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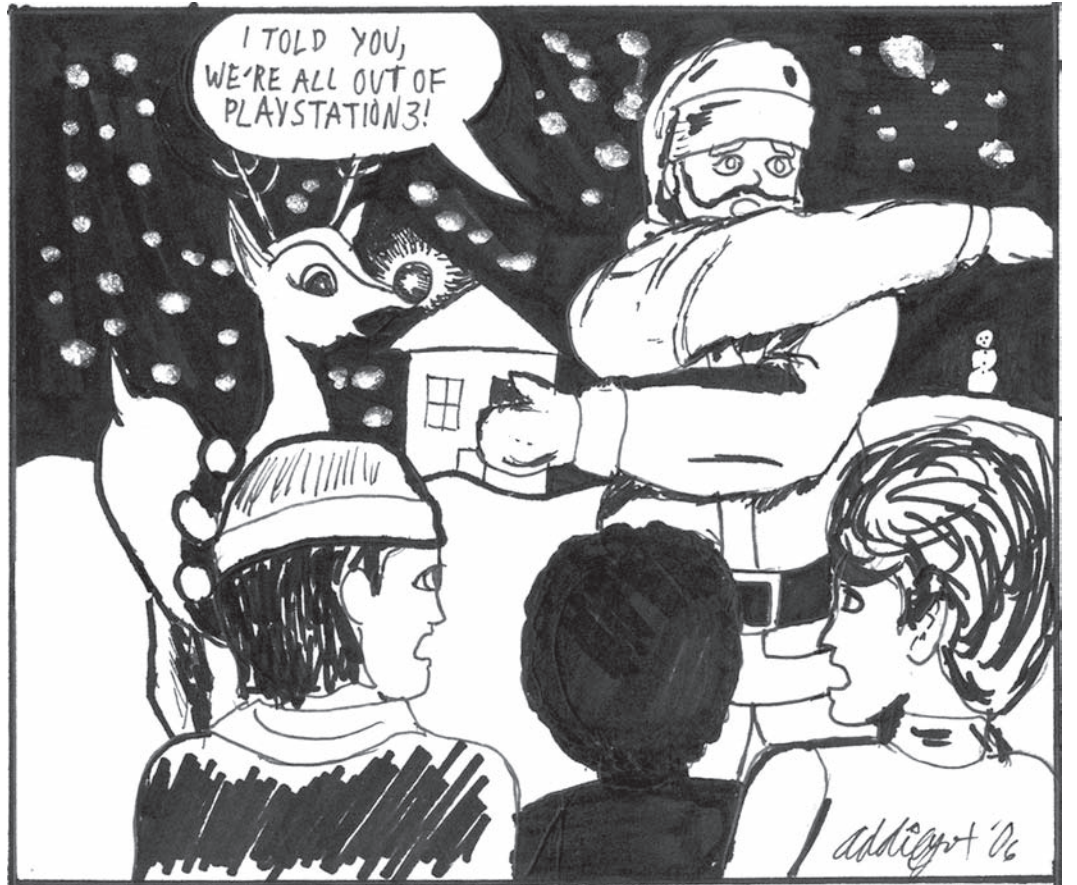
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OPINION



Bush appoints condom-hater to distribute them

By ANNA NEMCHUK
Editor-in-chief

Would you appoint Hitler the president of Israel? After all, he was an experienced politician, seasoned in military strategy and intent on the prosperity of his country's citizens.

Oh, wait, HE HATED JEWS! Gee, that strikes me as a bit of a sticky point, there.

Now, would you appoint Eric Keroack chief of family-planning of the Department of Health and Human Services, responsible for the distribution of an annual \$283 million grants in Title X funding to clinics and individuals? After all, this man is a doctor, has been the medical director of the Mas-

sachusetts-based "A Woman's Concern" crisis pregnancy centers for years, and should have plenty of experience dealing with women in the family way as an obstetrician-gynecologist. Oh, wait...he thinks condoms suck, no one should have sex before marriage and America has long been suffering from "widespread 'loosening' of sexual mores." No wonder Bush has just given him the job.

The "A Woman's Concern" website states in its "Contraception Policy" that it "is persuaded that the crass commercialization and distribution of birth control is demeaning to women, degrading of human sexuality, and adverse to human health and happiness," moreover, "AWC staff and volunteers will not

distribute brochures, books or other materials that advocate and promote the use of contraception."

See http://partners.awomansconcern.org/about/mission_values.jsp.

This is the man we're supposed to trust to educate our woefully uninformed and just as vehemently horny teens about how NOT to get pregnant or catch an STD? Pardon me for panicking.

The point has been made to exhaustion that condoms, birth control pills and other forms of contraception are not foolproof - unintended pregnancies do still occur and not all forms of STDs are limited to fluid transmission. Call me crazy, but I'd still prefer a country with periodic cases of HPV and abortions over

one with a raging case of AIDS, Africa-style, more babies than cell phones and a fervent, but futile, belief in the glory and effectiveness of abstinence.

But why stop there? AWC points out pitfalls of premarital sex beyond the ken of the mere mortal including: "intense emotions that can make it hard when the relationship ends. Without a formal commitment like marriage, relationships have some level of insecurity because either person can leave at any time."

See www.awomansconcern.org/northshore/questions/sex.

Give the man a medal. Sex causes intense emotions and people sometimes break up. No. Really? I never would have thought.

Of course sex causes intense

emotions - it's supposed to and, if it didn't, no one would care about it in the first place. Friendship causes intense emotions also, as does baseball and eating too much ice cream. And while it might come as a surprise to Keroack, relationships do exist without sex that are just as intense emotionally and can harm just as much, if not more. And would it be just mean to point out the little fact that America has something like a 50 percent divorce rate, leading us to believe that perhaps even in such a "formal commitment" as marriage, either person can STILL leave at any time?

Or is it illogical to believe that the website of the organization Keroack leads in any view reflects his own views?

Supreme Court surpasses its congressional powers

By EMILY BURKETT
Staff writer

If you were to ask an American who makes your laws, the most popular reply would be Congress. Congress makes the laws, the executive enforces them, and the judicial branch interprets them. At least, that's what government teachers across the nation preach in their classrooms.

However, modern politics has not kept with the balanced, tri-pronged government envisioned by our Founders. What was initially viewed by Alexander Hamilton as the weakest branch of government, having neither the power of the purse nor the sword, has become the most dangerous and heaviest branch of all. Behold the modern judiciary.

The concept of a Supreme Court is innately undemocratic. Justices are appointed by the executive and confirmed by the Senate, separating the Court from its constituency two-fold. The judges never face an election and they don't necessarily represent their citizenry. Ivy League educated and silver-spoon born, Supreme Court justices rarely fit the bill of the average American. But the Court is a recognized necessity, a control on mob rule and a guarantee of protection for the minority.

And if the Court were to keep with its original intention of reviewing laws as passed by the legislature, there would be no issue.

This is not the case in today's government.

Judicial activism has run rampant through the courts since its inception in *Dred Scott v. Sanford* (1857). In its essence, judicial activism can best be described as ruling from the bench. The power to make laws no longer rests with Congress alone. Judicial activism through substantive due process has allowed for decisions like *Plessy v. Ferguson* (1896) which solidified the separate but equal doctrine. True, it also allowed for *Brown v. Board* (1956) which overturned the *Plessy* decision; however, the power to make law should rest in a body that can be held accountable for their decisions and one that will respond the majority.

Justices are not accountable to the public. There are no repercussions to their actions within the system. They cannot be voted out of office and they are not chosen democratically to begin with. Yet, the Court has assumed the power of the legislature.

Brown v. Board of Education, Topeka, Kansas (1956) is the perfect example of what an activist court can do. Going against all popular

demand within the constituency, the Warren Court overturned the separate but equal doctrine and explicitly stated that separate was inherently unequal as well as demanded the immediate integration of all public schools. While the merit of this decision cannot be denied, the methodology through which the change was allowed to occur should be called into question. Should the undemocratic body of the Supreme Court be allowed to mandate law?

Not according to our Constitution. In fact, according to the Constitution, the judicial branch doesn't even have the power to review law. It wasn't until the Judiciary Act of 1789 that the power of judicial review was ever codified and not until *Marbury v. Madison* in 1803 that it was ever used. Substantive due process has never been codified. The intentions of the Founders for the Supreme Court were laid out clearly in *Federalist 78*. Substantive due process was never mentioned there, either.

Unfortunately, today's Court has stretched the limits of both judicial review and substantive due process to create a new Supreme Court. One enriched with not only the power to interpret the law, but also the frightening ability to mandate it.

The balance of power has been

disrupted.

The logic behind the right to privacy is a perfect example. In the landmark decision of *Griswold v. Connecticut* (1965), the lesser-known precursor of *Roe v. Wade*, Justice William O. Douglas wrote, specific guarantees in the Bill of Rights have penumbras, formed by emanations from those guarantees that help give them life and substance. This was the shockingly shaky analysis behind the right to privacy.

If you don't know what a penumbra is, you're not alone. It actually has nothing to do with law and is in fact defined as a shadow on the sun. Douglas essentially reasoned

that certain enumerated rights had an aura that encompassed other rights that were in the shadows. Thus was born the right to privacy which had no legitimate, written basis in the American Constitution. That is, until the Supreme Court mandated it.

Whether the public is in accord with the decisions of the Court or not is irrelevant. Today, the American citizenry is faced with the simple fact that their Supreme Court has absorbed a new power, one never intended by the Founders to find its place in such an undemocratic institution. The power to make law was intended for the legislatures and it should returned.

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