

It's time to change how we choose judges

The people of Kansas might just get a chance to vote on a change in the way we select judges for our high courts in the next year or two. And it's about time.

The system we have is about as undemocratic as you could get. The state went from electing judges to the Kansas Supreme Court and the Court of Appeals to having them appointed by the governor from a short list submitted by a "nominating commission." The governor actually has little say in the matter, except the final choice.

The commission is made up of four members appointed by the governor and five elected by the state's lawyers. The system was made part of the Kansas Constitution after the infamous "Triple Play" of 1957, when Chief Justice Bill Smith, a Republican, resigned early so the incoming governor, Democrat George Docking, would not get to appoint his replacement.

Justice Smith was said to be a strong supporter of Gov. Fred Hall, who then resigned his position. The lieutenant governor, John McCuish, then became governor and, as his only official act, appointed Hall to fill the vacancy for chief justice. He served only two years, however, resigning to run again for governor. (He'd lost the 1956 Republican primary as an incumbent, and lost again in 1958.)

Hall left for California, but his legacy was "reform" of the judicial nominating process. A governor no longer can appoint his friends, because he has no input on the list. Control of the nominations vests mostly in the lawyers, a small group who are expected to rise above politics to select the very best minds for our courts.

But, as a group, who's more political than lawyers? The system mostly has served to perpetuate control of the courts by members of the Topeka establishment, center-left thinkers who in recent years have pushed the state away from the conser-

vative principles held by a majority of voters.

It's not that the change took politics out of the process, it seems, but that it eliminated any say the voters or the governor have. If the testimony of two conservative members shows anything, the process is so skewed that some commission members deride any nominee seen as a conservative.

Of course, judges have to stand for a yes-or-no "retention" vote every six years, so voters do have some control, but not one judge has been ousted so far.

Compare that to the fairly dignified elections we see for district judge positions in rural areas, and it's hard to see any advantage to the state's process. When a judge isn't seen as performing, voters can and do make a change. And these campaigns seldom revolve around liberal-or-conservative issues.

While it's not fashionable to say it, we believe the voters usually make pretty good decisions. They could handle selecting our judges. However, it might be more difficult for us to know candidates in a statewide race.

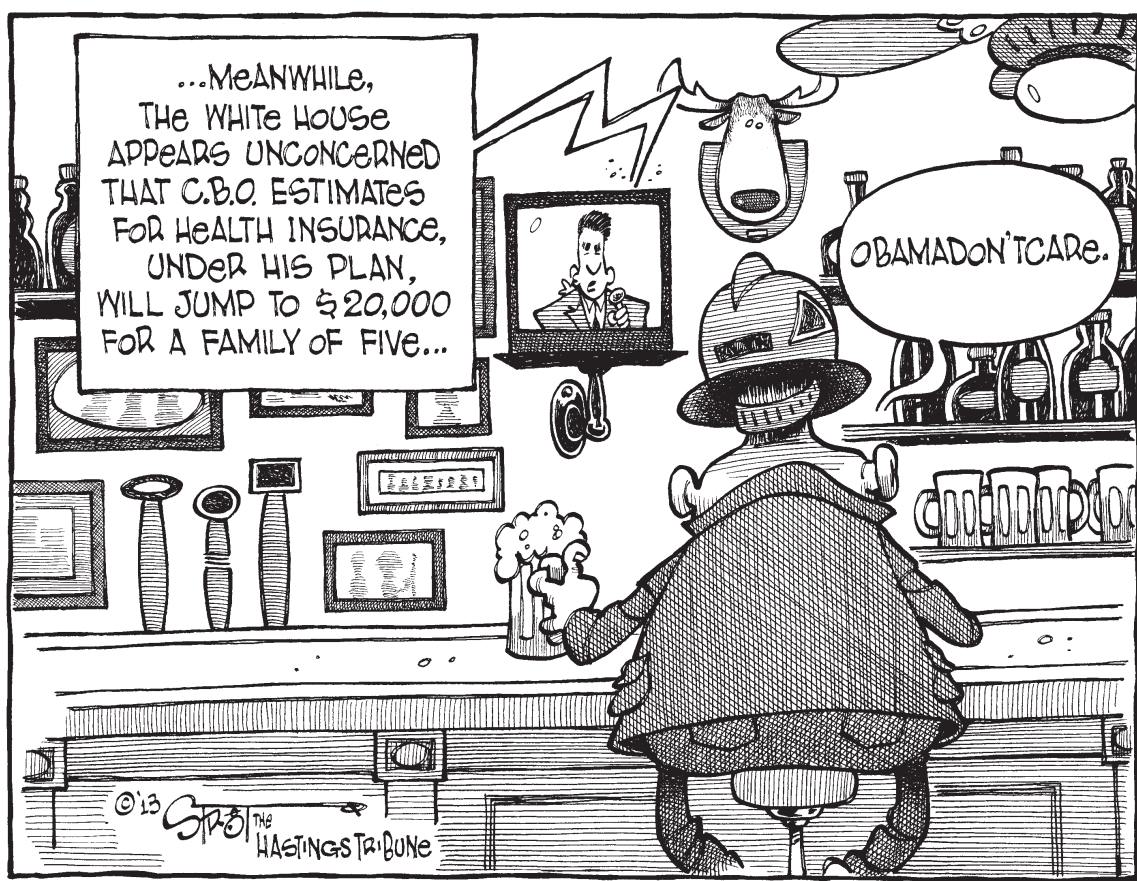
How to change the system? One plan is to give the governor back at least part of his power to make selections. Another is to keep the nominating commission, but make the judges subject to confirmation by the state Senate, as in the federal system.

Or we could just let the voters decide. They did it for years.

None of those ideas would guarantee a conservative court, or a liberal court, for that matter. Appointing judges to what amounts to a lifetime job can be a dicey proposition, as any number of presidents have learned. Judges can be mighty independent when they feel like it.

But giving both the governor and the people more say – and the state's lawyers a little less – makes sense to us.

— Steve Haynes



Casey's Comments

By Casey McCormick



mccormickcasey@rocketmail.com

We've all had a job we wanted to quit. Whether it was because of the hot-headed boss, irritating co-workers or angry customers (or even all of the above.) So it is understandable that Pope Benedict XVI wants to throw in his papal towel.

What seems unusual is how long it has been since a pontiff has stepped down. We would have to go back to the 15th Century for the last time.

From 1378 to 1415 the Catholic

church experienced what is now called the Great Western Schism. In a nut shell, the church had two headquarters with a pope at each place. Rome had been, as it is today, the home of the Vatican and Holy Roman Empire. However, France made claim to the church from Avignon.

This caused a holy and political power struggle throughout Europe.

It took the unprecedented act of Gregory XII stepping down to end

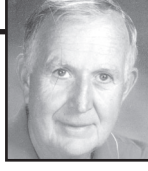
the schism. With Pope Martin V's election the Catholic faith returned to one church centered in Italy.

Today's change is probably more of a bump in the road of papal history.

I'm sure there are several worthy applicants to take the job of Pope and chances are they will hire from within.

Legislative News

By Ward Cassidy



120th State Representative

Judicial selection

During the Governor's State of the State Address, he called on the legislature to reform the process of selecting appellate court judges to a more democratic model. He asked that a resolution be passed amending the constitution to that effect. The two suggestions he made, in amending the constitution, were to model the selection after the federal model: Governor appoints and Senate confirms; or direct election.

There are two areas in play here. The 2013 legislature could adopt a bill making a change for the appointment to the Court of Appeals. My feeling is there is a majority in the House and Senate who would favor such a change.

Altering the composition of the Supreme Court in Kansas would require an amendment to the Constitution. Amendments to the Constitution require a two-thirds majority support of both the House and Senate. The Senate passed a bill the week of Jan. 28 that would abolish the judicial nominating commission and instead allow the Governor to select his own nominee with the confirmation of the Senate. The vote was 28 for and 11 against.

To pass this bill in the House, two thirds of the members will have to vote for it. I don't believe it will run too soon as there is an unknown make-up of the majority party.

To become law, there would have to be a change to the constitution, which would require a two-thirds vote in both chambers and ratification by voters at the ballot box. Changes to the appeals court would

not require a constitutional amendment as it is created by statute.

Currently, the make up for the selection process of Supreme Court justices is: four of the Commission's members are non-attorneys appointed by the Governor, and four others are attorneys selected by attorneys in each of the State's four Congressional Districts. The Chair of the Commission is an attorney elected by attorneys in a statewide vote.

The motivation for this proposal is that a previous Kansas Supreme Court ruled that the legislature didn't meet its constitutional duty to adequately finance public education. The ruling forced lawmakers to spend millions of dollars into kindergarten through 12 education.

The recession hit, and kindergarten through 12 was cut. Now, there is a Shawnee County District Court ruling indicating, once again, the state has fallen short in its constitutional obligation to fund schools. That ruling is being appealed. It is troubling that the court has taken upon itself the duty of appropriating money, and that will be the basis of

the appeal. It, of course, goes much deeper and appears to be an ongoing strife between the branches of government that just can't be resolved.

It appears that the three branches of government are all vying for money and power. In school, we are taught that the executive branch enforces the law, the legislative branch makes the law, and the judicial branch interprets the law. This balance of power was given to us by our forefathers in the first Constitution. What has happened?

The time lines, the strategy, the outcome are all up in the air. It appears that the Legislature is not likely to take a quick step on the issue of court-ordered school spending that would defuse the potential of a judicial spending mandate that would destroy the Governor's budget plans.

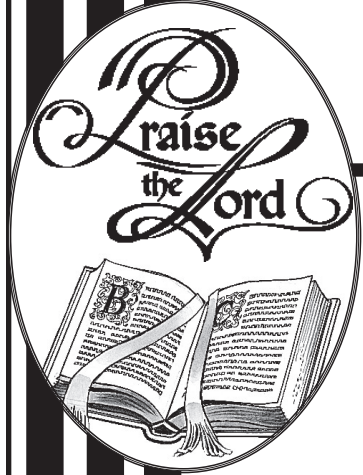
Final note – I am strongly opposing (again) the bill to eliminate one judge per county.

GOD SAYS The Lord is gracious, and full of compassion; slow to anger, and of great mercy. The Lord is good to all: and his tender mercies are over all his works. Psalms 145:8, 9

The Saint Francis Herald

Official newspaper of Cheyenne County. Member of the Kansas Press Association, National Newspaper Association, Colorado Press Association and Inland Press Association. Subscriptions: One year \$38 (tax included) in Cheyenne and adjacent counties; \$42 (tax included) elsewhere in Kansas; \$48 elsewhere in the U.S. Foreign subscriptions, \$28 extra per year (except APO/FPO). POSTMASTER: Send change of address to Box 1050, St. Francis, Kan. 67756-1050

Church of Christ 332-2380, Pars. 332-3424 502 W. Spencer Norman Morrow - Minister Bible Class 9 a.m. Morning Worship 10 a.m. United Methodist Church Office 332-2292, Church 332-2254, 512 S. Scott Pastor Warren Cico Early Bird Service 8:30 a.m. Sunday School 10:30 a.m. Worship 10:30 a.m. Seventh-Day Adventist Church 423-650-5663 • 3rd & Adams Pastor James McCurdy Sabbath School 9:30 Morning Worship 10:45 St. Francis of Assisi Catholic Church 625 S. River • 332-2680 Fr. Carlos Ruiz Santos 1st Sunday of the month Morning Mass 8:30 am Sunday Mass 10:30 a.m. Weekday Mass 8:00 a.m. Confessions Sat. 4-4:30 Salem Lutheran Church 332-3002 Pastor Chris Farmer Morning Worship 10:30 a.m. Communion 3rd Sunday Solid Rock Baptist Church 412 S. Denison Welcomes You! Pastor Allen Coon Sunday School 9:30 a.m. Worship 10:30 Prayer Meeting, Wed 7:30 p.m. First Christian Church Pastor Jeff Landers 332-2956 • 118 E. Webster Church Service 10 a.m. First Baptist Church 2nd & Scott • 332-3921 J.W. Glidewell, Pastor Sunday School 9:30 a.m. Worship 10:30 a.m. Sunday Evening Service 6:30 p.m., Wed. AWANA Club 6:30 - 8:00 p.m. St. Francis Community Church 332-3150 204 N. Quincy Street www.sfccfamily.com Pastor: David Butler Sunday School 9:15 a.m. Worship Service 10:30 a.m. Potluck & Communion - Every 2nd Sunday Wednesday Bible Study 7 p.m. Peace Lutheran Church, AFLC 202 N. College Pastor Randy Nelson Church 332-2928 Parsonage 332-2312 Sunday School 9:30 a.m. Worship 10:30 a.m. Communion 1st Sunday



St. Francis Equity

Saint Francis Herald

Knodel Funeral Home 202 S. Benton • St. Francis 785-332-3131