

# Opinion

# It's time to change how we choose judges

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

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

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 consermakes sense to us.

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

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.

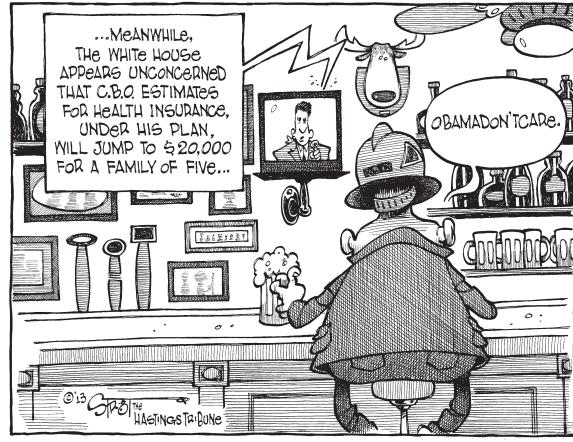
While it's not fashionable to say it, we believe the voters usually make pretty good decisions. They could handle selecting our judges. However, it might be more difficult for us to know candidates in a statewide race.

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

Or we could just let the voters decide. They did

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 – - Steve Haynes



#### Casey's Comments

We've all had a job we wanted church experienced what is now to quit. Whether it was because of the hot-headed boss, irritating coworkers or angry customers (or headquarters with a pope at each even all of the above.) So it is unplace. Rome had been, as it is toderstandable that Pope Benedict day, the home of the Vatican and XVI wants to throw in his papal Holy Roman Empire. However, to one church centered in Italy.

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

called the Great Western Schism. In a nut shell, the church had two France made claim to the church from Avignon.

This caused a holy and political pal history. stepped down. We would have to power struggle throughout Eu-

From 1378 to 1415 the Catholic Gregory XII stepping down to end hire from within.

the schism. With Pope Martin V's election the Catholic faith returned Today's change is probably

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Casey

McCormick

I'm sure there are several worthy applicants to take the job of It took the unprecedented act of Pope and chances are they will

Kay

Melia

more of a bump in the road of pa-

#### The Gardener

I knew a new garden season wasn't far away when the end onion that contains more first seed catalog arrived in my healthful benefits than any other mailbox a few days after last onion on the planet, and yet is Jung Seeds and Plants catalog Thanksgiving. It was from Pinetree Garden Seeds located in New Gloucester, Maine, which is about as far from my garden wasn't far away when I received as you can get and still be in the my new Burpee catalog and right United States of America. But there on the cover, in plain sight, it was one of the most unique was this picture of a giant tomaseed catalogs I had ever seen, because the listing of every seed Super Sauce, the world's largest packet tells you how many seeds sauce tomato. Right next to the are in each packet, and prices are picture, in bold letters, was the lower than most other companies caption "Shown Actual Size." I know of. For example, a pack- Can this be true? The picture wasn't far away when I glanced et of 200 Jade bush bean seeds costs just \$1.75, and a packet of inches tall and 5 inches wide! Crosby Egyptian beet seeds goes And I can receive a packet of 25 for just \$1.50.

I knew a new garden season my seed catalogue from Dixondale Farms, the onion people from Carrizo Springs, Texas. Dixondale offers free shipping to your front door, and you can buy 30 bunches of beautiful fresh onion plants for \$77.00. They'll arrive on the date you specify. But look! This is their Centennial year, and they are offering wasn't far away when my new

the newly developed Texas Leg-Supersweet!

I knew a new garden season to! It has been given the name of showed the tomato to be 5 1/2 seeds for only \$6.50, plus postage and handling. Of course wasn't far away when I received I've ordered a packet! What red-blooded American gardener wouldn't fall for something like that when the only thing that remotely tastes like a tomato here in the dead of winter comes from one of the jars of tomatoes you canned last summer! Hey, I may order 2 packets! Maybe not.

I knew a new garden season

sweeter than the famed Texas arrived. The Jung catalog is my favorite because it is so well organized and I have no problem locating the stuff I'm looking for. Prices always seem to be close to reasonable compared to the others. This year, it even offers the new Francis Meilland Hybrid Tea rose, the only AARS winning rose of the year. No other catalogue seems to have it.

> I knew a new garden season at the calendar and discovered that it was February already. How could that be when just a month or two ago we were storing onions and enjoying the final cantaloupe and making salsa? Time passes quickly!

> I'm glad to be with you again as we prepare for the 2013 garden season. I promise to do my best to plant new ideas in your mind as we go merrily, merrily down the garden path, searching for ways to improve our gardening acumen.

### **Legislative News**

#### **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 120th State Representative justices is: four of the Commission's members are non-attorneys appointed by the Governor, and four others are attorneys selected by strife between the branches of govattorneys in each of the State's four ernment that just can't be resolved. Congressional Districts. The Chair

The motivation for this proposa 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

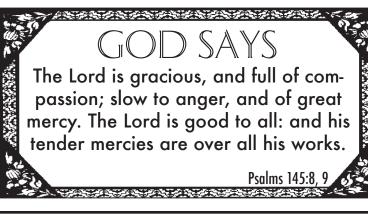


the appeal. It, of course, goes much deeper and appears to be an ongoing

It appears that the three branches of the Commission is an attorney of government are all vying for elected by attorneys in a statewide money and power. In school, we are taught that the executive branch enforces the law, the legislative is that a previous Kansas Supreme branch makes the law, and the judi-Court ruled that the legislature cial 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.





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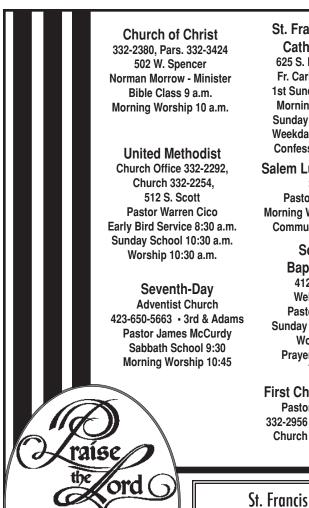
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**First Christian Church Pastor Jeff Landers** 332-2956 • 118 E. Webster Church Service 10 a.m.

Equity

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

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