

Other Viewpoints

Appellate choice no surprise at all

Gov. Sam Brownback's choice for an open appellate court position was no surprise. As expected, the governor nominated his chief counsel, Caleb Stegall, for a spot on the state's second highest court, the Kansas Court of Appeals.

It was just another predictable maneuver from an ultraconservative Republican administration intent on controlling every facet of state government.

Thanks to the support of the billionaire Koch brothers, whose efforts helped erase a moderate Republican influence in the Kansas Legislature that had provided some resistance, Brownback and his allies received an easier path to control of the judiciary and all branches of state government they sought as a way to forward their ideology without checks and balances.

That included scrapping Kansas' nonpartisan, merit-based judicial selection process in favor of a system allowing the governor to select judges with Senate confirmation. Now, Brownback can hand-pick a judge sympathetic to his ultraconservative fiscal and social agenda, then have enough like-minded lawmakers to rubber-stamp the recommendation.

As for Stegall, he may indeed be qualified, although he reportedly was passed over twice for appeals court slots. The problem was in Kansans not knowing if others were considered.

Brownback, who has said he covets transparency in government, instead kept Kansans in the dark by refusing to release names of applicants for the opening. He said such openness would keep qualified candidates from applying, even though names of applicants for the court and the state Supreme Court have been disclosed for decades in Kansas without harming the process.

Frustrated by prior court decisions — especially regarding education funding — Brownback wants political allies who won't question ultraconservative Republicans' agenda. And their crusade has gained momentum with such ventures as a massive tax-cut plan that benefits the wealthy, but promises to undermine financial support for public schools and other important services in the state.

Kansans who rightly view balance and compromise as hallmarks of the democratic process, and also value transparency, should be concerned and saddened by what's happening in state government — but not surprised.

We also shouldn't be surprised when the ultraconservative movement gains even more steam moving forward.

— *The Garden City Telegram, via the Associated Press*

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Progress shouldn't penalize existing need

It is good to hear that the remodeling of the old Thomas County Hospital into apartments may actually become a reality.

It appears that although the property is within the city bounds, the county commissioners have a decision to make that may or may not affect its progress because of a road.

I believe the commissioners made a good decision when they chose to delay taking action on a request to close the current access that serves both the County Health Department and the Fairgrounds adjoining the proposed apartment complex. I'm hoping they give even more time to research it thoroughly and to give an ear to those who use that road regularly, namely health department patients. Plus they need to consider that it would leave only a single entrance and exit for the fairgrounds. The commissioners also might want to order a survey to make sure they are not giving away dirt that isn't actually county property. If the state still owns the dirt the fairgrounds occupy, hopefully a portion of that road in question isn't on state property.

Regrettably, whoever is purchasing the former hospital may not have thoroughly checked out whether or not their purchase included enough area for parking for apartment tenants



Vera Sloan

• After Thoughts

— not the county's problem.

I believe it would be in the best interest of the commissioners to give careful consideration to closing what seems to be an already established road — especially one that serves the very population they are committed to serve. I've been out of office too long to be real sure what the state statutes say about a road that has been used as a roadway for many years automatically qualifying as an established road. I'm sure there's an answer to that somewhere in the statutes.

It's also my opinion, for what it's worth, that the commissioners could be setting a precedent by giving over county property to the private sector. They might want to be prepared to be bombarded with requests from other members of that sector who own property bordering on county-owned real estate — namely, county

roads encroached with planted crops. Isn't that also an easement?

The bank next to the proposed apartments successfully created a nice parking lot with nice landscaping. Perhaps the owners of the proposed apartments would consider paving the area fronting on Range Avenue, plus demolishing the old hospital laundry facility and the three-car garage on the property for their additional parking. They might also try to purchase a little of that green grass behind the old hospital. Don't know who that belongs to, the city or the school.

It seems that for the commissioners, big issues just keep cropping up. And maybe while they are in a decision-making mode they will decide to beef up the courthouse, refinish the woodwork, tear out some of the concrete to make room for some nice trees, do some landscaping and give that beautiful building the dignity it so deserves.

Vera Sloan thinks life should be fun, and enjoys all the parts of it she sees. She is a former county commissioner and former Colby Free Press society editor. You can reach her at sl604@st-tel.net.

Blaming doesn't prevent 'maloccurrence'

"Have you or a loved one suffered from pelvic mesh implant surgery? Call Such-and-Such, Attorneys at Law. We don't charge until you get paid!"

You have heard the pitch. Last June when my wife and I returned from China, these were roughly the first words we heard when we turned on the television. One depressing aspect of returning to the United States from overseas is the American obsession with lawsuits.

This was immediately followed by an advertisement for a new drug: "Is Glorp right for you? Ask your doctor today." And while it didn't give prices, it went on to say that if anyone needed help paying for the medications, perhaps the company can help. Again, it is obvious to anyone returning from overseas that drugs in America cost much more.

A year later, I return to the U.S. and turn on the television. The new drug being pitched last year is the subject of the lawsuits this year. The high cost of U.S. medications has many reasons; the cost of lawsuits is one of them.

A lawsuit-happy America drives up the cost of many things besides pharmaceuticals. The box of naphthalene mothballs that used to cost 99 cents is now \$4.99. American obstetricians may pay nearly a quarter of a million dollars in liability insurance each year to practice, since many American parents think they are guaranteed a perfect baby. If the baby is not perfect, someone has to pay. Without regard to science, juries see that medical doctors have the "deep pockets."

And the main impetus for student teachers to join teachers unions is to buy liability insurance they will likely never use. This is the greatest irony of all. The chance of a teacher being sued for malpractice is vanishingly small. A teacher is too poor to be worth suing. But with insurance, they now have the "deep pockets" to be worth suing.

The "duh" response to our lawsuit-crazy culture proposed by some politicians is simply to cap liability payouts. This blesses perpetual



John Richard Schrock

• Education Frontlines

stupidity and denies fair compensation to a small number who are harmed by intentional and wrongful acts.

The intelligent response is to kick up the level of science education so that future jury decisions and legislated laws are more intelligent. Our current inadequate biology education is the basis for our superficial medical and health decisions.

But we also need to recognize that bad things can happen despite everyone involved doing their best.

Three years ago, in May 2010, I wrote in this column about "When Bad Things Happen." I used the term "maloccurrence" for situations where bad things happen and it is not anyone's fault. I genuinely thought "maloccurrence" was an actual word in the dictionary. It fits nicely in a spectrum of liability that ranges from intentional harm to no-fault accidents.

"Malpractice" is when a practitioner performs an act that an average competent professional would not.

In "malfeasance," a person performs an act that is standard professional practice but does it wrong and causes harm.

And in "nonfeasance" a person fails to act, and harm occurs that they could have prevented (such as failing to help a person who is dangling off a cliff nearby).

But where is the term for situations where everyone involved is doing the best that they can, and yet bad things happen?

This concept just isn't in our language. When we are harmed, our vocabulary leaves us with no options. We "hold them accountable." We are always looking for someone to

blame. And we are all paying higher prices for goods and for insurance as a result.

So how do we get the word "maloccurrence" into our American language?

In his first show on Oct. 17, 2005, Comedy Network's Stephen Colbert coined the term "truthiness" and it got nearly instantaneous recognition across the country. Used to describe any truth that "comes from the gut" or "feels right" regardless of evidence, "truthiness" spread coast-to-coast.

America desperately needs the word "maloccurrence."

Dictionaries are history books, not law books. Dictionaries record how we use words. You as a reader can help get this word into circulation. Use "maloccurrence" every chance you have in e-mail, letters and discussions.

My gut tells me that "maloccurrence" has more evidence for its existence than "truthiness."

If Stephen Colbert can do it, we can too.

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