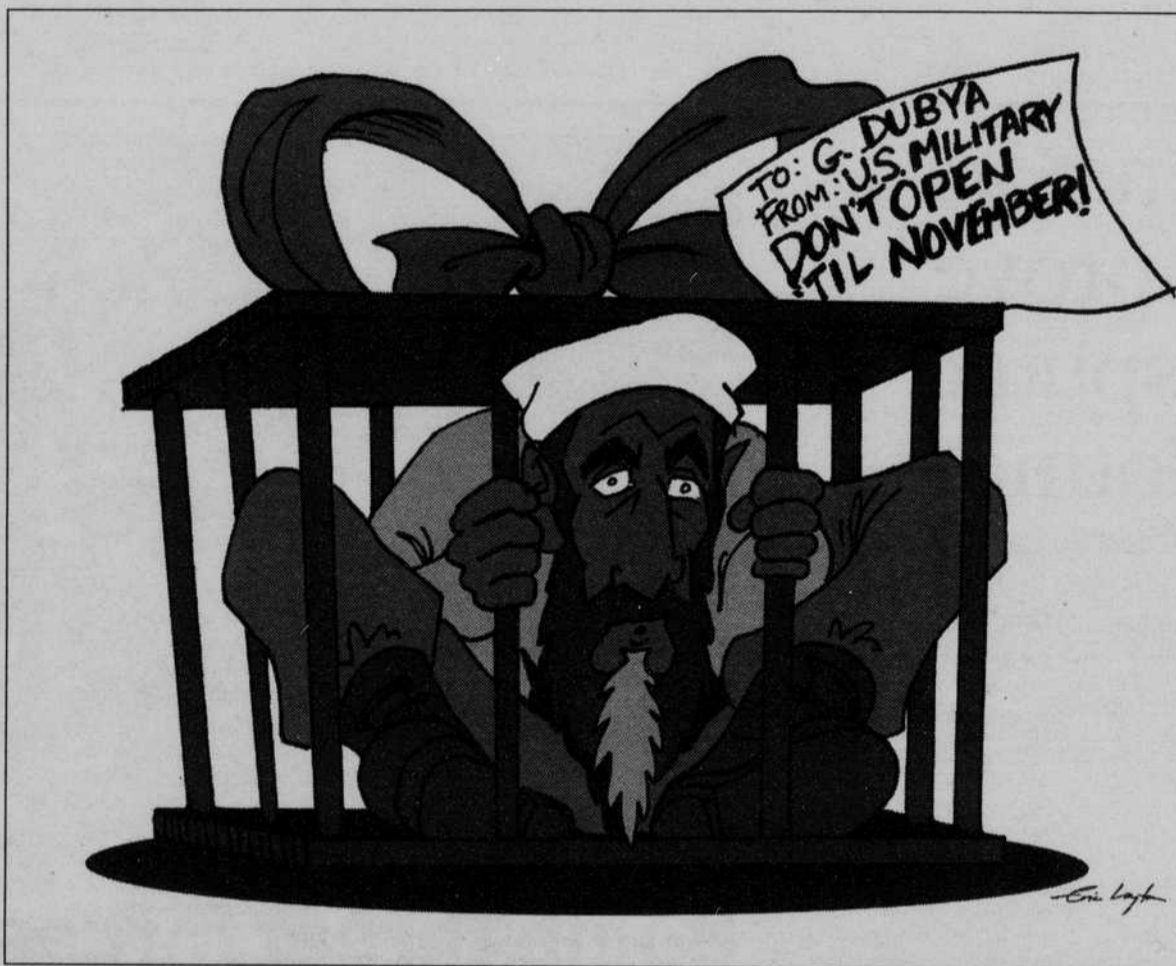
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Eric Layton Illustration

## Trouble during recess

President Bush once said in jest, "If this were a dictatorship, it'd be a heck of a lot easier ... just so long as I'm the dictator." And that is almost funny. Almost. It would be funny if Bush weren't acting like he believes what he said.

In that vein, the administration announced Friday that it would make a second recess appointment to the U.S. Circuit Court of Appeals: Judge William Pryor, whose nomination was facing strong opposition in the Senate.

Bush's use of recess appointments demonstrates his enmity for our system of checks and balances and his willingness to cynically use our courts to further his political objectives.

According to The Hill, when Clinton issued a recess appointment to James Hormel, who was being railroaded by Republicans for being openly gay, Sen. James Inhofe, R-Okla., said, "I am putting holds on every single presidential nomination." Inhofe added that that Clinton viewed the process "as little more than a nuisance which he can circumvent whenever he wants to impose his will on the country."

I agree with Inhofe. Clinton was wrong. The authority of the Senate in these matters should be respected. Unfortunately, now that the Republicans are in power they are singing a very different tune.

The reasonable use of the filibuster by some senators is now being spun by the administration in an obscenely offensive way, using language like "political lynching" and "political hate crime." This shows the dark side of the Republican Party, where dying breeds of bigots are making their final stand.

The fact is Senate Democrats have been generous by any calculation. They have helped confirm 169 out of 175 nominees who reached the Senate floor. This crowd included a host of extreme conservatives that I believe should have been filibustered, such as Jeffrey Sutton, Jay Bybee, Michael McConnell and John Roberts, all members of the Federalist Society, a

group that advocates judicial activism, and all uncompromisingly anti-abortion, anti-affirmative action ideologues.

The Democrats have saved their obstructionism for the worst of the worst,



**David Jagernauth**  
 Critical mass

those nominees who have proved themselves unworthy of a lifetime appointment to any court.

This includes judges such as Miguel Estrada. Bush likes his nominees the way he likes his electronic voting machines: without a paper trail, and that was Estrada. He was unqualified, radical and secretive. Democrats also filibustered Priscilla Owens, known as "Judge Enron." One of her many right-wing dissents was called an "unconscionable act of judicial activism" from Bush's own chief White House Counsel.

Pryor is of this ilk. He has a record of judicial activism that includes attacks on the separation of church and state, the right to choose, homosexual equality and Congress's ability to combat racial discrimination.

Judicial activism should be opposed whether it is liberal or conservative in flavor. I would oppose the nomination of a far-left ideologue if his or her record showed an inability to put politics aside when considering the rule of law. The Senate has an obligation to hold Bush's far right ideologues to the same standard.

This is exactly what they did for Charles Pickering, a judge from Mississippi and a protégé of Trent Lott. He was rejected in 2002 when his record of hostility to civil

rights and voting rights came to light. Despite this, Bush decided to ignore the will of the Senate and appointed him to the appellate court in recess.

Pickering is by far the most objectionable of all the Bush judges. According to People for the American Way, his opinions have been reversed 15 times by the 5th Circuit for ignoring "well-settled principles of law."

Some of those include the principle of "one person, one vote," a section of the Voting Rights Act designed to protect minorities in states with a history of racial discrimination, and interracial marriage. As a law student he wrote an article suggesting ways to change the law banning miscegenation so that it would be enforceable again.

His efforts to rework redistricting laws and voting rights measures in Mississippi helped keep the state Senate all-white well into the late 1970s.

Claims of racial discrimination that came before his court were consistently met with hostility and skepticism regardless of the merits of the case.

And he engaged in ethically questionable behavior when he tried to reduce a mandatory jail sentence for a defendant convicted of burning a cross on the lawn of an interracial family.

It is hard to believe that a man like this still exists in America, let alone that he will now be responsible for interpreting the law in one of the second highest courts in the land.

Fortunately, none of Bush's recess appointments will be on the bench for life, not yet anyway, but they will still be able to do enormous damage in the meantime. The American people need to send a message to Bush: There is a political price to pay for presidents that dream of dictatorships.

Contact the columnist at davidjagernauth@dailyemerald.com. His opinions do not necessarily represent those of the Emerald.