



Other Viewpoints

Tax is a tax except when it's hidden fee

Sometimes, a tax isn't called a tax. It's called the "DMV modernization fee," and it's attached to the registration fee Kansans pay on their vehicles.

Sometimes that fee is set to expire at the end of the year, but the Kansas Legislature decides to keep the fee on the books but change its name to the "state highway fund."

And sometimes they decide not to tell people about the extension in the hope taxpayers won't notice they're still paying for something that was supposed to go away.

The Department of Motor Vehicles modernization fee was added to registration bills in 2009 to cover the cost of a software upgrade and set to expire at the end of 2012. In 2010, however, the Legislature decided to extend the \$4 fee but use the money to help finance the state's comprehensive transportation plan, known as T-Works.

Now here's the pickle for Kansas legislators: The conversion of the fee didn't stand on its own but was wrapped into the overall T-Works legislation. Highway construction is widely popular across the state because it creates jobs, improves highway access and adds value to communities. Voting "no" for T-works likely would prove politically unpopular for lawmakers, as would voting "yes" for an effective tax increase.

Nevertheless, hiding an unpopular fee inside a popular bill shows that legislators doubted the fee could stand on its own. And such tactics effectively misled constituents, and some lawmakers, to support legislation that appeared benign at first glance. If there is any doubt the fee was hidden, consider that many officials responsible for collecting it — county treasurers — only realized this week that the fee had been altered and continued.

The legislative process isn't as transparent as it should be, nor is it as accessible to the layperson as our forefathers intended. Practices such as "gut and go," which hides entire bills inside of unrelated bills, and amendments or additions that hide fees and taxes, violate the spirit of an open legislative process.

— *The Hutchinson News, via the Associated Press*

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State award-winning newspaper, General Excellence, Design & Layout, Columns, Editorial Writing, Sports Columns, News, Photography. Official newspaper of Thomas County, Colby, Brewster and Rexford.

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THE COLBY FREE PRESS (USPS 120-920) is published every Monday, Wednesday, Thursday and Friday, except the days observed for Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and New Year's Day, by Nor'West Newspaper, 155 W. Fifth St., Colby, Kan., 67701.

PERIODICALS POSTAGE paid at Colby, Kan. 67701, and at additional mailing offices. POSTMASTER: Send address changes to Colby Free Press, 155 W. Fifth St., Colby, Kan., 67701.

THE BUSINESS OFFICE at 155 W. Fifth is open from 8 a.m. to 6 p.m. Monday to Friday, closed Saturday and Sunday. MEMBER OF THE ASSOCIATED PRESS, which is exclusively entitled to the use for publication of all news herein. Member Kansas Press Association and National Newspaper Association.

SUBSCRIPTION RATES: In Colby, Thomas County and Oakley: three months \$35, one year \$85. By mail to ZIP Codes beginning with 676 and 677: three months \$39, one year \$95. Elsewhere in the U.S., mailed once per week: three months \$39, one year \$95. Student rate, nine months, in Colby, Thomas County and Oakley, \$64; mailed once per week elsewhere in the U.S. \$72.

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"If the president does it, that means it is not illegal."
— Richard Nixon

Justice system takes two-tier hit

The idea that everyone is treated equally under the law has always been one of the bedrock principles of our country.

While this principle has historically been more of an aspiration than a realization — because of the government's repugnant history of racism towards African Americans and Native Americans (not to mention its discriminatory treatment of homosexuals and its past unequal treatment of women) — it has always been seen as an important deterrent against the forces of tyranny and corruption. And the importance of this principle has always been embraced — although not always practiced — by both parties.

"Where, say some, is the King of America?" Thomas Paine asked in his famous 1776 pamphlet "Common Sense." His answer remains as prescient today as it was back then:

"Let crown be placed thereon, by which the world may know, that so far as we approve of monarchy, that in America Law is King. For as in absolute governments the King is law, so in free countries the law ought to be King; and there ought to be no other."

The legitimacy of the American idea that everyone should be treated equally under the law, no matter what their race, gender or income, has been dealt a devastating blow by the elite immunity that has been bestowed on powerful figures in government and the private sector over the past several decades.

Whether it be the Reagan administration illegally arming a group guilty of brutal atrocities



Andy Heintz

• Wildcat Ramblings

in Nicaragua in the 1980s — although the resistance group also contained elements with legitimate grievances against the Sandinista government — or the outright criminality that occurred on Wall Street, the elites have been shielded from prosecution no matter how egregious their acts of lawlessness.

This brazen culture of elite immunity would be less craven if the rest of the population was treated with the same lax standards, but the exact opposite has been the case. While political officials guilty of torture and warrantless wiretapping get off scot free and Wall Street executives and firms guilty of fraud escape jail time, poorer citizens and minorities are imprisoned at disproportionate rates.

This selective use of the law is bound to spark outrage from citizens who are understandably upset about our two-tiered justice system.

The common reason given for not subjecting our country's most powerful economic and political actors to the rules the rest of us must abide by is that, because of their immense in-

fluence, punishing these people — or firms or banks — would be bad for everyone. In other words, although this has become a tired cliché, these elite groups have been deemed too big to fail and too important to be subject to the same laws as the rest of the country.

Aside from its moral shortcomings, the problem with this sort of logic is that once financial and political elites are basically told they are above the law, they are more likely to engage in even worse acts of lawlessness because they are no longer restrained by the chance that they might be held accountable for their actions. Of course, it should be noted that the government has slapped some banks with fines, but top officials still haven't seen any jail time.

The culture of impunity that, as Glenn Greenwald of the *Guardian* acutely points out, began when former President Gerald Ford pardoned Richard Nixon for his multiple felonies in 1974, is undermining a core precept that America was founded upon: equal treatment under the law.

This bedrock principle is and will always be the ultimate deterrent against the corrupting influence of power.

Andy Heintz, a K-State journalism graduate and former Colby Free Press sports editor now living in Ottumwa, Iowa, loves K-State athletics and fishing, sports and opinion writing. You can find his blog at www.orble.com/just-one-mans-vision.

Judicial choice question a power play

During the governor's State of the State Address, he called on the Legislature to reform the process of selecting appellate judges to a more democratic model by passing a resolution to amend the state Constitution.

The two suggestions he made, in amending the constitution mirror the federal model: governor appoints and Senate confirms; or return to direct election.

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

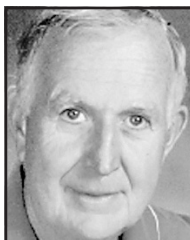
Altering the composition of the Supreme Court, in Kansas, would require an amendment to the Constitution. Amendments to the Constitution require a two-thirds majority support of both the House and Senate.

The Senate passed a measure 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 measure in the House, two thirds of the members will have to vote for it. I don't believe it will run too soon as the makeup of the majority party is an unknown.

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 an amendment as it is created by law.

Currently, the nominating commission for both courts includes four members appointed by the governor, and four lawyers selected by lawyers in each of the state's four congressional districts. The chair is a lawyer elected by



Ward Cassidy

• This week in Topeka

lawyers in a statewide vote.

One 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 pour millions of dollars into K-12 education.

The recession hit, and the school budget was cut. Now, a Shawnee County District Court ruling indicates, 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. The rift, 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, which could defuse the potential of a judicial spend-

ing mandate that would destroy the governor's budget plans.

Final note — I am strongly opposing (again) a bill to eliminate the requirement for one judge per county.

Rep. Ward Cassidy of St. Francis represents the 120th District in the Kansas House of Representatives, covering the northwest part of Thomas County (including Colby), plus Decatur, Rawlins, Cheyenne, Sherman and Wallace counties. This is his second term in the Legislature, and he is chair of the Education Budget Committee and vice chair of the Education Committee. Send e-mails to ward.cassidy@house.ks.gov.

Write us

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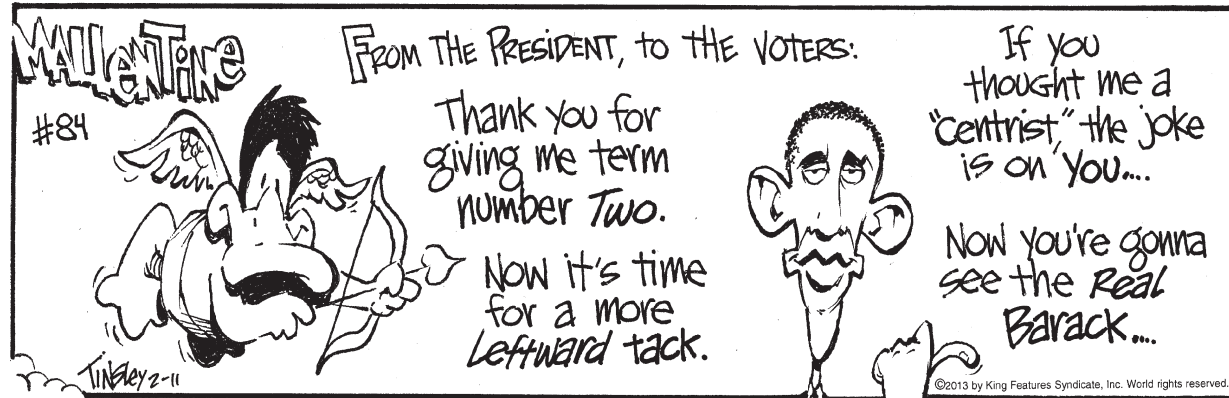
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Before an election, letters (other than responses by a candidate) will not be published after the Thursday before the polls open.

Mallard Fillmore

• Bruce Tinsley



FROM THE PRESIDENT, TO THE VOTERS:

Thank you for giving me term number two.

Now it's time for a more leftward tack.

If you thought me a "centrist," the joke is on you...

Now you're gonna see the Real Barack...

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