

RANDOM SAMPLES

edited by CONSTANCE HOLDEN

High Court Won't Review *Hopwood*

The Supreme Court surprised a lot of people last week when it declined to review an appeals court decision that struck a blow at affirmative action programs in Texas, Louisiana, and Mississippi. It now looks as though it will be a long time before universities get a clear signal on whether admissions decisions can be made on the basis of "diversity."

The court turned down the case, *Hopwood v. Texas*, that was brought by white students who claimed they were denied admission to the law school in 1992 in favor of less qualified minorities (*Science*, 29 March, p. 1801). The school, in response to a district court ruling, subsequently got rid of the two-track admis-

sions procedure it had for whites and minorities. But it appealed the decision, claiming that race is valid as one criterion for admission. The appeals court disagreed, and Texas turned to the Supreme Court.

Although the court usually doesn't explain such decisions, Justice Ruth Bader Ginsburg issued a statement explaining that Texas is "not challeng[ing] the lower courts' judgments," as it agreed its 1992 admissions policy was unconstitutional. "Instead, petitioners challenge the [courts'] rationale." Because the Supreme Court "reviews judgments, not opinions ... we must await a final judgment on a program genuinely in controversy before addressing

the important question raised in this petition," Ginsburg wrote.

The court's action "creates another level of uncertainty" in the increasingly confused world of affirmative action policies, says David Merkwitz of the American Council on Education. He notes that although the nation is still guided by the Supreme Court's 1978 *Bakke* decision, which established that race can be a factor in admissions, *Hopwood* is the second case in 2 years (the other being a decision that threw out a race-based scholarship program at the University of Maryland) that is sending out strong conflicting signals. "Now you don't know how other courts will take it" next time an affirmative action case comes up, says Merkwitz.

Canada Considers Gene Law

There's a growing tussle in Canada over a law, proposed by the government on 14 June, to outlaw a range of reproductive research practices in addition to commerce in eggs, sperm, and embryos. The proposed law, the Human Reproductive and Genetic Technologies Act, follows guidelines from a report released 2 years ago by the Royal Commission on New Reproductive Technologies (*Science*, 17 December 1993, p. 1815).

The most controversial aspect of the proposed legislation is a ban on cash payment for surrogate motherhood, donor sperm for artificial insemination, or eggs for in vitro fertilization (IVF). Carole Craig, clinic manager of Toronto-based IVF Canada, says the law could cripple artificial insemination efforts: "If sperm donors are not compensated [they currently get \$50 to \$75 a shot] they just won't do these things." She predicts that the legislation will result in more labs purchasing American sperm, thereby evading Canadian donor screening programs.

For scientists, the most troublesome aspect of the proposed law is the limits that would be placed on embryo research, including a ban on the use of human embryos later than 14 days postconception. Pierre Miron, director of the Montreal Institute for Reproductive Medicine, worries that this could "make Canada a country where we wait and see about research [of others]."

The government will be receiving public comment on the proposed law until 30 September. Bartha Maria Knoppers, a law professor at the University of Montreal, says passage of the measure, expected before the end of the year, will place Canada at the midrange of international policies on reproductive technologies, with the United States at the most permissive end of the spectrum, and Austria and Germany the least.

Manatee Killer Revealed

For the past 4 months a host of scientists in Florida have been trying to determine what killed 158 of the state's beloved manatees, endangered creatures whose total population numbers only 2600. Last week, they named the culprit: a deadly red tide.

The wave of deaths near the mouth of the Caloosahatchee River on Florida's southern Gulf Coast began in early March and lasted 8 weeks. Scientists ruled out cold weather, pesticides, or a

virus or bacterium. That left a red tide—a bloom of algae, *Gymnodinium breve*, that produce brevetoxin, a neurotoxin—as the prime suspect. Now a team led by marine toxicologist Daniel Baden of the University of Miami's Rosenstiel Marine School has clinched the case: levels of brevetoxin 50 to 100 times normal in tissues from the lungs, stomachs, kidneys, and livers of many of the felled beasts.

Unusual circumstances probably led to the deaths, says Lynn



Tide turning against them. Manatees were felled by tide of toxic algae.

JEFF FOOT/PNI

Lefebvre of the National Biological Service: Winds and currents carried the red tide closer to the coast, and later into the year, than normal. And a record-cold winter led more manatees to seek the warm waters of a power plant 20 kilometers up the Caloosahatchee—only to encounter the red tide on their way back to the ocean. The disastrous combination resulted in many more deaths than occurred during a red tide that killed 37 Florida manatees in 1982.

What can be done if another red tide should materialize? One idea is to release water from locks up the river to dilute the red tide, which needs salt water. But, says Lefebvre, the effect on the ecosystem is hard to predict, and "you certainly don't want to decimate an estuary," even to save manatees.

Basic and advanced winners. The Kyoto prizes, among the most munificent in science, were announced on 28 June. The winners, at 50 million yen (about \$460,000) apiece, are all from the United States. Molecular geneticist Mario Renato Capecchi of the University of Utah was selected for the "basic sciences" prize for his development of targeted gene replacement in mice. The prize for "advanced technology" goes to Donald Ervin Knuth, a professor emeritus at Stanford University,

author of the programmers' "bible" *The Art of Computer Programming*. A third prize, in "creative arts and moral sciences," goes to Willard Van Orman Quine, professor emeritus of philosophy at Harvard University. Awards will be made at ceremonies in Kyoto in November.



Capecchi



Knuth