

# Humphreys College

## NEWSLETTER SUPPLEMENT

SPRING QUARTER

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### STUDENT VOICES

## WHAT TO EXPECT? SUPREME COURT JUSTICES AND THEIR JUDICIAL TEMPERAMENT

By Diane L. Sonntag, Court Reporting Student

*A year ago, after the resignation of Justice David Souter, President Barack Obama had his first opportunity to appoint a new member to the Supreme Court. Before the end of summer, the Senate approved Sonia Sotomayor, the first Hispanic American and the third female member of the highest court of the land. In April 2010, eleven days before his 90th birthday, Justice John Paul Stevens advised the President that he would retire from the bench this year.*

*In July 2007, then-Senator Obama stated: We need somebody who's got the heart, the empathy, to recognize what it's like to be a young teenage mom. The empathy to understand what it's like to be poor, or African American, or gay, or disabled, or old. And that's the criteria by which I'm going to be selecting my judges. As the last-year debate confirmed, not everyone in the Senate has agreed with Obama's "empathy qualification."*

*In anticipation of another highly ideological debate in the Senate, some Humphreys students were asked to express their vision of an "ideal Supreme Court member." The question was posted to those who took my upper-division online course "The Supreme Court in American Life: Landmark Cases." On the grounds of their previous study of the Court's decisions, they presented at least three desirable traits of "judicial temperament."*

*The following is an essay written by one of the students; **Diane L. Sonntag** works as an Official Court Reporter, Pima County, Tucson, Arizona.*

~ Stanislav Perkner

Over the last ten weeks, we have had the opportunity to study many Supreme Court justices. They were all unique, some more memorable than others. Some are known for making decisions that strengthened the Supreme Court in American history. Some will forever be known for making some of the worst Supreme Court decisions in history, which still are discussed in legal classes today.

The appointment of a Supreme Court justice is a lifetime appointment and one that carries with it an enormous amount of power. As one of the three branches of government, the Court can declare laws passed by Congress or by states as unconstitutional. The Court has the ability to affect social policy such as in the case of *Roe v. Wade*. One of the most important and long-lasting decisions a president can make is an appointment to the United States Supreme Court.

My ideal Supreme Court justice would be a combination of three traits. The first trait would be that of judicial temperament, and I believe that Chief Justice John G. Roberts, Jr., possesses the necessary temperament to have a long, successful term. Roberts has the ability to get along with everyone, to be fair and even-handed. He was a clerk for Associate Justice William Rehnquist (1980-1981). Rehnquist knew the traits he didn't want as Chief Justice by watching Chief Justice Warren Burger during his term. Under Rehnquist's term, cases were divided evenly; each justice had a chance to present his or her opinion during deliberations and things ran smoothly. Roberts has continued to carry on those traditions (Toobin 35).



(Continued on page 2)

Confirmation hearings for the Court tend to be partisan and acrimonious in today's climate; however, Roberts had spent many years in the court and political environment; he made many friends along the way. He sailed through his confirmation hearings being confirmed on a 78-22 vote. He, also, entered the Court as the young new kid on the block, but stepping into the powerful position of chief justice. He was accepted by the other justices. Roberts' goal was to have narrow opinions that were unanimous; during his first term, he set the record for achieving the most consecutive unanimous rulings in modern times. Unfortunately, during his second term, cases were being decided along partisan lines with more 5-4 decisions than any other term (Rosen 4).

The second important trait is consensus building. Justice Sandra Day O'Connor was known for it during her tenure on the Court. She came to the Court as the first woman justice with the unique background of having sat as a trial judge, a legislator in Arizona, and an appellate court judge. She, also, served as Arizona's Attorney General, so she gained experience in all three branches of the government.

During her term on the Court, Justice O'Connor actually became more powerful than her close friend, Chief Justice Rehnquist; she had the courage to become the swing vote. She was able to approach each case from the factual position, and not necessarily from the ideological position that affects so many Court decisions. She moved easily among both liberal and conservative justices keeping the Court from going too far to the left or too far to the right. As Louis Menand characterized her in *The New Yorker*, "She was a conservative. What she was not was an ideologue."

In one of her most important decisions, *Planned Parenthood of Pennsylvania v. Casey*, Justice O'Connor joined with David Souter, Harry Blackmun, John P. Stevens and Anthony Kennedy in writing a decision that prevented *Roe v. Wade* from being overturned, which was the goal of conservatives on the Court, and yet upheld abortions only in early-term abortions. She had put her own stamp on one of the most important cases on abortion during her time on the Court.

The last trait would be the ability to listen. Justice Clarence Thomas often is mentioned as the one who asks no questions during oral arguments. When asked about it, Justice Thomas has said that he would rather listen to what the attorneys making the argument have to say. They might bring up a point that might change his mind. Justice Sonia Sotomayor, on the other hand, as well as Justice Samuel Alito, are known for their rapid-fire questions thrown at the attorneys during argument. Frequently, they will fire off another question before the attorney has a chance to respond. As Justice Sotomayor said, sometimes her questions are designed to get her point of view across in an effort to possibly persuade other justices to her way of thinking.

As long as presidents continue to pick nominees for the Court that support the ideology of the president, decisions by the Court will continue to be partisan. While Justice Kennedy has stepped into the position of Justice O'Connor as the swing vote, he still tends to decide more cases with the conservative justices on the bench than the liberal justices. A good justice rises above the issue of politics.

#### Works Cited

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#### Additional Reading

*Last year, the Humphreys Newsletter published an interview with Dr. Wallace Caldwell, Humphreys' Professor of Constitutional Law. The interview was titled "All Presidents are Ideological in Appointing Justices" (the full text is available at [http://www.humphreys.edu/pdf/newsletter/newsletter\\_2009\\_spring\\_supplement.pdf](http://www.humphreys.edu/pdf/newsletter/newsletter_2009_spring_supplement.pdf)).*

## ON BEING EDUCATED...

By Richard Chabot, Coordinator of the Community Studies Program

Aristotle wrote that it is the mark of an educated mind to be able to entertain an opinion thought without accepting it. In itself an interesting thought, one that has often forced me to stop and consider when I would much rather just opine and judge. Of course, it requires that you be able to follow Aristotle's maxim if you are ever to accept it.

The translation of the term "educated" has sometimes been replaced with the terms "intelligent" or "wise," noting that formal education or focusing on an overabundance of self-supporting facts may weigh a mind down without providing the means for fluid critical thought. Though we at Humphreys College are enmeshed in that very system of formal tertiary education, we would all agree: better a mind that can consider all views than one that is especially good at thinking (and arguing) only one way. We like to think (you can disagree if you wish) that the many courses students are required to take over their years of study broadens their minds, encourages critical thinking, and provides conceptual tools for mental realignment and discovery.



Students can be heard (from pre-school on) wondering what use a class or lesson or textbook example has in the real world. Though I did recently get to use the Pythagorean Theorem in the design of my garden, I would agree that the exact paragraph you were forced to write or the table you were expected to analyze in your last exam may never be seen in this world again, but the mental anguish you went through to ace that question widened your understanding of the world in ways you may never be able to measure or voice.

I recently read an autobiography of a Russian girl coming of age in post-Stalin Soviet Union. While still very young, she was trying to come to grips with how adults group people, using a concept that can be translated as "intelligent," though it could be better understood as "cultured." She realized that a cultured person represents a mix of education, culture, intelligence, and manners, but most importantly such a person should have a worldview that allows an alternative. Exactly. Not so rule bound, not so arrogant as to think she know all, not so afraid of the unknown as to believe that one way fits all. There we have the educated (wise, cultured) person, able to juggle many possibilities and alternatives, not allowing a favored worldview to interfere in the consideration of other viewpoints. Such people are capable of striding forth into the day knowing that by the setting of the sun some new way of looking at the world may have dawned upon them, an alternative reality to entertain without the dread weight of having to accept it as *the* singular truth. Sadly, the girl's mother (a medical doctor) was not seen by her as cultured, though her favorite primary school teacher was. Even as a girl she understood that years of education or status did not matter as much as the broadness and depth of one's mind.

So, as you finish the quarter, take your finals and possibly graduate, and move beyond the classroom, you may not proclaim to friends that you are now more cultured than before or that you are now an educated person, but certainly you can look inside yourself and know that your being has gained the presence of the most intangible of resources. Not arrogance, not a war chest of facts, and certainly not an ideology that allows you to rationalize and close your mind to facets of the world you find uncomfortable to face. We hope that as you finish your studies that glow you feel is not so much an overdose of Red Bull as a feeling that you are wiser, can consider new challenges and concepts, and even face alternatives to your prevailing worldview knowing that any final decisions you make in the process of contemplation will be of less a consequence than your participating in the process itself.

# WHAT IS THE OPEN CONGRESS?

By Jim DeCosta, Coordinator of Online Instruction



The recent visit of David Harmer, 11<sup>th</sup> district congressional candidate, to Humphreys' campus moved me to think about just how the Internet has made government actions more transparent than it has ever been in recent decades. The Internet is full of tools that allow anyone with a connection and a computer access to information that is important when considering not only whom to cast your vote for but also which legislation you would like to see your legislators act upon. *The Open Congress* website (available at <http://www.opencongress.org>) is the best example of that transparency

The website is an open online project. It is full of the tools you will need to keep track of major and minor pieces of legislation that affects all of us. Once you set up an account with some basic information, you are given a "political notebook." The notebook provides the opportunity to track pieces of legislation. Any references to the bill from news sources, blogs, or comments from other users of the service will be made available automatically. You can setup email notifications alerting you when a bill moves out of committee or is scheduled for a vote on the floor. This gives you time to let your representatives know how you want them to vote.

You can voice your opinion on individual pieces of legislation and keep track of those whom you support or oppose. One of the most powerful pieces of information that is attached to every piece of legislation in the House of Representatives as well as in the Senate is an accounting of the money trail. You are instantly aware of how much money Wall Street bankers, environmental groups, professional groups (e.g., attorneys, medical doctors or oil industry executives) are passing on to the legislators. You can add like-minded friends from anywhere in the nation who have similar political interests as you; you can also control how much of your information is private or how much you want to share.

*The Open Congress* website also allows you to view all legislation by category, e.g., Iraq, Federal Reserve, Taxation, the IRS, Education, and Health, just to name a few. The service allows access to all committees, their activities, voting results, and roll-call information with vote tallies. Do not forget to follow the money trail not only on the issues but see which representatives are most easily bought by watching the issues they abstain from as well as support. The data for this money trail are sometimes slow in coming because "Congress refuses to report these contributions in timely, digital formats" ([opencongress.org](http://opencongress.org)). The website promises to add more detailed information on political action committees (PAC) contributions. The user already can to view the profiles of individual representatives with details on their donors. Sort legislation by age or specify "Hot Bills" to see the ones that are getting the most attention from citizens like you.

There is a head-to-head voting comparison tool. You can select any two senators or representatives and see how often they vote together, vote with their party, and more. If you have ever felt alienated from the legislative process, you should do yourself a favor and check out *the Open Congress* website; you will be glad you did.

## NEW BOOKS IN THE LIBRARY

*Diane Ravitch. The Death and Life of the Great American School System: How Testing and Choice Are Undermining Education. New York: Basic Books 2010*

Diane Ravitch is Research Professor of Education at New York University and a senior fellow at the Brookings Institution. In the early 1990s, she served as Assistant Secretary of Education in the Administration of George H.W. Bush. She is the author or editor of about twenty books.

Over the past forty years, Ravitch has witnessed the trends in public education and has herself swung from public-school advocate to market-driven accountability and choice supporter back to public-school advocate. In her book, she analyzes research and draws on interviews with educators, philanthropists, and business executives to question the current direction of reform of public education.

In her opinion, in the mid-1990s, the movement to boost educational standards failed because of political concerns; next came the emphasis on accountability with its reliance on standardized testing. Now educators are worried that the No Child Left Behind mandate that all students meet proficiency standards by 2014 will result in the dismantling of public schools across the nation. Ravitch analyzes the impact of choice on public schools, attempts to quantify quality teaching, and describes the data wars with advocates for charter and traditional public schools.

Ravitch also examines the continued failure to emphasize curriculum. Conceding that there is no single solution, Ravitch concludes by advocating for strong educational values and revival of strong neighborhood public schools.

According to Ravitch, "If it is impossible to reach consensus about a national curriculum, then every state should make sure that every child receives an education that includes history, geography, literature, the arts, the sciences, civics, foreign languages, health, and physical education. These subjects should not be discretionary or left to chance. Every state should have a curriculum that is rich in knowledge, issues, and ideas, while leaving teachers free to use their own methods, with enough time to introduce topics and activities of their own choosing."

The principal points of Ravitch's advice include the following:

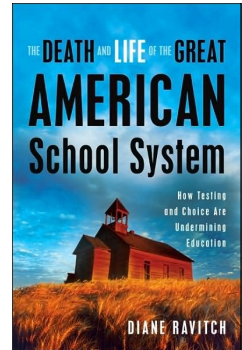
- Leave decisions about schools to educators, not politicians and businesspeople
- Devise a truly national curriculum that sets out what children in every grade should be learning
- Expect charter schools to educate the children who need help the most, not to compete with public schools
- Pay teachers a fair wage for their work, not "merit pay" based on deeply flawed and unreliable test scores
- Encourage family involvement in education from an early age

*Ken Auletta. Googled: The End of the World As We Know It. New York: Penguin, 2009*

The media critic Ken Auletta is the author of eight books. Almost all of them cover the New Media trends. For almost twenty years, he has written the Annals of Communication column for *The New Yorker*.

Auletta tells the story of how Google formed and crashed into traditional media businesses—from newspapers to books, to television, to movies, to telephones, to advertising, to Microsoft. With unprecedented access to Google's foun-

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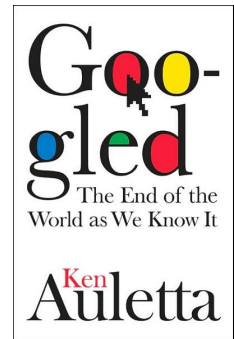
ders and executives, as well as to those in media who are struggling to keep their heads above water, Auletta reveals how the industry is being disrupted and redefined.

The author takes readers inside Google's closed-door meetings and offers portraits of Google's notoriously private founders, Larry Page and Sergey Brin, as well as those who work with and against them. He provides the impressive account of Google's rise and shows why the "new" and "old" media often operate in very different ways.

Google engineers start from an assumption that the old ways of doing things can be improved and made more efficient, an approach that has yielded remarkable results—Google generated about \$20 billion in advertising revenues last year, or more than the combined prime-time ad revenues of CBS, NBC, ABC, and FOX. With its ownership of YouTube and its mobile phone and other initiatives, Google CEO Eric Schmidt tells Auletta that Google is poised to become the world's first \$100 billion media company.

Auletta argues, that "unlike most technologies that disrupted existing business—the printed book that replaced scrolls, the telephone that replaced the telegraph, the automobile that replaced the horse and buggy, the airplane that supplanted cruise ships, the computer that supplanted typewriters—Google search produces not a tangible product but something abstract: knowledge. That makes Google both less and more vulnerable to challenge," concludes Auletta.

Yet there are many obstacles that threaten Google's future, including opposition from media companies and government regulators. Google faces internal threats, from its burgeoning size to losing focus to hubris. In coming years, Google's faith in mathematical formulas will be tested, just as it has been on Wall Street.



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