

from our viewpoint...

Constitutional debate continues

“President Barack Obama’s veto power and the Democratic majority in the Senate will prevent the Republican leadership in the House from achieving many of its goals for this Congress,” wrote Dylan R. Matthews in The Harvard Crimson.

Matthews sees the Republicans trying to use the courts to accomplish their goals, and Republican state attorneys general – including Kansas – have filed lawsuits challenging the constitutionality of health care reform, with two Republican judges ruling the bill’s mandate for universal coverage unconstitutional. The House Republican majority adopted rules requiring legislation to provide textual support from the Constitution – with the implicit assumption being liberal policy goals are not authorized by the document.

“All dependent on the idea there is a single correct interpretation of the Constitution that exists independently of the preferences of the current justices of the Supreme Court,” Matthews said. “For a bill to be constitutional does not mean it conforms to some one true interpretation of the document. ‘Constitutional’ instead means whatever five members of the Supreme Court want it to mean.”

Wednesday Sen. Dick Durbin (D-Ill.) chaired a hearing of the Senate Judiciary committee on the constitutionality question of the Affordable Care Act with the Oregon Attorney General John Kroger; Georgetown University law professor Randy Barnett; Michael Carvin, a partner at Jones Day; Duke University law professor and former Clinton Solicitor General Walter Dellinger; and Harvard Law School professor and former Reagan Solicitor General Charles Fried.

“For those keeping score, 12 federal courts have dismissed challenges to the health care law,” Sen. Durbin said. “Two have found the law to be constitutional and two have found the opposite.”

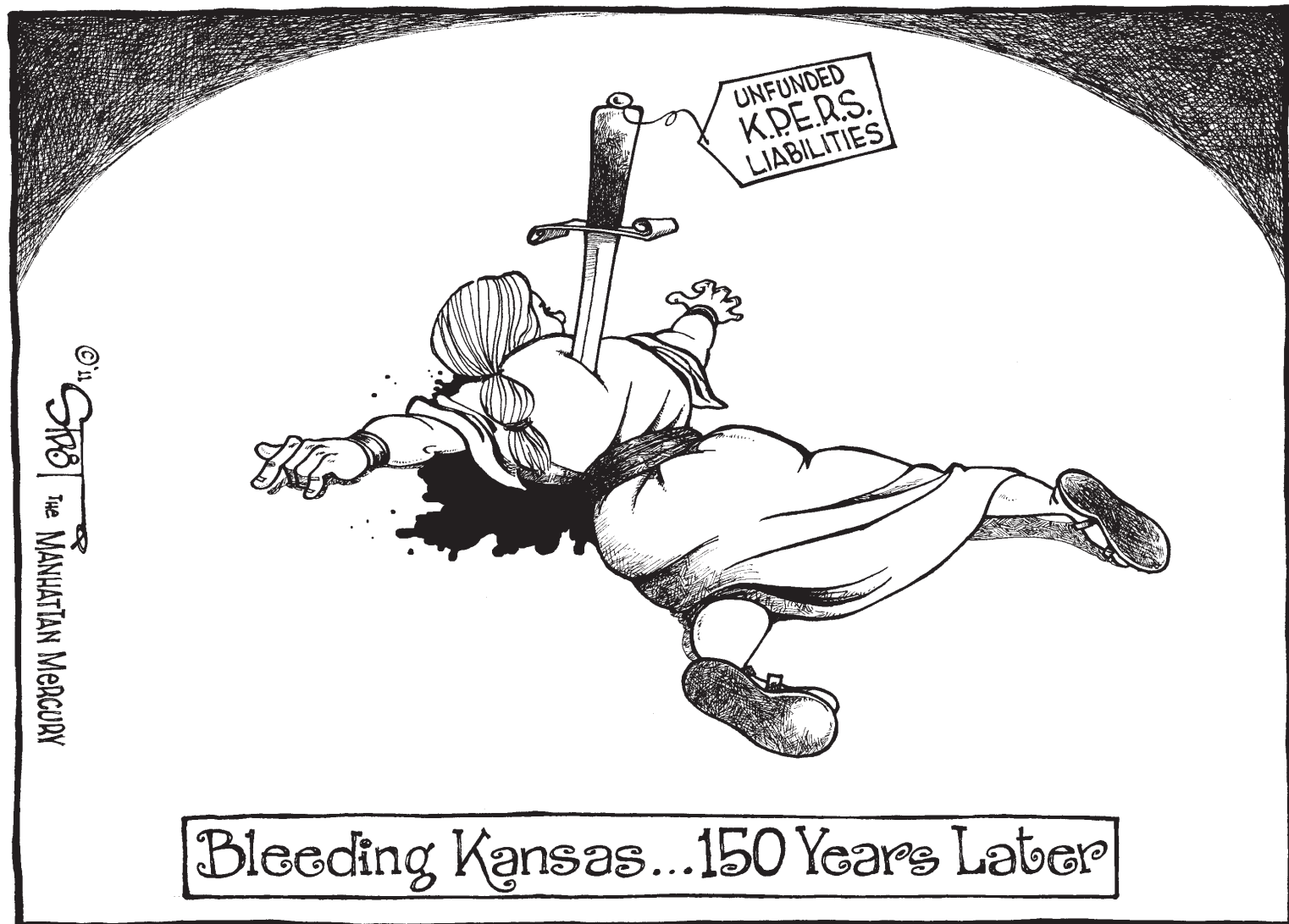
In the discussions with the Senate committee the legal experts were divided in their interpretation of the constitutionality of the individual mandate portion of the health care law. Much of the testimony of the legal experts and questions by the senate committee members mirrored their political background with those who were more liberal arguing the law was constitutional and those on the more conservative side arguing it was obviously unconstitutional.

A number of previous federal mandated programs were used as examples of how the Congress had passed other programs in the past. Social Security and the Civil Rights Act of 1964 were two mentioned by Sen. Durbin that had similar court tests before being upheld by the Supreme Court.

“The Supreme Court will ultimately decide which of Obama’s policies are constitutional based on their attitudes, not some objectively correct interpretation of the law,” Matthews said. “Ultimately, this is a question of politics. Where one stands on Constitutional interpretation, and the role of courts in deciding it, depends much more on one’s personal political preferences than on some objective account of what the document means.”

Sen. Durbin said when the health care law was being debated the constitutional point was bought up and debated on the floor. He said the Senate voted 60-40 to uphold the constitutionality of the law – on party lines.

The debate is a good step forward as the health care moves up in the court system. – Tom Betz



Bleeding Kansas...150 Years Later

Arab world unrest hits Tunisia

The story started out on the back page of the regional daily, just a small piece about unrest in the Arab world. Nothing new there.

But wait. This wasn’t happening in Iran or Iraq or even Egypt. It was in Tunisia.

Tunisia! I’ve been there. I’ve talked to these people. I’ve eaten with them, had my picture taken with them and enjoyed this moderate Islamic country.

This is the country I visited in 2007 with other publishers from across the country.

It was a government-sponsored trip, and since the Tunisians were paying, I tried to look at the good in this beautiful little country on the edge of the Mediterranean. I even dipped my feet in this almost-mythical sea.

We were shown the university, a research station, a couple of small businesses, mosques and a school. We looked at ruins of buildings and monuments put up by the Romans.

We met with members of both houses of the parliament and were shown some of their most sacred places.

I saw a lot that was good in Tunisia. There is universal suffrage. Women are not required to wear anything special while out in public and can serve in public office. In fact, many of the government officials we met were women.

Although the people are mostly Islamic and mosques are everywhere, we were told that plural marriage was forbidden.

Islamic scholars in Tunisia explain the Koran’s passages on the issue was: when God



said men could have more than one wife if he treated them equally, it was a joke. No man, they said, could treat all women in his life equally.

Tunisia has universal free education through university level. It’s a well-educated country, although the school we visited would seem very primitive by U.S. standards.

But even five years ago, we could see the problems, some were admitted openly and some glossed over.

While the population is well educated, unemployment is high and the country tends to export its young people because they can’t find jobs at home.

Then there was the government. Everyone praised President Ben Ali, who seemed to be a benevolent dictator. Tunisia had seen, at that time, only two presidents since independence from France in 1957. And photos of Ben Ali were everywhere.

Back in 2007, the leader of our group gave us what he called Tunisia 101:

1. Universal education.
2. Equality for women. Equality for all.
3. Struggle against fundamentalism.
4. Commitment to dialogue instead of confrontation.
5. Moderation in all things.

But everyone wants a job and eventually people do get tired of a dictator. So for now, Tunisia is in the headlines as confrontation takes over where dialogue failed.

These are still good people who want what we want – freedom, justice and a job.

I hope they get it.

‘Suitable’ causes great concern

Governor Sam Brownback is calling for yet another answer to the question, “What is a suitable education for a Kansas public school student?”

For those of us who have made teaching in public schools our life’s work, turning the task of defining “suitable education” over to the Kansas Legislature causes great concern.

At the very least, we desperately hope that legislators charged with this extremely important task will turn to people who work in schools and understand the needs of our students for guidance and wisdom on this topic. If they do, here is what they will hear.

Start with 21st Century Skills

The Partnership for 21st Century Skills (P21) Web site (www.p21.org) should be studied in depth by anyone attempting to define suitable.

It does not provide some utopian fantasy conjured up by teachers. It is what the best business and industry leaders in the United States tell us they believe their future employees need in order to be productive citizens and workers – the kind of people who will put the U.S. economy at the top in global competition in coming years.

As one would expect, P21 says every student needs to be actively engaged in her/his learning. Students need to experience a challenging, traditional curriculum.

They emphasize, though, a student’s learn-



from other pens

• commentary

ing experiences must be infused with 21st century skills. Students need to develop the four C’s: creativity, critical thinking, collaboration and communication skills.

To accomplish this, all students must have access to the arts and electives in addition to the strong traditional curricular offerings. Teachers must have time to plan, collaborate and design learning experiences to meet individual needs and connect with relevant, real-world applications.

Students need to attend schools both physically and psychologically safe and supportive for learning. Counselors, school nurses, food service, people to maintain the school physical plant, transportation to/from school – these are all fundamental and essential for students to succeed.

This is the start of the definition of “suitable” being demanded for students to succeed in the 21st century.

I must be very frank in expressing the fears of many teachers and parents across Kansas. While there are many Kansas legislators, people of good intent in both parties, who have

long championed the necessity of great public schools as the engine of the Kansas economy, it is unclear if those elected in this new Legislature, and the leaders they select for the coming session, fully grasp an appropriate vision for a suitable education.

We fear some may put a higher priority on tax cuts for the present moment over the investment of taxes in the education we provide our children.

Lessons from Brown v. Board of Education

From time to time we hear the argument, “Let the local community decide how much education their kids need – if they want to pay for a premium education, it’s a local decision.”

Whether the education is “suitable” or not does not depend on who a student’s parents are, or where a student lives. We should have learned the lessons of Brown v. Board of Education when it comes to calling one student’s learning opportunities “suitable.”

US Supreme Court Chief Justice Earl Warren pointed out separate because of race, “generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone.”

Let’s be blunt. If students in one Kansas community get to attend a school with good class sizes, the arts, a safe and well-maintained environment, up-to-date technology and a full array of engaging learning experiences while a student in the community just down the road gets less, it’s not suitable or fair.

The impact on learning is profound. The impact on the desire to learn and the belief “I can succeed” is thwarted.

Our legislature has been given a monumentally important task. As citizens, parents, and the educators of Kansas, we stand committed to help make sure a “suitable education” in Kansas will prepare our students – students from each and every community in our state – to succeed and excel in business, industry, community, citizenship and life in the 21st century.

By Kansas National Education Association President Blake West.

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