

from our viewpoint...

Time to repeal criminal libel law

It's popular to make fun of old or outdated laws, like those requiring horsemen to yield the right of way on city streets, or banning members of certain groups from spending the night in town.

You have to wonder, then, why we have a criminal defamation statute in Kansas, which likes to consider itself an enlightened state.

A Kansas law (KSA 21-4004) makes it a Class A misdemeanor to "communicate to a person orally, in writing, or by any other means, information, knowing the information to be false and with actual malice, tending to expose another living person to public hatred, contempt or ridicule; tending to deprive such person of the benefits of public confidence and social acceptance; or tending to degrade and vilify the memory of one who is dead and to scandalize or provoke surviving relatives and friends."

That might seem fairly ordinary, unless you realize that 32 states have done away with libel or defamation as a crime. Most experts see these out-of-date laws as an affront to the First Amendment right of free speech.

Doing away with criminal libel laws doesn't mean people can say or print anything they want. We have laws allowing civil action for libel, or untrue publications.

People, especially "private persons," those who are not in the public eye or public officials, can and do sue if they think they have been wronged by a newspaper, television station, Internet site or pamphlet.

Because people can protect their name in court, and collect damages if necessary, there is no justification for maintaining criminal sanctions for libel.

Criminal libel law winds up being used by people who cannot collect damages in civil court and should not be able to bully those who criticize them.

In Colorado, a student who published an on-line "blog" poking fun at the university administration wound up having his computer seized by the police. He had been turned in by a professor who was often the butt of his satire.

In Kansas, city officials and a publisher were the targets of the most recent criminal libel charges. Though the case was thrown out of court, it illustrated why this law is so obnoxious to the First Amendment.

In this country, no public official should be allowed to have his critics booked and thrown into jail, no matter how briefly. That does not jibe with our ideals of free speech and free and open political debate.

Nor should any publisher — Internet, newspaper, magazine — have to explain his political opinions to a criminal court. No voter should be called on to justify an opinion on a public official, whether it's the college president, the mayor or the town clerk.

Our freedom is founded on the premise that ideas are sacred and the principle that each of us is entitled to form his own and, more importantly, speak them without fear of retribution.

In Saddam Hussein's Iraq, after all, anyone could have an opinion. And be shot or tortured for espousing it.

If we have learned anything after more than 200 years under our precious Bill of Rights, it is that free speech and open debate will not hurt us.

Let's outlaw criminal libel. — *Steve Haynes*

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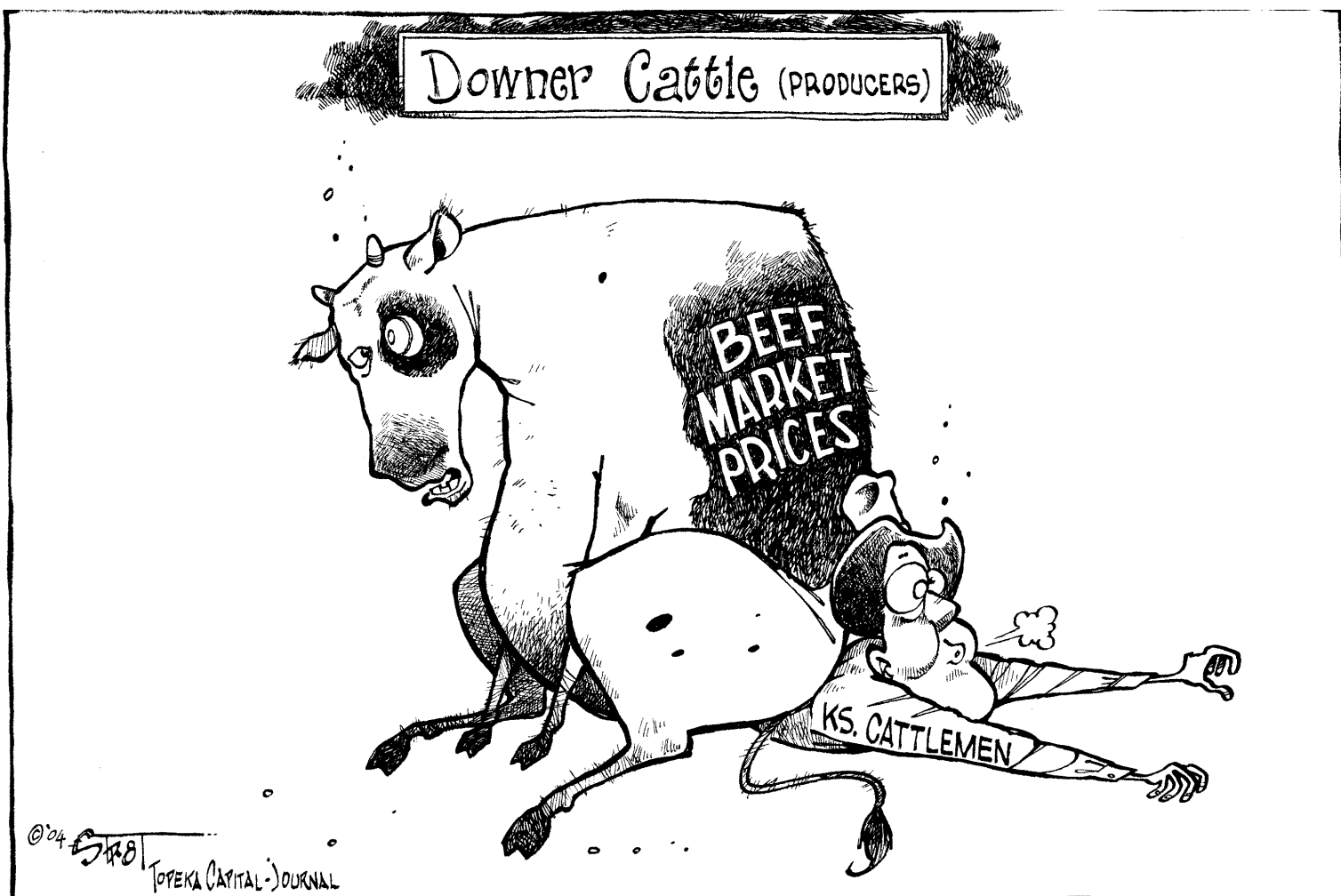
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There was sadness before Christmas

I don't know about you, but I saw sadness during the season preceding Christmas.

At a time when good will and joy should be rampant, I noticed things that made me sad amid all the forced gaiety.

The first thing was a TV show. I saw part of Oprah Winfrey's special on AIDS in South Africa.

She talked about and showed a small number of the tens of thousands of orphans that have been created by the AIDS deaths of their parents.

My sadness was mediated by thinking that someone like Oprah was actually using her influence and millions to do something good. So many celebrities don't. Just as so many of us don't.

The second thing was a trip into a large department store just the week before Christmas. The store was absolutely loaded with merchandise! I suppose, as a product of this society, I should have rejoiced at the overwhelming selection.

Instead (and this was probably prompted at



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least in part by the Oprah show I'd seen) I became depressed. I was overcome by the vast variety of things, the gigantic selection, still available after a long season of "buy, buy, buy."

I looked around at all the things that were not even essential for life, and thought about how much our spoiled people spend and waste while most of the world goes without.

And that leads me to the saddest thing I experienced this Christmas.

It was a remark made by a friend of mine. He shared with me that his grandkids didn't know what they wanted for Christmas. They already have everything!

Now that's sad. Especially in light of the African children's

problems. They struggle just to live; our children have so much they complain of being "bored." When our "plenty" means that our children are losing their values, their lives are boring, and Christmas becomes just a reason for going in debt to buy things, our society is truly in trouble.

Remember how important Christmas was for you as a youngster?

Christmas was a time to get something, and "getting" only happened at Christmas — and maybe your birthday. Christmas was highly anticipated; gifts were truly surprises and much appreciated.

Isn't it sad how things have changed? Soon the light in a child-over-5's eyes at Christmas will be a thing of the past.

Maybe it's time for a new way of celebrating Christmas; actually maybe it's just a matter of going back to the old, original meaning.

Or maybe, as a society, we need to stop giving gifts all the time, so that sharing gifts at Christmas would once again be a real occasion. Something to think about for next year.

Surprise! Your phone company has changed!

Dear Attorney General Kline:

I was quite surprised recently when I received a phone bill from a company that I had never agreed to do service with. When I called who I thought was my telephone provider, they informed me that I had been slammed. Is there anything your office can do to assist me with this problem?

Dear Kansas Consumer:

Our office may be able to assist you. "Slamming" is the illegal practice of changing a consumer's telephone service — local, IntraLATA service, or InterLATA service (including state to state, in state and international long distance) — without permission. The Kansas Consumer Protection Act contains a provision that prohibits the switching of consumer's phone service without authorization.

Although there are various companies that may engage in such practices, we recently entered into a Consent Judgment with Business Options, Inc., a/k/a U.S. Bell wherein the defendants have agreed to stop switching Kansans' long distance telephone service without proper authorization, to provide consumer restitution and to pay the State of Kansas \$25,000. The defendants previously provided a full refund or credit to consumers who filed slamming complaints with the Kansas Attorney General's office.

In addition, the defendants have agreed to resolve any further complaints for slamming, if such complaints are received by the Kansas Attorney General's office by February 12, for any alleged slams that occurred prior to the date of the entry of the Consent Judgment on November 14.

Below are tips to follow if you think you are being targeted for a slam or have been a vic-



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tim of telephone slamming:

• Carefully listen to any new or discounted long distance telephone service offered over the phone (if the caller implies they are a major carrier, ask whether they are reselling time on a major carrier's lines or if they are, in fact, a representative of a major carrier.) Take notes on what you are told or ask for the information in writing.

• Examine your phone bills to make sure your long distance carrier has not been switched without your authorization.

• If you believe you have been switched, you can verify your long distance provider by calling 1-700-555-4141 or your local toll service by calling 1-(your area code)-700-4141. These calls are free.

where to write

U.S. Sen. Pat Roberts, 109 Hart Senate Office Building, Washington D.C. 20510. (202) 224-4774; web address — roberts.senate.gov

U.S. Sen. Sam Brownback, 303 Hart Senate Office Building, Washington D.C. 20510. (202) 224-6521; web e-mail address — brownback.senate.gov/CMEmail.me

U.S. Rep. Jerry Moran, 1519 Longworth House Office Building, Washington, D.C. 20510. (202) 225-2715; e-mail address — jerry.moran@mail.house.gov

If your local or long distance telephone service has been switched without your authorization, contact the Kansas Corporation Commission at 1-800-662-0027 or send e-mail to public.affairs@kcc.state.ks.us to register a complaint. The complaint should include:

• Your name as the customer of record; mailing address or service address; home and work phone numbers; name of the utility; your account number; the facts about what the utility did or did not do. Include dates, times, location and persons involved; the resolution you expect; signature and date.

Attorney General Phill Kline offers this public service to help you avoid becoming a victim of consumer fraud. Although some of the details have been changed, the cases appearing in this column are based on actual complaints. For further information or to file a complaint, please write Attorney General Phill Kline, Consumer Protection Division, 120 SW 10th Ave, 2nd Floor, Topeka, Kansas 66612 or call the toll free Consumer Hotline, 1-800-432-2310.

State Rep. Jim Morrison, State Capitol Building Rm. 174-W, Topeka, KS 66612. (785) 296-7676; e-mail address — morrison@house.state.ks.us

State Sen. Stan Clark, State Capitol Building Rm. 449-N, Topeka, KS 66612. (785) 296-7399; e-mail address — clark@senate.state.ks.us

Kansas Attorney General Phil Kline, 301 S.W. 10th, Lower Level, Topeka, KS 66612-1597 (785) 296-3751 Fax (785) 291-3699 TTY: (785) 291-3767

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