To make its research readily available to a broad audience, the Institute for Philosophy and Public Policy publishes a quarterly newsletter: QQ—Report from the Institute for Philosophy and Public Policy. Named after the abbreviation for “questions,” QQ summarizes and supplements Institute books and working papers and features other selected work on public policy questions. Articles in QQ are intended to advance philosophically informed debate on current policy choices; the views presented are not necessarily those of the Institute or its sponsors.

In this issue:

For reasons of cost and speed, 90 percent of law suits settle out of court. Should the trend toward settlement be encouraged or resisted? .... p. 1

“No news is good news”—is news coverage of technological issues too negative? ........ p. 5

A scathing look at the underlying aims of mandatory AIDS testing ......................... p. 8

Covert action: its ends, its means, and the constitutional processes it appears to threaten p. 12

A spring workshop on philosophy and public policy is announced ....................... p. 15

“I would rather lose my vineyard,” wrote Montaigne, “than go to court for it.” Many Americans apparently feel otherwise. Whether or not we are, as many have charged, the most litigious nation in human history, our civil litigation rate is certainly among the highest in the world.

Most law suits — upwards of 90 percent — settle out of court before a formal jury verdict or judicial decision is rendered. This is a matter of sheer necessity. “It is a given,” according to U.S. District Court Judge H. Lee Sarokin, “that if cases did not continue to settle in roughly the same percentages, our system of justice would come to a standstill.” For reasons of cost and speed, “in rare exceptions, it must be conceded that the preponderance of settlements in the judicial system is a worthy goal.”

The imperative toward settlement rather than trial is defended on other, less purely expedient, grounds as well. Settlement is claimed to leave participants more satisfied with the resolution of their case. It is lauded as representing a voluntary agreement between the parties rather than a coercive court order, a give-a-little, get-a-little compromise rather than a lopsided black-and-white judgment in which the winner takes all. And what Harvard’s president Derek Bok has called the “gentler arts of reconciliation and accommodation” involved in negotiating a settlement are, well, kinder and gentler than the aggressive rough-and-tumble of hard-ball litigation in the adversary system. Insofar as the so-called litigiousness of the American public is