

## Daily Nebraskan

Since 1901

Editor: Sarah Baker  
Opinion Page Editor: Samuel McKewon  
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### No more Mohr

#### Comedian's cancellation stirs sympathy for UPC

A couple of weeks ago, on a Thursday night, a large television screen with roughly 100 chairs in front of it sat about 50 feet away from the Bakery in the Nebraska Union.

It was a University Program Council event, complete with banners and free Pepsi products.

The season premiere of "Just Shoot Me," David Spade's prime time sitcom, was playing on the big screen, obviously a promotion for the comedian's upcoming campus appearance.

About 10 students were planted in front of the screen, none really watching the show.

Two Daily Nebraskan staff members, also two members of the DN's editorial board, walked past the scene and looked at one another before looking at one student, presumably a UPC member, manning the event.

*We admit to making fun of Mohr's appearance, of UPC's publicizing the show and of almost every other UPC event on campus. And even in the face of all that, we still felt bad. Maybe because this time it was out of UPC's control.*

The two made eye contact with the UPC member, then sheepishly looked at the floor.

"There's free pop if you want some," the UPC member said with a dejected swing of his arm toward the table full of soda and cups.

"Uhhh ... no thanks," one of the pair answered.

They continued walking, but something seemed odd.

They weren't laughing. They weren't even smiling.

In fact, they both felt terrible.

The same feeling came over the DN staff members last Wednesday when they found out comedian Jay Mohr, UPC's headliner, who was scheduled to perform at UNL Tuesday, canceled because of last-minute movie promotions.

We think Jay Mohr is a snake. And for the first time – actually, the second, after the scene described above – we feel sorry for UPC.

Mohr's movie, "Pay it Forward," opened Oct. 20. We doubt the promotions schedule was so tight, so stringent, that Mohr couldn't have made his appearance as scheduled.

Plus, the movie would already have opened by the time he'd be at UNL. Ever heard of pre-release publicity?

We also find it impossible to believe that Mohr works around his staff's schedule. In fact, it's probably the polar opposite.

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And even in the face of all that, we still felt bad. Maybe because this time it was out of UPC's control.

For the first time, students were interested in a UPC event. Tickets – albeit not all of them – were selling. They were cheap. We at least knew who Jay Mohr was.

Mohr is making another appearance – for what it's worth – in the spring.

It doesn't seem fair, but then again, it does seem a bit typical.

We feel bad.

UPC probably feels bad.

We bet Jay Mohr doesn't.

#### Editorial Board

Sarah Baker, Bradley Davis, Josh Park, Matthew Hansen, Samuel McKewon, Dane Stickney, Kimberly Sweet

#### Letters Policy

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#### Editorial Policy

Unsigned editorials are the opinions of the Fall 2000 Daily Nebraskan. They do not necessarily reflect the views of the University of Nebraska-Lincoln, its employees, its student body or the University of Nebraska Board of Regents. A column is solely the opinion of its author; a cartoon is solely the opinion of its artist. The Board of Regents acts as publisher of the Daily Nebraskan; policy is set by the Daily Nebraskan Editorial Board. The UNL Publications Board, established by the regents, supervises the production of the paper. According to policy set by the regents, responsibility for the editorial content of the newspaper lies solely in the hands of its employees.

UPC/ASUN TAKE ADVANTAGE OF WCW'S RECENT FIRINGS OF SCOTT HALL AND BRET HART TO LURE MORE STUDENTS INTO ATTENDING "TAILGATE 2: PARTY ON THE PAINT!"



Neal Obermeyer/DN

### Letters to the editor

#### Messing with private people

Guyia Mills and supporters of Initiative 416 are being dishonest with the public when they claim passage of 416 would not change the status quo.

While it is true that the State of Nebraska does not currently offer any type of licenses to gay and lesbian couples, what they do not tell you is that the wording of the amendment is not limited to practices by the State.

Private business is presently free to compete for gay and lesbian employees in the open market by offering domestic partner benefits. Many large corporations in our state (as well as some others that many would like to attract here) take advantage of these partnerships as a tool to attract and retain the highest caliber workers.

Voters should take note of the wording that states: partnerships "shall not be valid or recognized in Nebraska." Clearly, the word "in" was chosen rather than "by" to block private business from exercising its right to offer whatever benefit packages it chooses.

Contrary to Ms. Mills rhetoric, this initiative would be a broad and sweeping change in a state which so deeply values having a government that stays out of the affairs of private business.

Nolan Gaskill  
senior  
music education

#### Tolerating 'no comment'

I'm disappointed by the October 19, 2000, DN editorial "Secret's Out." The editorial discusses Dan Sindelar's unwillingness to comment on an article in the Rolling Stone magazine.

It also addresses his unwillingness to discuss the matter with the DN editorial staff.

Mr. Sindelar's silence is characterized in the editorial using words like "cowardice," "abomination," "slap in the face," "maddening," "ludicrous," "quite simply wrong," "cruel," "sad," "vicious" and "hated."

As I read the editorial, I see that Mr. Sindelar is not criticized for saying negative things about Mr. Grigsby, Mr. Luttich, the Rolling Stone magazine or even the DN. The criticism is directed at Sindelar for declining to promote the position taken by the editorial board of the DN. For this, Sindelar is labeled "intolerant."

Intolerance is the refusal to allow other people to express or, as in this case, decline to express their opinion. For one party (the DN editorial board) to demand that the other (Sindelar) abandon his or her opinion and promote a position is totalitarianism and intolerance. This is what the DN editorialist has done.

The DN editorial board is not living by its own code of ethics regarding tolerance. And the editor owes an apology to Mr. Sindelar for the inappropriate name calling.

Gene Wiggins  
Lincoln, Neb.

## Constitutional controversy

"Is it not the glory of the people of America, that whilst they have paid a decent regard to the opinions of former times and other nations, they have not suffered a blind veneration for antiquity, for custom, or for names, to overlook their own suggestions, to override their own good sense, the knowledge of their own situation, and the lessons of their own experience?"

—Alexander Hamilton, *The Federalist* # 14

Currently, there is considerable controversy among legal scholars (and presidential candidates) over the proper method of interpreting the Constitution.

Liberals tend to favor a "living, breathing" Constitution arguing that its provisions should be construed in light of several factors, including language, history, purpose and applicability to modern life. Conservatives argue for "originalism" or "strict constructionism;" Constitutional provisions should be construed only according to plain meaning and drafters' intent.

The debate seems abstract and academic, but the consequences are very real. Supporters of a "living, breathing" Constitution believe in a fundamental right of privacy, near-absolute protection for free speech, strong separation between church and state and expansive due process for persons accused of crimes. Originalists usually take opposite positions on these issues.

In effect, current controversies over abortion, homosexuality, school prayer, gun control, the death penalty and more all turn on how one approaches the Constitution's meaning.

The originalist position is inviting; it offers the promise of objectivity and consistency – society would be protected against the subjective morality of whoever happens to be on the Supreme Court. Otherwise, originalists believe, the Court becomes a group of unelected platonic guardians, imposing their morality.

Noble talk of protection from tyranny sounds nice, but unrealistic: Whatever method of interpretation justices choose, they still have the same power to impose their will, subject only to constitutional amendment, impeachment or death.

The irony of originalism, for all its talk of objectivity, plain meaning and intent, is that it's nowhere to be found in the Constitution. Indeed, the framers would have been terribly arrogant if they had believed that they were setting forth eternal truths for all time.

They intentionally wrote the Bill of Rights in broad terms ("reasonable searches," "due process," etc.) because they knew future judges would face situations they had not foreseen and need to be equipped with tools to protect individual rights.

The framers knew that by the time an oppressed minority had convinced a supermajority of states to pass a Constitutional amendment, it might be too late.



Jeremy Patrick

This is why they wrote the Ninth Amendment, which states the people retain rights not explicitly set forth in the Constitution. Originalists believe that the Ninth Amendment is (in Robert Bork's words) an "ink-blot on the Constitution."

As legal scholar Edward Lazarus said, it is "far from obvious why the Constitution, replete with clauses of indefinite content, designed with the evident purpose of applying to unseen and unforeseeable changes in the structure of American society, should be interpreted exclusively by reference to the vision of persons dead for more than 200 years."

Originalism suffers from severe practical problems as well: If the Constitution should be interpreted by framers' intent, whose intent are we speaking of? The actual drafters? The state legislatures that ratified it? The people who elected those legislatures?

How do we even know what their intent was? Records of the time are incomplete; two people often disagreed (as they do now) about the very meaning of a provision they both supported, and the most vociferous and frequently recorded views may be that of persons in the minority on an issue.

Trying to figure out what people who lived two centuries ago thought, or would have thought about an issue they were never faced with, is pure speculation. Judges have trouble simply judging; we should not ask them to be expert historians and mind-readers as well.

Originalism proponents are really working backwards: They know what positions they have on controversial issues and are seeking a process to justify those issues.

Justices Antonin Scalia, Clarence Thomas and William H. Rehnquist, leading proponents of originalism, are not exactly liberal in their private lives and have frequently used the doctrine in inconsistent ways.

As Lazarus puts it, recent events have "demonstrated to the public what had long since been evident to students of Court history: that originalism is potentially every bit as malleable as other methods of interpretation."

So what is the correct method of interpretation? I don't think there is a correct method. Judges applying the Constitution must bring with them the same tools used in making and applying law in other contexts, such as history, precedent, language, intent and practical effects.

Ultimately, judges must exercise what Justice Sandra Day O'Connor calls "reasoned judgment." As radical as it may sound, at some point we simply have to trust judges to do the best they can and apply the law with both reference toward democratic principles and respect for individual rights.

Handcuffing judges with the chains of history may produce a peculiar kind of consistency, but only at the cost of liberty. I hold tremendous respect for the drafters and ratifiers of our Constitution. But I have my own passions, desires, hopes and dreams – and I will not let them be destroyed by the ghosts of dead men.

## Standing at a crossroad with God

I stood at a literal crossroad last week. I had just come from the north section of the Nebraska Union and was stopped just past the drinking fountain by my state of uncertainty.



Simon Ringsmuth

Far to my left was the Colonial Room; in front of me were stairs leading up one story to an empty hallway with offices and a men's bathroom. I had been invited by a friend from acting class to go to a Bible study club and it started in five, no, four and a half minutes.

Bible Study Club. It should be so simple. I read my Bible, I study, and I generally enjoy clubs, so why shouldn't I go? What was stopping me from making the leap and turning left? I was almost unaware of my own feet as they began to shuffle forward, laden with hesitation. I went up the stairs, my footsteps echoing off the whitewashed, tomblike walls.

I ascended slowly as visions from my high school life came to me in droves, bombarding me with old friends, acquaintances and feelings of ambiguity.

Years had passed since I'd been to a student-oriented Bible study club. Why? I turned around and went up the second flight of stairs. I cast my gaze downward to my New Balance running shoes, hand-me-downs from my Uncle Peter.

I attended an early-morning group on Wednesdays when I was a freshman at Lincoln Northeast. We met at my church for a half hour, during which we had doughnuts, juice and "fellowship," while studying scripture.

The doughnuts made me sick by second period every single week. We had a good time, but nothing was ever gained, just a sense of familiarity with each other. I continued to give and receive nothing but casual glances from the other study-goers in the hallways during school.

I hadn't ever received a pair of new name-brand shoes; always the store brand or from "the box" in the closet.

Attendance dwindled. The youth director stopped coming.

I gained the top level, turned right and proceeded into the bathroom. One woman walked past me, and my "Hi" was met with a casual glance.

I tried FCA for a little while, just like everyone else in high school. I didn't stick with it, though. I prayed and worshipped God outside of class many times and in many ways and here was a way for me to do so, at least in small part, during school.

Was I that unconfident in my faith that I needed once-a-month reaffirmation from a club at my secular high school? Maybe. I noticed several faces from my classes in that club. The same faces that told stories on Monday.

I laid my pad of art paper against the wall and stepped up to the urinal. I like my shoes but they are getting worn out. I should buy new ones.

Campus Life advertised their meetings on posters taped to the walls and in the bathrooms, and though I considered going many times, I never did. I knew several people who did, though, and from the stories they told me, I could not distinguish Campus Life as a Christian club from a bunch of people that hung out once a week. I knew those who led it and who were most involved, and I knew they would be friends with me on Monday nights but not Tuesday mornings.

They were all good people, but we just weren't friends. A stranger had a friend you haven't met, but sometimes friends you have met are strangers at heart. My uncle said he washed these shoes before he gave them to me. I should wash them again. They're getting dirty.

Directly above the sink was a mirror and I stared at myself staring back at me, while my hands lathered the green, foamy soap that's so common in public restrooms. "It's all so contrived," I mused, frustrated and anxious. "Everyone in these Christian groups seem so friendly, but it's a forced friendliness. They don't mean to come across that way, but their actions belie their intentions."

My reflection nodded, understanding and urging me to continue. "It's like this," I said. "I don't pray with big words: heavenly father, wondrous, eternal blessings, your holy scripture. I want to study the bible with others, but I always feel like I have to prove my faith. I never know the Bible quotations and I feel odd holding hands when I pray. But I do pray. Often and by myself with just me and God."

My reflection lifted the corner of his mouth to match the sparkle in its eye. "I know," it said back to me. "Just go and see what happens. Maybe things were never like how you saw them, or maybe these people are genuinely interested in you, or maybe you're right. God won't leave you if you don't go to a Bible study. But he may try to lead you."

I dried my hands and picked up the pad of paper. My shoes looked just right, dirty enough to be used but cool enough to be almost trendy. Confident, I opened the bathroom door and stepped into the light.